

## TERMS AND CONDITIONS FOR THE PROVISION OF GOODS & SERVICES

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## **1.1 GENERAL TERMS AND CONDITIONS FOR GOODS AND SERVICES**

### **1.1.1 Definitions**

- 1.1.1.1 Throughout the documentation relating to this contract the masculine shall include the feminine and neuter, the singular shall include the plural and vice versa.
- 1.1.1.2 'Approved' shall mean approved by the Authorised Officer.
- 1.1.1.3 'Authorised Officer' shall mean the person or persons duly appointed by the Authority to act as the Authority's representative for the purpose of the contract.
- 1.1.1.4 'Authority' shall mean the Greater Manchester Combined Authority (or any other Police and Crime Commissioner using this contract), any successor Authority and any body or persons to which all or part of the functions of the Authority may be lawfully transferred.
- 1.1.1.5 'Completion Date' shall mean the date included in the Contract or where not so specified, the date included in the Programme of Work as the date upon which the Works are to be completed in accordance with the Contract.
- 1.1.1.6 'Contract' shall mean the agreement between the Authority and the Contractor for the supply and delivery of the Item and/or the execution of the Works, including therein all documents to which reference may properly be made in order to ascertain the rights and obligations of the parties.
- 1.1.1.7 'Contractor' shall mean the person, firm or company named as such in the Contract as responsible for carrying out the Works and shall include the Contractor's legal personal representatives, successors and permitted assigns.
- 1.1.1.8 'Contract Price' shall mean that sum so named in the Contract together with any additions thereto or deductions there from agreed in writing under the Contract.
- 1.1.1.9 'Customer' shall mean the end user, department or internal client
- 1.1.1.10 'Data Controller' shall be the Chief Constable of Greater Manchester Police.
- 1.1.1.11 'Documentation' shall mean the manual or manuals and other documents, including the contract document, associated with the works supplied by the Contractor.
- 1.1.1.12 'Equipment' shall mean all materials, plant and hardware supplied by the Contractor, including basic level machine control facilities, for inclusion in the Works.
- 1.1.1.13 'Euro Compliant' in relation to programmes and software that it will be able to:
- (a) Process currency data inputs in the Euro currency; and
  - (b) Convert currencies of participating Member States [which adopt the Euro] from and into Euros at the Conversion rate set by the European Council and in accordance with any relevant mandatory requirements which are passed by the European Council from time to time.
- 1.1.1.14 'Item' - any item, goods or service, to be delivered or executed as part of the specification.
- 1.1.1.15 'Premises' shall mean the place or places other than the Contractor's premises to which the items are to be delivered or where work is to be done.
- 1.1.1.16 'Programme of Work' shall mean the timing and sequence of events agreed between the Authority and Contractor for the performance of the Contract.

- 1.1.1.17 'Project' shall mean and include the design, development, supply, delivery, testing and implementation of all works to be carried out by the Contractor under the Contract.
- 1.1.1.18 'Reserved Information' shall mean any information which is regarded as being eligible for exemption from disclosure by the Authority, under the Freedom of Information Act 2000 (FOIA).
- 1.1.1.19 'Service' shall mean preventative and/or corrective maintenance and all other work to be carried out by the Contractor in accordance with the provisions of the Contract.
- 1.1.1.20 'Service Charge' shall mean the charge specified in the contract, together with any additions thereto or deductions there from agreed in writing under the Contract.
- 1.1.1.21 'Sub-Contractor' shall mean any person, firm or company to whom any part of the Contract has been sub-let in accordance with the Contract and its legal representatives, successors and permitted assigns.
- 1.1.1.22 'Tender' shall include requests for quotation (in the case of a quotation references to a tender shall mean a quotation)
- 1.1.1.23 'Tender Documents' shall mean:  
Those documents listed on the Form of Tender.
- 1.1.1.24 'Tenderer' shall mean any of those persons, firms, companies or other bodies who have submitted or propose to submit a tender for the business specified in the Tender Documents.
- 1.1.1.25 The 'user' shall mean the Authority and any other Police and Crime Commissioner or public body specified in Sub-section 4 of Section 1 of the Local Authority (Goods and Services) Act 1970 or any orders made thereunder nominated by the Authority (either before or during the continuance of any contract made in pursuance thereof) who wish to participate in any contract for the supply and delivery of goods and/or services.
- 1.1.1.26 'Works' shall mean and include the supply, delivery, installation, testing and setting to work of Equipment Items and all other work, projects, goods and services required to be carried out by the Contractor under the Contract.
- 1.1.1.27 'Controller', 'Processor', 'Personal Data', 'Special Category Data', 'Data Subject' and 'Processing' shall have the same meaning as defined in the United Kingdom General Data Protection Regulation (UK GDPR) and The Data Protection Act 2018.

