

GENERAL TERMS AND CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS AND SERVICES TO DERBYSHIRE POLICE AUTHORITY

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1. DEFINITIONS & INTERPRETATION

- 1.1 'Authorised Officer' means the Chief Constable or such senior representative(s) appointed by the Authority to act in the name of the Authority for the purposes of the Contract.
- 1.2 'Authorised Signatory' means any senior Officer of the Authority designated for this purpose.
- 1.3. 'Authority' means the Derbyshire Police Authority.
- 1.4 'Chief Constable' means the Chief Constable of Derbyshire.
- 1.5 'Contract' means the agreement concluded between the Authority and the Contractor, including the General Conditions, the Special Conditions of Contract (if any), the Purchase Order, the Form of Tender and/or Declaration as completed and all specifications, patterns, schedules and samples and other documents which are incorporated or referred to in the Contract.
- 1.6 'Contractor' means the person or firm or company whose Tender or other offer has been accepted by the Authority and includes the Contractor's employees, servants, agents, personal representatives, successors, permitted assigns and permitted Subcontractors. The term Contractor shall be deemed to include the term 'Tenderer'.
- 1.7 'Contract Period' means the period of the Contract set out in the documents which form the Contract.
- 1.8 'Contract Price' means the sum payable in the Contract for the supply of the Goods and or execution of the Services.
- 1.9 'Free Issue Materials' means where for the purpose of the Contract the Authority issues certain materials free of charge to the Contractor solely for use in relation to the Contract, but ownership is retained by the Authority.
- 1.10 'General Conditions' means these general terms and conditions of Contract.
- 1.11 'Goods' means all goods, materials or articles which the Contractor is required to supply under the Contract, and all parts, components and materials incorporated in them.
- 1.12 'Materials' means any material, plant, equipment, vehicles, article or things which are to be used or provided by the Contractor as part of or in connection with the performance of the Services, but excluding Free Issue Materials provided by the Authority.
- 1.13 'Purchase Order' means the Authority's official purchase order which may be issued from any ordering point in the Authority.
- 1.14 'Services' means any service or works to be performed under the Contract whether related to the Goods or otherwise and includes any Materials.
- 1.15 'Special Conditions of Contract' means any special conditions notified in advance to the Contractor by the Authority (and incorporated in the Contract or any Purchase Order issued against the Contract by the Authority).
- 1.16 'Specification' means the description and drawings (if any) of the Goods and/or Services contained or referred to in any Contract or Purchase Order.
- 1.17 'Subcontractor' means any contractor engaged by the Contractor with the consent of the Authority under Clause 28.1.

- 1.18 'Tender' means the tender submitted to the Authority by the Contractor (if any) relating to the Goods and/or the Services.
- 1.19 'the Parties' means the Authority and the Contractor.
- 1.20 'the Premises' means the premises, sites or locations where the Goods are to be delivered and/or at which the Services are to be performed as specified in the Contract which may include the Authority's Premises
- 1.21 References to any enactment, order, regulation or other similar instrument shall be interpreted as a reference to the enactment, order, regulation or instrument as amended, consolidated, modified, extended, re-enacted or replaced.
- 1.22 In the Contract documents the masculine shall include the feminine and neuter, the singular shall include the plural and vice versa.
- 1.23 References in the Contract to 'Goods and Services' shall include reference to either Goods or Services alone.
- 1.24 Reference in these General Conditions to a clause, condition or paragraph shall mean reference to a clause, condition or paragraph of these General Conditions unless it is stated otherwise.
- 1.25 Headings to Clauses are included for convenience only and shall not alter the interpretation of the Clause.

2. INCORPORATION OF GENERAL CONDITIONS INTO THE CONTRACT

- 2.1 These General Conditions shall be incorporated in the Contract made by the Authority for the purchase of Goods and/or Services unless they are specifically excluded in accordance with Clause 2.3 below and shall apply as long as they are not inconsistent with any Special Conditions of Contract. If the General Conditions and Special Conditions of Contract conflict, then the Special Conditions of Contract shall prevail.
- 2.2 These General Conditions shall apply to all aspects of the Contract to the exclusion of all other terms and conditions (including any printed conditions appearing on any acceptance form, delivery form, invoice or other documents received from the Contractor) except by variation as set out in Clause 2.3 below.
- 2.3 The Parties shall not be bound by any change, relaxation of, or addition to these General Conditions except as agreed in writing by the Authority and the Contractor.
- 2.4 Each Purchase Order shall be treated as an offer by the Authority to enter into a Contract for the Goods and/or Services, subject to these General Conditions and any Special Conditions of Contract.

3. PURCHASE ORDER AND RECEIPT

- 3.1 Subject to Clause 3.2 below the Authority shall not be responsible for receiving any Goods and/or Services and the Contractor shall not be entitled to invoice the Authority for the Goods and/or Services unless and until an official Purchase Order has been issued by the Authority or such other confirmation, certificate or declaration as is deemed as appropriate and applicable to the Contract in connection with the performance of the Services and a delivery note or written receipt has been produced by the Contractor signed on behalf of the Authority by its Authorised Signatory.

- 3.2 If more Goods are delivered to the Authority than the number ordered the excess Goods delivered will be left with the Authority at the Contractor's risk and the Authority shall not be responsible for payment. If the excess Goods are not collected from the Authority's Premises within four weeks of delivery, the Authority shall be entitled to keep the Goods and will not have to pay for them.

4. LABELLING AND PACKAGING

- 4.1 The Goods shall be packed and marked in a proper manner and in accordance with the Authority's instructions, any statutory requirements and any requirements of the carriers. The Goods shall be marked with the order number, the net, gross and tare weights. The content details shall be clearly marked on each container and all containers of hazardous Goods *and all relevant documents* shall bear prominent and adequate warnings. Without prejudice to the provisions of Clause 19 of these General Conditions, which shall apply to a breach of this condition the Contractor shall for the avoidance of doubt indemnify the Authority in connection with any breach of this General Condition.