## **1.1.2 Headings**

The headings to Conditions shall not affect their interpretation.

## **1.1.3 The Authority's Tender Documents, the submission and acceptance of Tenders**

- 1.1.3.1 The submission of a tender for the supply and delivery of any Item set out in the Form of Tender and Pricing Schedule and/or Specifications shall be made only in accordance with the Tender Documents and the Authority shall not be bound by any variation, addition to or waiver of any condition contained in the Tender Documents except as shall have been specifically agreed between the Authority and the Contractor in writing and signed on behalf of the Authority by an Authorised Signatory, such agreement must be prior to the completion of the formal Contract agreement.
- 1.1.3.2 Any clauses in the Contractor's own Conditions of Sale or Contract or any supplementary Condition or letter which are at variance with the Authority's Tender Documents shall be overridden by the Tender Documents unless specifically agreed to in writing in accordance with paragraph 1.1.3.1 above.

1.1.3.3 Tenders will only be accepted if submitted on the Form of Tender herewith.

1.1.3.4 The Form of Tender must be signed:

(a) In the case of a Partnership by a person duly authorised to sign and bind the Tenderer or, if no person has such authority, by all Partners;

(b) In the case of a limited company and in any other case by a person duly authorised to sign and bind the Tenderer;

and all information given in the Tender Documents to be completed by the Tenderer must be given by a person duly authorised to sign and bind the Tenderer.

The Authority shall be under no obligation to check that persons purporting to have authority to sign and bind any Tender have such authority and the Authority shall be entitled to assume that all Forms of Tender are properly signed and that any information given in the Tender Documents to be completed by the Tenderer is properly given and is correct.

1.1.3.5 All Tenders must be submitted to the Authority in accordance with instructions contained in the Invitation to Tender.

1.1.3.6 All Tenders will be subject to the Authority's Standing Orders and will be accepted in accordance with the said Standing Orders.

1.1.3.7 The Authority shall award the contract on the basis of the most economically advantageous tender and does not bind itself to accept the lowest of any tender alone.

1.1.3.8 The Tender or any part thereof shall remain open for acceptance by the Authority for a period of four months from the closing date for submission of tenders.

#### **1.1.4 Receipt and acceptance of Tenders**

1.1.4.1 Subject to the Standing Orders of the Authority no tender received after the time on the date stated in the Tender Documents will be considered and incomplete tenders may be rejected.

1.1.4.2 The Authority shall extend the time limits for the receipt of tenders by a proportionate period so that all Tenderers concerned may be aware of all the information needed to produce tenders, where, for whatever reason, additional information, although requested by the Tenderer is not supplied at the latest 6 days before the time fixed for the receipt of tenders, or 4 days in the case of an accelerated procedure, or where significant changes are made to the procurement documents.

#### **1.1.5 Revocation of Offer**

The Tenderer shall not at any time after submitting a tender cause the offer thereby made to be withdrawn or revoked.

#### **1.1.6 Canvassing and Prior Involvement of Tenderers**

1.1.6.1 Canvassing is prohibited and any Tenderer who is guilty of so doing will be disqualified and apart from any other action which may be taken against him will not be allowed to tender again to the Authority for a minimum period of three years following the date of expiry of the contract the subject of the Tender.

1.1.6.2 Where a Tenderer or an undertaking related to a Tenderer has advised the Authority whether in the context of a preliminary market consultation or not, or has otherwise been involved in the preparation of the procurement procedure, the Authority shall take such measures as are appropriate to ensure that competition is not distorted by the participation of the Tenderer.

1.1.6.3 Such measures will include the communication to the other Tenderers of relevant information exchanged in the context of or resulting from the involvement of the Tenderer in the procurement procedure and the fixing of adequate time limits for the receipt of tenders.

1.1.6.4 The Tenderer will only be excluded from the procedure where there are no other means to ensure compliance with the duty to treat economic operators equally and without discrimination. Prior to any such exclusion, the Tenderer will be given the opportunity to prove that their involvement in preparing the procurement procedure is not capable of distorting competition.