- 4.2 All packaging materials will be treated as non-chargeable and non-returnable for credit.

5. PASSING OF PROPERTY AND RISK

- 5.1 The Contractor shall retain ownership of and risk in the Goods until he has delivered them to the Authority during their normal business hours. If the Authority rejects any Goods under Clause 7 of these General Conditions, ownership of and risk in the Goods shall not pass from the Contractor on delivery.

- 5.2 When ownership in the Goods is passed to the Authority in accordance with these General Conditions it is without prejudice to any right the Authority may have to reject the Goods in accordance with these terms and conditions.

6. DAMAGE IN TRANSIT

- 6.1 When any consignment of Goods is despatched by the Contractor to the Authority the Contractor shall send an advice note to the Authority at the Premises, which specifies the means of transport, the place and date it will be despatched as well as the number of packages, their weight and volume. If any Goods are damaged in transit or fail to be delivered to the Authority the Contractor shall free of charge, and as quickly as possible, either repair or replace the Goods, as decided by the Authority, provided that the Authority:

6.1.1 give notice to the Contractor that the Goods have been damaged within 30 days of delivery;

6.1.2 shall advise the Contractor if the Goods are not delivered within 10 days of the date notified for delivery (as long as the Authority has been told of the date the Goods were despatched).

7. REJECTION AND BREACH

- 7.1 If the Contractor supplies any Goods or uses any Materials which in the opinion of the Authority are inferior or not in line with the Specification or any other obligations under the Contract, or are not of the required quality, the Authority shall be entitled at its discretion, regardless if any part of the Goods have been accepted, to:

7.1.1 set aside the Contract or Purchase Order;

- 7.1.2 reject the Goods (all or some only) and return them to the Contractor at the risk and cost of the Contractor on the basis the Contractor shall refund the Authority immediately;
 - 7.1.3 give the Contractor the opportunity at his own expense to either remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
 - 7.1.4 refuse to accept any further deliveries of the Goods without any liability to the Contractor being incurred;
 - 7.1.5 carry out at the Contractor's expense any work necessary to make the Goods comply with the Contract; and
 - 7.1.6 purchase all or part of the Goods or similar goods from a third party and in each case claim and be paid by the Contractor such damages including additional expenses as may have been sustained as a result of the Contractor's breaches of the Contract.
- 7.2 The Contractor must remove rejected Goods within 7 days of notice of rejection served by the Authority and if not removed, such Goods may be removed or sold or otherwise disposed of by the Authority. Any expense incurred by the Authority shall be paid to the Authority by the Contractor on demand. The Authority will not be liable in any way for injury to or deterioration or loss of rejected Goods. Payment shall not affect the Authority's rejection rights.
- 7.3 On delivery the Authority reserves the right to mark the Goods immediately. This is carried out for security purposes and the Authority shall not be considered to have accepted the Goods by doing this and the Contractor will not be entitled to raise any subsequent rejection of the Goods on this ground.
- 7.4 If the Contractor shall be in breach of any of his obligations, in particular in breach of clauses 10, 11 or 12 the Authority shall be entitled to give the Contractor notice in writing immediately to make good the breach.
- 7.5 If the Contractor fails to comply with any notice issued subject to Clause 7.4 above within 7 days of receiving it or such longer period as the Authority may allow in writing knowing the nature of the breach, the Authority shall be entitled immediately to terminate the Contract and either carry it out itself or employ others to carry out the Services not performed by the Contractor at their risk and cost.
- 7.6 On termination of the Contract the Authority shall not be under any obligation to pay the Contractor any further sums until such time as the whole of the Services (which were to have been provided under the Contract) have been completed. On completion of the Services the Authority shall pay the Contractor, or be entitled to recover from the Contractor, the difference between the sums due to the Contractor in accordance with the Contract up to termination and the cost incurred by the Authority in completing the Services as well as any direct damages suffered by the Authority arising from the Contractor's default.

8. DEFECTIVE GOODS

- 8.1 If the Goods or any part of them are proved to be defective during a period of 18 months from delivery or 12 months from putting them into service, the Authority may, at its sole option, require the Contractor to replace or repair the defective Goods. The Contractor shall replace or repair the defective Goods at its own cost and expense, immediately upon demand and if for any reason the Contractor is unable to do so, the Authority may arrange for such replacement or repair and the Contractor shall immediately on demand, reimburse the Authority, for all costs and expenses incurred. Further, the Contractor shall pay, discharge and indemnify the Authority against all actions, suits, claims, demands,

losses, charges, costs and expenses suffered by the Authority, arising from or in connection with the supply of any defective or damaged Goods, including any return costs.

9 STATEMENT OF SERVICES

9.1 The Contractor warrants that the Services will be performed with all reasonable skill, care and diligence in a good and workmanship manner in accordance with the Contract and in particular, any requirements laid down in the Specification.

9.2 The Contractor warrants that the Services will be carried out by adequately trained, qualified, industrious and honest personnel, to the standards of service required under the Contract and that at all times during the Contract Period there are sufficient persons of the abilities and skills required in order to complete the Services in a proper and workmanship manner according to any Contract Programme and the Specification.

10. HOW TO CARRY OUT THE SERVICES AND RELATED PERSONNEL MATTERS

10.1 The Contractor must first obtain the prior written permission of the Authority before delivering any Goods or Materials to or commencing work on the Premises, where the Premises happen to be the Authority's Premises. This shall be in addition to the requirements of Clause 3.1 of these General Conditions.

10.2 The Contractor shall not have exclusive access to the whole or any part of the Premises but only as much as he needs to carry out the Services at the same time as others who may be carrying out works. The Contractor shall co-operate with such other people as the Authority may reasonably require.