#### **1.1.7 Contract to remain in force**

This agreement shall remain in full force and effect throughout the period mentioned in the Tender documents or any agreed extension of such period but if the Contractor commits a breach of conditions of contract this agreement may, at the discretion of the Authority, be terminated in writing by it immediately without compensation to the Contractor and any loss resulting from such breach shall be a debt due and owing from the Contractor to the Authority and be forthwith recoverable by action or otherwise.

#### **1.1.8 Purchase from alternative supplier**

Should the Contractor for any reason whatever fail to deliver any Item the subject of this agreement at any time throughout the Contract Period or be otherwise in breach of or fail to fulfil any obligation imposed upon him by virtue of this agreement the Authority may in its absolute discretion determine the same, without incurring liability, either in whole or in part or to the extent only of such failure or breach on the part of the Contractor, and the Authority may then purchase from another source any Item required by them to make good any failure or breach on the part of the Contractor or, in the event of this agreement being wholly determined, any Items which but for the breach or failure of the Contractor might otherwise have been ordered from him. In addition, the Contractor may be liable for liquidated damages at a rate to be agreed prior to the contract.

#### **1.1.9 Designated Representatives**

1.1.9.1 The Authority may, by written notice to the Contractor, appoint an Authority Representative(s) who shall have the power to act on behalf of the Authority on such matters in connection with the Contract as shall be specified in such notice. The Authority may, by further written notice or notices to the Contractor, revoke or amend the authority of the Authority Representative(s) or appoint a new Authority Representative.

1.1.9.2 Subject to any limitations specified by the Authority elsewhere in these conditions, the Authority Representative may from time to time, by written notice to the Contractor, delegate all or any part of his/her authority to an assistant or assistants who shall be known as 'Authority Assistant Representative(s)'. The Authority Representative may, by further written notice to the Contractor, revoke or amend the delegated authority of any Authority Assistant Representative or appoint a new Authority Assistant Representative.

1.1.9.3 The Contractor may by written notice to the Authority, appoint an Account Manager who shall have the authority to act on behalf of the Contractor on such matters in connection with the Contract as shall be specified in such notice.

#### **1.1.10 Agency**

1.1.10.1 The Contractor is not and shall in no circumstances hold himself out as being, the servant or agent of the Authority otherwise than in circumstances expressly permitted by these Conditions.

- 1.1.10.2 The Contractor is not and shall in no circumstances hold himself out as being, authorised to enter into any contract on behalf of the Authority or in any way bind the Authority in the performance, variation, release or discharge of any obligation.
- 1.1.10.3 The Contractor has not and shall in no circumstances hold himself out as having the power to make, vary, discharge or waive any by-law or regulation of any kind.
- 1.1.10.4 The Employees of the Contractor are not and shall not hold themselves out to be and shall not be held out by the Contractor as being servants or agents of the Authority for any purpose whatsoever.

#### **1.1.11 Severability**

If any provision of the contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the contract, the Authority and the Contractor, shall immediately commence good faith negotiations to remedy such invalidity.

#### **1.1.12 No third party rights**

Nothing in this Contract shall confer, nor is it intended to confer, any enforceable right on any third party under the Contracts (Rights of Third Parties) Act 1999 except as otherwise expressly so stated. Whilst the Authority is the Contracting Authority the goods or services and/or the execution of the Works are essentially being delivered to Greater Manchester Police who will be the main user of the goods and services or the Works. Therefore the Chief Constable of Greater Manchester Police will be given equal rights to the Authority to enforce the provisions of this Agreement under the Contracts (Rights of Third Parties) Act 1999.

#### **1.1.13 Corrupt Gifts or Payments**

The Contractor shall not:

- 1.1.13.1 Offer to give, or agree to give to any employee or representative of the Authority, any gift or consideration or any kind of inducement or reward for doing or refraining from doing or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other contract with the Authority or for showing or refraining from showing favour or disfavour to any person in relation to this Contract;
- 1.1.13.2 Offer to sell goods or services to any employee or representative of the Authority on the terms specified under the Contract between the Authority and the Contractor;
- 1.1.13.3 Offer, promise or give a financial or other advantage to any employee or representative of the Authority or commit an offence under the Bribery Act 2010.