10.3 The Authority shall have the power at any time during the progress of the Services to order in writing:

10.3.1 the removal of any Materials or Goods from the Premises which in the opinion of the Authority are either hazardous, noxious or in breach of the terms of the Contract; and/or

10.3.2 the substitution of suitable Materials; and/or

10.3.3 the removal and correct installation or completion (despite any previous or interim payment made) of any Materials, Goods or Services which is not in the Authority's opinion in line with the Contract.

10.4 When the Contract for Services is completed the Contractor shall take all plant, equipment and unused Materials and clear away all rubbish and leave the Premises neat and tidy.

10.5 The Authority must be able to inspect and test the progress of the Services at any time whether at the Authority's Premises or at the Premises of the Contractor or any Subcontractor and to reject any work which is in breach of the Contract. The Contractor shall immediately replace or re-execute any work rejected. Any such inspections or testing shall not relieve the Contractor of any of his obligations under the Contract.

10.6. If the Authority so indicates the Contractor shall take all reasonable steps to prevent unauthorised people being admitted to the Premises. Where the Authority informs the Contractor that certain individuals are not to be admitted or are to be removed from the Premises to include persons involved in or to be involved in the performance of the Contract it is the Contractor's responsibility to remove the said individual. Any security documents, including security passes issued to those individuals who have been removed from the Authority's Premises shall be returned to the Authority by the

Contractor immediately. The Contractor must also replace any person who has been removed under this clause with someone with similar skills.

- 10.7 The Contractor shall provide to the Authority, when requested, a list of all the people who have at any time been employed to provide the Services on the Premises, such details to include their capabilities and other details enabling the Authority to identify them.
- 10.8 If the Authority decides any person is to be admitted, removed or no longer to work on the Contract, such decision made by the Authority is final and binding.
- 10.9 The Contractor shall pay the cost of any notice, instruction or decision of the Authority under this condition.
- 10.10 On the Authority's Premises the Contractor's personnel shall comply with all the rules, regulations, policies and procedures and any other requirements (either made known at the time of tendering, award or subsequently) including data protection and security arrangements which are in force at any time.

11. QUALITY, FITNESS AND STANDARDS

- 11.1 On the date of Tender or date of the commencement of the Contract, the Goods and/or Services supplied and all workmanship supplied shall, without prejudice to any other obligations in the Contract be in accordance with the following standards (or equivalent where applicable):
- The European Community for Standardisation (CEN).
 - The International Organisation of Standardisation (ISO).
 - The British Standards Institution (BSI).
 - British Standards (where appropriate).
 - Such other standards as made known to the other party and incorporated in the Contract or any other document forming part of the Contract.
- 11.2 If no set standard is specified or offered, the Services shall be provided in a professional and workmanlike manner to the highest standards applicable to the particular nature of Services in question and with all due care and skill and in accordance with Clause 9 herein.
- 11.3 The Contractor confirms that the Goods and the Materials used will:
- 11.3.1 be of satisfactory quality;
- 11.3.2 be fit for the purpose for which they are supplied including any purpose specified in the Contract, or which the Authority has advised the Contractor they will be used for;
- 11.3.3 be free from defects in design, material and workmanship;
- 11.3.4 correspond in every respect with any specifications, drawings, samples or descriptions provided by the Authority;
- 11.3.5 comply with all statutory requirements and regulations relating to the Goods or Materials (as appropriate); and
- 11.3.6 comply with all relevant Acts of Parliament, statutory instruments, orders, regulations, bye-laws or any other enactments.

- 11.4 The Contractor shall provide all supervision, labour, materials, transport, plant, tools, equipment, facilities (including the Materials) necessary to perform the Services in accordance with the Contract except for any items which are to be provided by the Authority in accordance with Clause 14 herein.
- 11.5 The Contractor shall carry out the Services regularly, diligently and in accordance with such programme as may be included within the Contract. If the Contract contains specific dates or periods when any part of the Services is to be completed, the Contractor shall complete that part by that date or within that period, or as it may be extended by agreement between the Parties.
- 11.6 The Contractor is treated as having inspected the Premises before tendering to enable it to understand the nature and extent of the Services to be carried out and all things connected with carrying out the Services. The Authority shall, if requested by the Contractor, grant the access needed to inspect.

12. DELIVERY AND PERFORMANCE

- 12.1 The Goods are to be delivered at reasonable times and on the day and at the Premises specified in the Contract. Delivery shall be free of charge to the Authority and at the risk of the Contractor. Delivery of the Goods to a carrier shall not be treated as delivery of the Goods to the Authority.
- 12.2 The Contractor shall begin performing the Services on the date specified in the Contract and shall complete the performance of the Services by the date specified in the Contract or continue to perform them for the period specified in the Contract, whichever is applicable.
- 12.3. Time shall be of the essence in the performance of the Contract. If the Contractor does not complete delivery of the Goods and/or performance of the Services within the times or on the date(s) set out in the Contract, the Authority shall have the right to refuse any further deliveries or attempted deliveries of Goods and/or Services and/or terminate the Contract immediately without penalty to the Authority. The Authority shall also be entitled to purchase other goods and/or obtain other services of the same or similar description and/or correct the faults and will be entitled to recover from the Contractor the difference between the cost of the alternative Goods and/or Services purchased (including any additional or consequential charges) and the cost which would have been payable to the Contractor for the Goods and the Services which should have been provided by the Contractor. This shall be without prejudice to any other remedy for breach of these General Conditions in favour of the Authority.
- 12.4 The Contractor shall at the start of the Contract give the Authority a detailed programme of the Services to be carried out (if applicable) in a form acceptable to the Authority. During the continuation of the Services progress reports shall be provided to the Authority at such reasonable times as the Authority may request, such reports to be provided at the cost of the Contractor.
- 12.5 Where any access to the Premises is necessary for any reason in connection with delivery or if access to the Premises is required for delivery or installation of Goods or the performance of Services, the Contractor shall at all times comply with the requirements of the Authority.
- 12.6 If Goods are incorrectly delivered, the Contractor will be responsible for any additional expense incurred in delivering them to their correct destination.
- 12.7 When the Goods are delivered, the Contractor shall provide the Authority with all operating and safety instructions and other information as needed for the Authority to accept delivery of the Goods.