#### **1.1.14 Cartels**

The Contractor shall not be a party to a cartel, whether price-fixing, market sharing or otherwise. If however, it becomes established that the Contractor is a party to a cartel (of any kind) the Authority will promptly report the fact (with details of the surrounding circumstances) to the Competition and Markets Authority; the Authority will terminate the Agreement forthwith and if any relevant account or accounts of the Contractor has/have already been paid in full the Authority reserves the right to seek compensation from the Contractor and, if necessary, to sue for damages of such amount as may be advised.

### **1.1.15 Assignments and subletting**

- 1.1.15.1 Neither party shall assign the Contract or any of its rights or obligations thereunder without first having received the written approval of the other party (provided that the Authority may assign the benefit of the Contract to any of its associated or subsidiary companies or to any leasing or financing company of its choice).
- 1.1.15.2 The Contractor shall not sub-Contract the Contract or any part thereof without having first obtained the written permission of the Authority provided that this restriction shall not apply to sub-Contracts for materials or minor details or any part of the work to be performed or materials or equipment to be supplied for which the sub-Contractor is named in the Contract.
- 1.1.15.3 In the procurement documents the Authority may ask the Contractor to indicate in its tender any share of the contract that it may intend to subcontract to third parties and any proposed subcontractors.
- 1.1.15.4 In the case of Works Contracts and in respect of services to be provided at a facility under the direct oversight of the Authority, after the award of the Contract and at the latest when the performance of the Contract commences, the Authority shall require the Contractor to notify the Authority of the name, contact details and legal representatives of its subcontractors, involved in such Works or services, in so far as is known at the time. The Authority shall require the Contractor to notify the Authority of any changes to the aforesaid information notified or the name, contact details and legal representatives of any new subcontractors which the Contractor subsequently involves in such Works or services during the course of the Contract. The Authority may extend the obligations provided for in this sub-clause to Supply Contracts, Services Contracts, (other than those concerning services to be provided at facilities under the direct oversight of the Authority), or suppliers involved in Works or Services Contracts and any subcontractors of the Contractor's subcontractors or subcontractors further down the subcontracting chain as the case may be.
- 1.1.15.5 The Authority may verify whether there are any grounds for exclusion of subcontractors if it is established that they have been convicted of any offences that would warrant mandatory exclusion from participation in a procurement procedure or any grounds that would warrant discretionary exclusion from participation in a procurement procedure and in such cases the Authority shall require the Contractor to replace a subcontractor in respect of which the verification has shown that there are compulsory grounds for exclusion or may require the Contractor to replace a subcontractor in respect of which the verification has shown that there are non- compulsory grounds for exclusion.
- 1.1.15.6 The Contractor shall be responsible for the acts, defaults and omissions of its sub-Contractors, whether approval has been given to their appointment under this Clause or not, as if they were his own and any consent given under this Clause shall not relieve the Contractor of any of his obligations under the Contract.
- 1.1.15.7 Where the Authority has consented to the placing of subcontracts, copies of each subcontract shall be sent by the Contractor to the Authority immediately they are issued.

### **1.1.16 Termination**

- 1.1.16.1 The Authority reserves the right to terminate this contract by giving the Contractor three (3) months written notice.
- 1.1.16.2 If the Contractor becomes insolvent or bankrupt or has a receiving order or administration order made against it or compounds with its creditors, or being a corporation commences to be wound up (not being a member's voluntary winding up for the purposes of reconstruction or amalgamation), or carries on its business under an administrator or administrative receiver for the benefit of its creditors or any of them, then the Authority shall have the right forthwith by notice in writing to the Contractor or to the administrator, administrative receiver or to the liquidator or to any person in whom the Contract shall have become vested



terminate the Contract. Alternatively the Authority may at its sole option give such administrator, administrative receiver, liquidator or other person the option of carrying out the Contract subject to its providing a guarantee for the due and faithful performance of the Contract in such form and up to such amount as the Contractor shall decide. In the event of the Contract being terminated under this Clause the Authority shall have the right by prior notice to the Contractor to enter that Contractor's premises for the sole purpose of removing any item, equipment or materials which are its property and which are clearly marked and identified as such. The exercise by the Authority of its rights under this Clause shall not prejudice any of its rights or obligations accrued prior to termination and the provisions referred to in the Clause relating to Termination for Default as continuing obligations shall apply.

- 1.1.16.3 The Authority may terminate the contract by giving notice of termination to the Contractor and addressing consequential matters that will or might arise from the termination where:
- (a) The contract has been subject to a substantial modification where the conditions set out in the Public Contracts Regulations have been met and which would have required a new procurement procedure;
  - (b) It is established that the Contractor has, at the time of the contract award, been convicted of any offence that would warrant mandatory exclusion from a procurement procedure or the person convicted is a member of the administrative, management or supervisory body of the Contractor or has powers of representation, direction or control in the Contractor, and the Contractor should therefore have been excluded from the procurement procedure.
- 1.1.16.4 Either party may terminate this Contract forthwith by written notice to the other effective from the date of service of such notice if:
- (a) There is a breach by the other party of any provision of the Contract which expressly entitles the party not in breach to terminate the Contract.
  - (b) There is a material or persistent breach by the other party of any other term of the Contract, which is not remediable, or if it is remediable has not been remedied within 30 days of the service of written notice to the defaulting party specifying the breach and requiring it to be remedied.
- 1.1.16.5 The Authority expressly reserves the right to terminate this Contract at any time if the Contractor commits a material Default in the provision of the Goods and/or Services, or the performance of its obligations under this Contract, arising directly or indirectly following the Contractor having undergone a Change of Control by issuing a Termination Notice to the Contractor giving at least thirty (30) Working Days written notice.
- 1.1.16.6 On termination other than for the default of the Contractor, the Authority shall pay to the Contractor the proportion of the Contract Price payable in respect of the materials supplied and/or services performed by the Contractor up to the date of termination together with the costs of the commitments already entered into by the Contractor at the date of termination of the Contract less the amount of any payments already made to the Contractor up to the date of termination. If the amount of payments already made to the Contractor at the date of termination exceeds the sum due to the Contractor under this sub-Clause then the Contractor shall repay the balance due to the Authority. Any such payment shall be in full satisfaction of the Contractor's rights to payment, compensation or damages in respect of the termination or the breach of Contract giving rise to the right of termination.
- 1.1.16.7 On payment of the sum due under sub-Clause 1.1.16.6 above the Contractor shall transfer to the Authority the benefit of all work done and the property in all materials (including without limitation the Equipment) supplied by the Contractor or his sub-Contractors or sub-suppliers in the performance of the Contract up to the date of termination as far as the rights

in the same have already accrued to the Authority under the Contract or will do so on the payment under sub-Clause 1.1.16.6.

1.1.16.8 If the Contract is terminated by reason of the default of the Contractor the Authority shall be entitled to the like benefits and ownership of materials as are stated in sub-Clause 1.1.16.7 above. The Authority shall only pay to the Contractor the proportion of the Contract Price payable in respect of the work done and /or services performed by the Contractor up to the date of termination after deduction of payments already made to the Contractor, the costs reasonably incurred by the Authority in obtaining the completion of the work to be performed under the Contract by others and any damages which may be payable by the Contractor in respect of the termination or the breach of the Contract giving rise to the right to termination. If the amount due to the Contractor is less than the amount which the Authority is entitled to deduct then the Contractor shall pay the balance to the Authority.

1.1.16.9 Following the termination of the Contract neither party shall have any further rights or obligations in relation to the other party other than those stated in this Clause and in the Clauses listed in sub-Clause 1.1.16.10 below which shall continue in full effect. Subject to sub-Clause 1.1.16.7 above termination shall not however affect the rights of action and remedy of the parties which shall have accrued at the date of termination or shall thereafter accrue.

1.1.16.10 The clauses below shall survive termination of this Agreement from any cause:

- Confidentiality
- Publicity
- Waiver
- Indemnity
- Governing Law and Jurisdiction
- Conditions and warranties relating to the goods supplied and/or services provided under the contract
- Copyright

1.1.16.11 The exercise of rights under this Clause shall not prejudice any existing rights or obligations of either party.

#### **1.1.17 Notices**

1.1.17.1 Any notice or other communication which either party is required by the Contract to serve on the other party shall be sufficiently served if sent to the other party at its address as specified in the Contract either

By hand;

By registered or first class post or recorded delivery; or

By facsimile or electronic mail transmission confirmed by registered first class post or recorded delivery within 24 hours of transmission.

1.1.17.2 Notices are deemed to have been served as follows: delivered by hand; on the day when they are actually received, sent by post or recorded delivery; two working days after posting, sent by facsimile or electronic mail; on the day of transmission if transmitted before 16.00 hours on the working day, but otherwise 09.00 hours on the following working day, provided in each case that the required confirmation is sent.