- 12.8 The Contractor shall make no delivery of Goods in instalments unless otherwise having first obtained the prior, written and express consent of the Authority.

13. VARIATION OF REQUIREMENTS

- 13.1 The Contractor shall not alter the design, Specification and quantity of the Goods or alter the location and/or nature of or vary the Services except as directed by the Authority. The Authority shall have the right from time to time during the continuation of the Contract, by written notice, to direct the Contractor to add to or omit, or otherwise vary the design, Specification and quantity of the Goods or alter the location and/or nature of or vary the Services. The Contractor shall carry out such variations and be bound by the same conditions as far as is applicable, as though the variation were stated in the Contract.

- 13.2 If the contractual requirement is varied leading to an amendment of the Contract Price, the Contractor shall, within seven days of receipt of the notification, advise the Authority in writing of the amount of any amendment. Any such amendment shall be calculated and decided at the same level of pricing as already in the Contractor's Tender or quotation. The Authority shall either:

13.2.1 confirm the variation in writing amending the Contract Price and the Contractor's obligations as the Parties may have agreed such variations to be deemed incorporated into the Contract; or

13.2.2 if agreement cannot be reached, the Authority shall be free to either terminate the Contract by one month's written notice; or withdraw the variation and continue as if such notice of variation had not been given.

14. FREE ISSUE MATERIALS

- 14.1 The Contractor shall keep all Free Issue Materials in good order and condition and shall use Free Issue Materials solely in connection with the Contract. Any surplus Free Issue Materials shall be returned to the Authority and/or be disposed of at the Authority's discretion. Any Free Issue Materials damaged due to bad workmanship or the fault of the Contractor shall be repaired at the Contractor's expense. Without prejudice to any other of the rights of the Authority, the Contractor shall deliver the Free Issue Materials, whether further worked on or not to the Authority on demand.

15. PRICE AND PAYMENT

- 15.1 The price of the Goods and Services shall be as set out in the Contract and no increases or other costs will apply (either before the signing of the Contract or subsequently) unless otherwise first accepted and agreed to in writing by the appropriate Authorised Officer of the Authority.

- 15.2 The Contractor shall issue a separate invoice for each consignment of Goods delivered and for the Services carried out in line with the prices set out in the Contract:

15.2.1 subject to Clauses 3.1 and 15.2.2 of these General Conditions, the Contractor shall be entitled to submit invoices for Goods after delivery of the Goods;

15.2.2 the Contractor shall have the right to submit invoices for Services and/or Goods supplied in connection with the Services on completion of the Services and in all other cases in line with the Contract.

- 15.3 Invoices shall quote the relevant order numbers and shall be issued and paid in pounds sterling unless otherwise set out in the Contract. If the Government decides to adopt an alternative national currency during the period of the Contract (e.g. the Euro), invoicing

and payments may be transferred to that currency to comply with the appropriate legislation at that time according to any instructions of the Authority.

- 15.4 Unless set out otherwise in any Special Conditions of Contract or in some other part of the Contract, the Authority shall pay the price of the Goods and/or Services no later than the end of the calendar month following the month in which the Goods have been delivered and/or the Services have been carried out and when they receive a proper invoice submitted by the Contractor to the Authority in line with this Clause 15.
- 15.5 Value Added Tax (if appropriate), shall be shown separately on all invoices as a strict net extra charge and shall only be payable on receipt of a valid VAT invoice, setting out the percentage rate being charged.

16. COMPETITION

- 16.1 If, during the Contract, the Authority finds it can obtain similar goods or services to the Goods or Services at a lower price than the Contract Price in this Contract, then the Authority may request the Contractor to review the Contract Price and if the Contractor is not willing to undergo a review, the Authority shall be free to purchase such Goods and Services from the other source without incurring any liability.

17. INSPECTION

- 17.1 The Authority shall be permitted to send any Authorised Officer, either before or during the Contract to carry out or arrange to have carried out any inspections and/or investigations and/or tests as required by the Authority to ensure that the Contractor is able to fulfil all his obligations under the Contract or any Contract which the Authority may be considering awarding to the Contractor.

18. AUDIT

- 18.1 Contractor shall keep records to the Authority's satisfaction of all expenditure which can be reimbursed by the Authority together with the hours worked and the costs incurred by the Contractor where the Contractor is paid by the Authority on a time charged basis. These records shall be retained by the Contractor for two years after the Contract has been completed. The Contractor shall allow the Authority or its representatives by request in writing access to all the Contract records as reasonably required by the Authority.

19. INDEMNITY AND INSURANCE

- 19.1 The Contractor shall indemnify and keep indemnified the Authority against injury to or death to any persons or loss of or damage to the property of the Authority which may arise out of any act or omission, default or negligence of the Contractor or its employees, servants, agents or Subcontractors, and against all actions, suits, claims, demands, losses, charges, costs, expenses (including legal costs on a full indemnity basis) and judgements whatever incurred by the Authority, provided always that the Contractor shall not be liable for, nor be required to indemnify the Authority against any compensation or damages for or in respect of injuries, loss or damage resulting entirely from any act, default or negligence on the Authority's part or that of its employees or agents not being the Contractor or employed by the Contractor.
- 19.2 Without prejudice to its liability to indemnify the Authority in line with Clause 19.1 above the Contractor shall, at its own expense and with a reputable insurance company, have in force and require any Subcontractor to have in force:
- 19.2.1 Employer's Liability Insurance in line with any legal requirement for the time being in force; and

- 19.2.2 Public Liability Insurance for an amount and range of cover as the Contractor considers appropriate but not less than £2,000,000 for any one incident unless otherwise agreed by the Authority in writing.
- 19.3 The Contractor shall on demand produce evidence to the Authority in the form of certificates, policies and cover notes to show the insurances mentioned in Clause 19.2 above are properly effected and in force at all times during the Contract.
- 19.4 The Contractor warrants that neither the Goods and/or the provision of the Services nor the Authority's use of the Goods for the purposes intended or made known will infringe any patent, registered design, trademark, copyright or other protected right and the Contractor shall indemnify the Authority against all actions, claims, demands, costs, proceedings, charges and expenses of whatsoever nature arising from or incurred by reason of any infringement or alleged infringement of any such right.