#### **1.1.18 Recovery of sums due**

1.1.18.1 Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor, the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under this or any other contract with the Authority.

1.1.18.2 Exercise by the Authority of its rights under this Clause shall be without prejudice to any other rights or remedies available to the Authority under the Contract.

#### **1.1.19 Indemnities and Insurance**

1.1.19.1 The Contractor shall indemnify and keep indemnified the Authority, its servants and agents against injury [including death] to any persons or loss of or damage to any property which may arise out of the act, default or negligence of the Contractor, a subcontractor, their employees or agents in consequence of the Contractor's obligations under the contract and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

1.1.19.2 Without thereby limiting their responsibilities under sub-clause 1.1.19.1, the Contractor shall insure with a reputable insurance company against all loss of or damage to property and injury to persons [including death] arising out of or in consequence of its obligations under the contract and against all actions, claims, demands, costs and expenses in respect thereof, including that which is due to the defect of any item supplied under this agreement (fair wear and tear after delivery to the Authority excepted).

1.1.19.3 Except in respect of personal injury and death to a person due to negligence for which no limit applies, the liability of the parties under this Agreement shall not exceed the sum of £5,000,000, unless otherwise agreed in writing by the Authority, in respect of any event or series of connected events, the number of unconnected events being unlimited in total.

1.1.19.4 The Contractor (if an individual) represents that he is regarded by both HM Revenue and Customs and the Department for Work and Pensions as self-employed and accordingly shall indemnify the Authority against any tax, national insurance contributions or similar impost for which the Authority may be liable in respect of the Contractor by reason of this Contract.

1.1.19.5 If requested, documentary evidence of the existence of such policies shall be provided by the Contractor to the Authority.

#### **1.1.20 Consequential Loss**

Save as expressly stated elsewhere in the Contract and except as regards liability for death or personal injury caused by its negligence, neither party shall be liable to the other for consequential loss or damage, loss of revenue, opportunity or contract or goodwill.

#### **1.1.21 Payment**

1.1.21.1 The Contractor shall be entitled to invoice the Authority at the times and in the manner specified in the Contract. Provided that the invoice was one, which under the Contract the Contractor was entitled to submit, the Authority will consider and verify that invoice within a timely fashion and shall pay the contractor within the period of days specified in the Contract from the date of receipt of invoice, and in any event no later than a period of 30 days from the date on which the relevant invoice is regarded as valid and undisputed, subject to any right of deduction which the Authority may have by way of setoff or abatement. If the Authority does make any deduction it shall notify the Contractor in writing with reasons. Should there be any undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed after a reasonable time has passed.

1.1.21.2 Any subcontract entered into by the Contractor shall include a similar provision as to the payment of invoices between the parties to the subcontract as are referred to in Clause 1.1.21.1 above and the counterparty to that subcontract shall include in any subcontract which it awards provisions having the same effect. Sub-contract means a contract between two or more suppliers, at any stage of remoteness from the Authority in a subcontracting chain, made wholly or substantially for the purpose of performance (or contributing to the performance of) the whole or any part of this Contract.

1.1.21.3 The Authority shall accept and process for payment an electronic invoice submitted for payment by the Supplier where the invoice is undisputed and where it complies with the standard on electronic invoicing as referred to in The Public Procurement (Electronic Invoices etc) Regulations 2019.

1.1.21.4 For the purposes of paragraph 1.1.21.3, an electronic invoice complies with the standard on electronic invoicing where it complies with the European standard and any of the syntaxes published in Commission Implementing Decision (EU)2017/1870 as amended from time to time.

#### **1.1.22 Publicity**

Neither party shall without the written consent of the other (the giving of which consent shall be at the sole discretion of that party) advertise, publicly announce or provide to any other person information relating to the existence or details of the Contract or use the other party's name in any format for any promotion, publicity, marketing or advertising purpose.

#### **1.1.23 Waiver**

Any failure by the Authority to insist at any time upon the performance of any of the terms, provisions or undertakings of the Contractor contained in the Contract or to exercise any rights thereunder shall not constitute or be construed as a waiver thereof or a relinquishment of the Customer's rights to require the future performance of any such term, provision or undertaking but the obligation of the Contractor with regard to the same shall continue in full force and effect.