20. HEALTH AND SAFETY

- 20.1 The Contractor shall comply and ensure its Subcontractors comply with the Health and Safety at Work Act 1974, all relevant Safety Regulations and environmental requirements and any regulations of the Authority relevant to the Premises to which the Goods are being delivered and/or the Services are being provided.
- 20.2 The Contractor represents and warrants to the Authority that the Contractor has satisfied himself that all necessary tests and examinations have been made or will be made prior to the delivery of the Goods or Services:
- 20.2.1 to ensure that the Goods are designed and constructed to be safe and without risk to the health or safety of people using them and of those who are in the vicinity of the Goods, and that the Contractor has made adequate information available to the Authority about the design testing and use of the Goods and that they have been tested and about any conditions necessary to ensure that when used, the Goods will be safe; and
- 20.2.2 to ensure that the Services are designed and constructed to be safe and without risk to the health and safety of the people using them and of those who are in the vicinity of the people using the Services.
- 20.3 The Contractor shall indemnify the Authority against all actions, suits, claims, demands, losses, charges, costs and expenses which the Authority may suffer or incur as a result of any breach of Clause 20.2 above.
- 20.4 The Contractor shall observe and ensure its Subcontractors shall observe the work rules which apply to the Premises where the Services are carried out and complies with any instructions of the Authorised Officer. The Authority shall have the right to require the Contractor immediately on receipt of notice in writing to remove any of his employees, servants, agents and Subcontractors on the Premises who:
- 20.4.1 fail to comply with the work rules; or
- 20.4.2 in the opinion of the Authority has been negligent or incompetent.
- 20.5 The Contractor shall be responsible for the absolute suitability and safety of the Materials or equipment used by him including any Materials temporarily stored on the Authority's Premises in connection with the performance of the Services and for which prior express permission to do so has been given beforehand by an Authorised Officer of the Authority. Where such materials are present on the Authority's Premises such Materials shall be removed immediately upon the Contractor being given an instruction to do so by an

appropriate Authorised Officer of the Authority. Without lessening the Contractor's level of responsibility for the Materials and equipment the Authority shall have the right to inspect Materials or equipment and if in the Authority's opinion they are unsuitable they shall not be used and no extra time or payment shall be given to the Contractor to replace them.

21. HAZARDOUS GOODS AND DANGEROUS SUBSTANCES

- 21.1 The Contractor shall be responsible for complying with the requirements of COSHH Regulations 1999 and all other relevant UK and International Agreements, statutory regulations and Codes of Practice relating to the packaging, labelling and carriage of hazardous goods.
- 21.2 As soon as possible after the Contract has been agreed all information held by or reasonably available to the Contractor shall be promptly communicated to the Authority with regard to any potential hazards known or believed to exist in the transport, handling or use of the Goods or Materials supplied.

22. TERMINATION FOR REASONS BEYOND THE PARTIES CONTROL

- 22.1 The Authority reserves the right to postpone the date of delivery or payment or to cancel all or part of the Contract or reduce the volume of the Goods and Services ordered if it is prevented from or delayed in the carrying on of its business through any circumstances beyond its reasonable control.
- 22.2 Without prejudice to the rights of Clause 22.1 above the following instances shall be included as causes beyond the Authority's reasonable control:
- 22.2.1 Government actions, war or threat of war, national emergency, riot, civil disturbance, sabotage or requisition; or
 - 22.2.2 Act of God, fire, explosion, flood, epidemic or accident; or
 - 22.2.3 Import or export regulations or embargoes; or
 - 22.2.4 Labour disputes including disputes involving the workforce of the Authority, the Contractor or any third party.

23. TERMINATION

- 23.1 The Authority shall have the right to terminate the Contract immediately at any time by giving notice in writing to the Contractor and recover the amount of any loss which results from cancellation which can be deducted from any sum due from the Authority to the Contractor if:
- 23.1.1 the Contractor commits a breach of any of the terms and conditions of the Contract and has failed to remedy the breach within the time allowed should any procedure be agreed between the Parties as part of the Contract for the remedying of faults which amount to potential breach of Contract before the Authority applying its normal rights and remedies under the terms of these General Conditions and any other conditions forming part of the Contract;
 - 23.1.2 any distress, execution or other legal process is imposed upon any of the Contractor's assets;
 - 23.1.3 the Contractor enters into any arrangement or composition with its creditors, commits any act of bankruptcy or (if it is a corporation) an order is made or an effective resolution is passed for its winding up (except for the purposes of

amalgamation or reconstruction with the consent of the Authority) or a receiver and manager, receiver, administrative receiver or administrator is appointed in respect of the whole or any part of the Contractor's undertaking or assets;

- 23.1.4 an encumbrance takes possession of any of the Contractor's property or assets;
 - 23.1.5 the Contractor ceases or threatens to cease to carry on its business;
 - 23.1.6 the financial position of the Contractor deteriorates so far that in the Authority's opinion the ability of the Contractor adequately to fulfil its obligations under the Contract has been placed in jeopardy; or
 - 23.1.7 the Authority reasonably considers that any of the above events is about to occur in relation to the Contractor.
- 23.2 Notwithstanding the provisions of Clauses 12, 13 and 23.1 of these General Conditions, the Authority may at any time terminate the Contract by giving the Contractor at least 1 month's notice. In these circumstances the Authority shall pay the Contractor for any Services provided properly and any costs incurred properly by the Contractor up to the date of termination.
- 23.3 However this Contract is terminated, it will be without prejudice to the rights and duties of either Party arising prior to termination. The provisions of the Contract which expressly or impliedly have effect after termination will continue to be enforceable despite termination.
- 23.4 In the event of the amalgamation of Derbyshire Police Authority with one or more other Police Authorities, the Derbyshire Police Authority or its successor may terminate this agreement by not less than (12) months' notice to the other party.

24. RECOVERY OF SUMS DUE

- 24.1 If under this Contract any money is recoverable from or payable by the Contractor it may be deducted from or reduced by the amount of any sum due, or which may become due to the Contractor under the Contract, or under any other agreement or Contract with the Authority.

25. PATENTS AND INFORMATION

- 25.1 It shall be a condition of the Contract that except for the Goods and Services which incorporate designs given by the Authority, the Goods and Services will not be in breach of any patent, trade mark, registered design, copyright or other right in the nature of industrial property of any third party and the Contractor shall indemnify the Authority against all actions, suits, claims, demands, losses, charges, costs and expenses which the Authority may suffer or be liable for as a result of or in connection with any breach of this Condition. If any court order is obtained against the use of the relevant Goods the Contractor shall immediately replace the Goods with other similar Goods to the satisfaction of the Authority. The Authority gives no warranty as to the intellectual property rights in any material or specification supplied by them and the Contractor must satisfy itself as to the ownership of them.
- 25.2 Free Issue Materials remain in the ownership of the Authority even when being used by or in the possession of the Contractor. Upon the completion of the Services any Free Issue Materials provided to the Contractor by the Authority for use by the Contractor as part of or in connection with the performance of the Services, shall (if possible) be returned to the Authority on completion of the Services or at the end of the Contract Period whichever occurs first.
- 25.3 All rights (including ownership and copyright) in any specifications, instructions, plans, drawings, patterns, models, designs or other Free Issue Materials given to the Contractor

by the Authority under the Contract and any materials produced as a result of the Contractor performing the Services shall stay owned solely by the Authority and the Contractor shall not (except if needed to carry out the Contract) without prior written consent of the Authority use or disclose any specifications, plans, drawings, patterns, models or designs or any information or Materials or Free Issue Materials (whether relevant to this Contract or not) which the Contractor may obtain under this Contract.

25.4 The provisions of this Clause 25 shall apply whilst the Contract is in force and after it is terminated for whatever reason.

26. ADVERTISEMENTS AND ENDORSEMENTS

26.1 This Contract shall not entitle the Contractor to endorse its goods (including the Goods) or services (including the Services) with any reference to the Authority or the Chief Constable and the Contractor shall not exhibit for advertising or any other reason any goods (including the Goods) or services (including the Services) or equipment supplied under the Contract which can be identified with the Authority (whether the ownership of such Goods or equipment shall have passed to the Authority or not) without the written consent of the Authority.

27. RIGHT TO CONTRACT

27.1 Authority has the right to Contract with any person or persons, firm or company other than the Contractor for the supply of similar Services to the Services and/or the supply and delivery of items and Goods similar to the Goods, Materials or articles which are from time to time supplied under this Contract.

28. SUB-CONTRACTING, ASSIGNMENT OR TRANSFER OF CONTRACT

28.1 The Contractor must not assign, transfer or sub-let the Contract or any part, share or interest in it either directly or indirectly to any person and shall not sub-contract except with the written consent of the Authority.

28.2 The Contractor will be liable under this Contract irrespective of any sub-contracting.

28.3 The Contractor shall be fully responsible for the acts and defaults of any Subcontractor as if they were his own.

28.4 If there is a breach of the provisions of this condition, the Authority shall be entitled to cancel the Contract immediately and Clause 23 of these General Conditions will apply.

29. CONTRACTOR'S STATUS

29.1 In carrying out this Contract the Contractor shall be acting as principal and not as the agent of the Authority and therefore:

29.1.1 The Contractor or any Subcontractor shall not in any circumstances, hold itself or themselves out as being a servant or agent of the Authority and shall not (and shall ensure that his agents and servants do not) say or do anything that might lead any other person to believe that he is acting as the agent of the Authority, otherwise than in the circumstances is expressly allowed by these conditions.

29.1.2 The Contractor or any Subcontractor shall not in any circumstances hold itself or themselves out as being authorised to enter into any Contract or bind the Authority to the performance, variation, release or discharge of any of its obligations.

29.2 The Authority shall not be responsible for any liability incurred by the Contractor to any other person but this shall not be taken to exclude or limit any liability of the Authority to the Contractor that may arise by virtue of either a breach of Contract or any negligence on the part of the Authority's staff or agents.

30. THIRD PARTY RIGHTS

30.1 The Parties agree that a person who is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any General Condition or any Special Condition of Contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

31. TUPE

31.1 Where as a matter of fact a TUPE transfer [Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended from time to time)] arises the Contractor indemnifies and holds harmless the Authority against any and all liability which the Authority may suffer or incur to any employee who is deemed transferred from or to the Authority as a result of the Authority entering into any Contract with the Contractor.

32. CANVASSING

32.1 Canvassing for a Contract is prohibited and any Tenderer who is guilty of so doing will be disqualified from tendering for that Contract and apart from any other action which may be taken against him he may not be allowed to Tender again for any future Contracts with the Authority for up to 3 years after the date of such canvassing.

33. PRIVATE TRANSACTIONS

33.1 The Contractor shall not during the Contract Period solicit or receive orders or engage in private transactions with any servant or employee of the Authority for Goods or Services supplied under this Contract.

34. BRIBERY AND CORRUPTION

34.1 The Authority shall be entitled to cancel the Contract and to recover from the Contractor the amount of any loss resulting from cancellation in any of the following circumstances:

34.1.1 the Contractor shall have offered or have given, or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing, or agreeing to do or for having done or had agreed to do, any action relating to obtaining or the signing of the Contract or any other Contract with the Authority;
or

34.1.2 the Contractor showing or agreeing to show favour or disfavour to any person, in relation to the Contract or any other Contract with the Authority, or if similar acts have been done by any person employed by the Contractor, or acting on the Contractor's behalf (*whether with or without the knowledge of the Contractor*); or

34.1.3 if in relation to the Contract or any other Contract with the Authority the Contractor or any person employed by the Contractor or acting on the Contractor's behalf shall have committed an offence under the Prevention of Corruption Acts 1889 to 1916; or

34.1.4 if the Contractor shall have given any fee or reward the receipt of which is an offence under sub-section (2) of Section 117 of the Local Government Act 1972.

35. OFFICIAL SECRETS ACT AND CONFIDENTIALITY

- 35.1 The Contractor undertakes to comply with the provisions of the Official Secrets Acts 1911 to 1989.
- 35.2 The Contractor shall keep confidential all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Contractor by the Authority (or its agents) or acquired by the Contractor from the Authority (or its agents). The Contractor shall also keep confidential any other confidential information concerning the Authority or its business or the fact of this Contract or any document which makes up the Contract. The Contractor shall restrict disclosure of the confidential material to those of its employees, agents or Subcontractors as need to know the information to enable them to carry out the Contractor's obligations to the Authority and shall ensure that all employees, agents or Subcontractors are subject to similar obligations of confidentiality as those imposed on the Contractor. Under no circumstances without the prior approval of the Authority shall such information be published, copied, amended or otherwise disclosed to any other persons and the Contractor shall ensure that all its Subcontractors are also aware of their obligations under this Clause 35.
- 35.3 This clause shall not apply to information to be disclosed by law as long as the Contractor shall notify the Authority and agree the nature of any such disclosure with the Authority in advance or which is in the public domain other than by a breach of this Clause 35.
- 35.4 The provisions of the previous paragraphs shall apply during the continuance of this Contract and after it has been terminated however arising.

36. DATA PROTECTION ACT AND FREEDOM OF INFORMATION

- 36.1 Notwithstanding anything to the contrary contained or implied in any documents or negotiations leading to the formation of this Contract:
- 36.1.1 the Authority shall be entitled to publish and/or release any and all terms or conditions of this Contract, the contents of any documentation and/or information relating to the formation of this Contract under the provisions of any statute or regulation which governs disclosure of information held by the Authority including but not limited to the Freedom of Information Act 2000 and/or Data Protection Act 1998 as it sees fit;
- 36.1.2 nothing contained in this Contract shall prevent the Authority from disclosing and/or publishing under the provisions of any statute or regulation which governs disclosure of information held by the Authority including but not limited to the Data Protection Act 1998 and/or Freedom of Information Act 2000 any term or condition or information contained in or relating to the formation of this Contract.
- 36.2 The Contractor shall:
- 36.2.1 co-operate with the Authority and supply to it all necessary information and documentation required in connection with any request received by the Authority under any statute or regulation which governs disclosure of information held by the Authority including but not limited to the Data Protection Act 1998 and/or Freedom of Information Act 2000;
- 36.2.2 supply all such information and documentation at no cost to the Authority and within seven days of receipt of any request

36.2.3 the Contractor shall not publish or otherwise disclose any information contained in this Contract or in any negotiations leading to it without the Authority's previous written consent unless the Contractor is bound to publish and/or disclose such information under any statute or regulation which governs disclosure of information held by the Contractor including but not limited to Data Protection Act 1998 and/or Freedom of Information Act 2000 and such information is not exempt from such disclosure and/or publication under the provisions of any statute or regulation which governs disclosure of information held by the Contractor including but not limited to the Data Protection Act 1998 and/or Freedom of Information Act 2000

37. EQUALITY AND DIVERSITY

37.1 The Contractor shall comply with all statutory requirements applicable to race relations and diversity (including, without limitation, statutory requirements relating to the Race Relations Act 1976, the Sex Discrimination Act 1975 and the Disability Discrimination Act 1995, as amended) together with the Authority's policies and procedures as notified by the Authority to the Contractor from time to time.

37.2 The Contractor shall not unlawfully discriminate as set out in the provisions of the Race Relations Act 1976, the Sex Discrimination Act 1975 and the Disability Discrimination Act 1995 or any Act of Parliament or statutory modification or re-enactment relating to discrimination in employment.

37.3 The Contractor and the Authority shall consider the promotion of race equality and diversity as key requirements of the Contract. The Contractor and the Authority shall monitor how the Contract promotes and adheres to existing and any future public duties introduced through legislation throughout the duration of the Contract and make any amendments or changes as necessary to the Contract in order to promote such duties. The Contractor will provide to the Authority at no cost all information that the Authority deems necessary to monitor the Contract.

37.4 The Contractor shall take all reasonable steps to secure the observance of these provisions by all servants, employees or agents of the Contractor and all suppliers and Subcontractors employed in the execution of the Contract.

38. PROTECTION OF THE AUTHORITY'S RIGHTS

38.1 If the Authority shall fail or delay in exercising any right, power or remedy under this Contract it shall not in any circumstances affect such right, power or remedy even if it would have done so if this clause did not exist. The single or partial exercise by the Authority of any right, power or remedy under this Contract shall not in any circumstances prevent the Authority using that right again or any other right, power or remedy under the Contract.

38.2 The rights, powers and remedies provided in this Contract are cumulative and are not exclusive of any rights, powers and remedies provided by law.

38.3 Acceptance by the Authority of any breach or default under any of these General Conditions and/or Special Conditions of Contract shall not be deemed to be an acceptance of any later breach or default and shall not affect the other of the said conditions of this Contract.

39. CONTRACTOR'S UNDERSTANDING OF NATURE AND DETAILS OF THE AUTHORITY'S REQUIREMENTS

39.1 Whilst undertaking any work under the Contract, the Contractor shall make themselves aware of and shall comply with the Authority's financial regulations and any other

regulations required by the Authority and made known to the Contractor either within the Specification, any other part of the Contract documents or at any later stage following Contract award whether verbally or in writing. In particular, the Contractor shall ensure that all employees, agents, servants and Subcontractors are made aware of and adhere to the Authority's non-smoking policy at all its Premises, and are made aware that telephone calls and data communication made to or from the Authority's network may be recorded or monitored at any time.

- 39.2 The Contractor shall be deemed to have read all documentation relating to the Contract in order to determine the quantity and quality of resources that will be required, and the Contractor shall obtain an understanding of the conditions under which the Services will be carried out. Any information (include drawings) that the Authority may give the Contractor shall be to the best of the Authority's knowledge at that time but the Authority shall not warrant the sufficiency or accuracy of any such information unless stated in the Contract. The Authority will not be liable for claims from the Contractor for additional payments in excess of that agreed in the Contract, on account of matters that the Contractor may reasonably have determined in advance.
- 39.3 It is the responsibility of the Contractor to fulfil the requirements of the Contract and any Purchase Order raised against the Contract, to follow any reasonable instructions and requests for management information, to ensure that all Goods and Services are supplied to the required standard and to meet itself any additional costs where necessary in order to rectify poor quality or performance.

40. CONFLICT OF INTEREST

- 40.1 The Contractor shall not be involved in any negotiation of whatever nature between the Authority and any company, project or business in which it is or may be engaged or interested directly or indirectly and it is the Contractor's sole responsibility to notify the Authority immediately of any such conflict or potential conflict which may arise.

41. DISPUTES/ARBITRATION

- 41.1 Any dispute, difference or question between the Parties relating to the Contract which cannot be resolved by negotiation, shall after written notice by either Party, be referred to arbitration under the provisions of the Arbitration Act 1996, except that the place of any arbitration shall be the headquarters of the Authority.

42. NOTICES

- 42.1 Any notice given under the Contract, may be sent by hand or post or by registered post or by the recorded delivery service or by facsimile transmission which results in the receipt of a written communication in permanent form sent:

42.1.1 To the Contractor at his last known address or if the Contractor is a limited company its Registered Office.

42.1.2 To the Authority and addressed to the Chief Constable.

- 42.2 Any notice served shall be treated as effectively given on the day when in the ordinary course of the means of transmissions, it would first be received by the person it was addressed to in normal business hours.

43. THE EFFECT OF THE INVALIDITY OF ANY OF THE PROVISIONS OF THIS CONTRACT ON THE CONTRACT AS A WHOLE

- 43.1 If any provision of the Contract shall become or shall be declared by any Court of competent jurisdiction to be invalid or unenforceable it shall not affect any of the other provisions of the Contract which all shall remain in force.

44. BUSINESS CONTINUITY

- 44.1 The Contractor should have in place appropriate arrangements, having regard to the nature, scale and complexity of its business, to ensure that it can continue to function and meet its contractual obligations in the event of an unforeseen interruption. These arrangements should be regularly updated and tested to ensure their effectiveness.

45. FOREIGN RESIDENCY

- 45.1 In compliance with the ACPO National (Security) Vetting Policy the Authority is unable to security vet anyone who has not been resident in the UK for a continuous period of the last three years, whatever their nationality. Such persons will, therefore, be unable to work on any Contract let by the Authority which requires access to any Authority assets (including its buildings). The only exception to this is where the individual concerned is able to produce assurances by way of certificates of good conduct or similar documents issued by the Police and/or other Law Enforcement agencies in the countries where they have been, or are, resident. Even where these are produced the Authority reserves the right to disqualify them from work on this Contract.

The three year period should be interpreted literally, but an exception will be made where there is a maximum of a total of 6 months continuous or broken overseas residency within that period.

46. GOVERNING LAW

- 46.1 This Contract shall be governed by the laws of England and for the benefit of the Authority the Contractor agrees that the courts of England are to have jurisdiction to settle disputes in connection with this Contract and submits to the jurisdiction of the courts of England.
- 46.2 Nothing in this clause limits the right of the Authority to bring proceedings against the Contractor in connection with this Contract in any other court of competent jurisdiction or at the same time in more than one jurisdiction.

47. VETTING OF CONTRACTED STAFF

- 47.1 The Authority is fully compliant with the Association of Chief Police Officer's National Vetting Policy with regard to Non-Police Personnel, which includes Contractor staff. This requires the Authority to carry out Basic checks upon all personnel who are likely to be employed to work in or on Force assets. The vetting process requires completion of a standard form, which will be issued by the Authority, and will include checks on Police databases held nationally, by the Authority and, where deemed relevant, by other Police Forces and Law Enforcement Agencies. This process will also include checks on other persons named (generally family) on the completed form. In certain cases credit reference checks will also be carried out based upon the data supplied on the Basic Check form.
- 47.2 Contractors are warned that persons with recent criminal convictions are unlikely to be allowed to work on any contract where access to Force assets, including buildings, is likely. Additionally, the Authority Vetting Unit will consider issues that could heighten vulnerability bring discredit upon or otherwise cause embarrassment to the Authority or to the Police Service generally and, where these conditions apply, will reject an applicant.

- 47.3 Partial completion of the Basic Check form will result in the form being returned, as will a failure to sign the declaration at the bottom of the form. Non-declaration of relevant requested information or any other attempt to mislead will result in an automatic rejection of the applicant on integrity grounds.
- 47.4 In certain cases, applicants will also be asked to undergo National Security Vetting to security clearance (SC) level, particularly where their work may involve access to Force information, technology and telecommunications assets. The forms to be completed in these cases will include a financial questionnaire and credit reference checks will be carried out upon the applicant and family residing with him/her.
- 47.5 Vetting checks **cannot** be carried out on persons who have not resided in the UK for a continuous period of three years, prior to the date of completion of the relevant vetting form, and will not be considered suitable for employment on any contract let by the Authority.
- 47.6 The Authorities Head of Professional Standards, to whom a written submission should be made within 14 days of the date the rejection was notified, will consider appeals against rejection for work on a contract let by the Authority on vetting grounds.