#### **1.1.24 Statutory and other regulations**

1.1.24.1 The Contractor shall in all matters relating to the performance of the Contract comply with all Acts of Parliament and with all orders, regulations and bye-laws made with statutory authority by Government Departments or by local or other authorities.

1.1.24.2 The Contractor shall observe through all its staff and work people any rules applicable to the Premises where the Works are carried out. The Authority shall on request afford all reasonable assistance to the Contractor in obtaining information as to its rules and local conditions, including Standing Orders, work place policies and procedures.

1.1.24.3 The Contractor shall not in the performance of the Contract in any manner endanger the safety or unlawfully interfere with the convenience of the public.

1.1.24.4 The Contractor shall give the Authority such prior written notice as the Authority may require of the delivery under the Contract of any items having a toxic hazard or other hazard to the safety or health of persons or property, identifying those hazards and giving full details of any precautions to be taken by the Authority on the delivery of such goods and their subsequent storage or handling.

1.1.24.5 The Contractor undertakes that he and his employees, agents and sub-Contractors will at all times comply with all health and safety requirements relating to the carrying out of the work under the Contract. Such requirements include in addition to statutory laws and regulations any codes of practice and British Standards or their equivalent relating to Health or Safety which may be applicable to the performance of the Contract. In the performance of the Contract the Contractor shall conform to all relevant environmental standards, guidelines and Codes of Practice and shall take all practical steps in the design of the work to be performed under the Contract to minimise any risk to the environment.

1.1.24.6 The Contractor warrants that the design construction and quality of items to be supplied under the Contract comply in all respects with all relevant requirements of any Act of Parliament, statutory instrument, order, regulation, bye-law or other enactment in force when the items are supplied.

1.1.24.7 In the event that either party incurs costs to which he would not otherwise be liable due to the other party's failure to comply with any law or any order, regulation or bye-law having the force of law, the amount of such costs shall be reimbursed by the other party.

1.1.24.8 The cost to the Contractor in meeting all of the conditions contained within Clause 1.1.24 and its sub clauses shall be included in the contract price.

#### **1.1.25 Duties rise and fall**

As regards any works included in the Contract, or any component part or ingredient of such works, which may be or become subject to the payment of duty, any new duty, or an increase or decrease in duty existing at the date of the Tender payable in respect of such goods supplied under the Contract, or in respect of any component part or ingredient thereof, shall, in the case of a new duty or increased duty, be allowed to the Contractor subject to written agreement of the Authority and, in the case of a decreased duty, be allowed to the Authority.

#### **1.1.26 Settlement of Dispute**

All disputes, differences or questions between the parties to the Contract with respect to any matter or thing arising out of or relating to the Contract, other than a matter or thing as to which the decision of the Authority is under the Contract to be final and conclusive, and except to the extent to which special provision for arbitration is made elsewhere in the Contract, shall be referred to the arbitration of the appropriate professional body.

#### **1.1.27 Written Agreements**

The Contractor shall when required by the Authority execute a formal Agreement in writing embodying the terms of the Contract and any previous contract between the Contractor and the Authority relating to the subject matter of the Agreement shall merge in the said Agreement.

#### **1.1.28 Governing Law**

These Conditions shall be governed by and construed in accordance with English law and the Contractor hereby irrevocably submits to the jurisdiction of the English courts. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Authority to take proceedings against the Contractor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

#### **1.1.29 Discrimination and Human Rights**

1.1.29.1 The Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation or otherwise) or any statutory modification or re-enactment thereof relating to discrimination in employment. 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 sub-contractors employed in the execution of the Contract.

1.1.29.2 The Contractor shall at all times comply with the provisions of the Human Rights Act 1998 in the execution and operation of the Contract and shall take all reasonable steps to ensure the observance of the provisions of the Act by all servants, employees or agents of the Contractor and all sub-contractors employed in the execution of the contract. The Contractor shall undertake, or refrain from undertaking, such acts as the Authority requests so as to enable the Authority to discharge its duty under the Human Rights Act 1998.

### **1.1.30 The Euro**

Not Used

### **1.1.31 Force Majeure**

1.1.31.1 For the purpose of the Contract the term Force Majeure shall mean:

- (a) War and other hostilities including terrorist activities, (whether war be declared or not) invasion, act of foreign enemies, mobilisation, requisition or embargo
- (b) Rebellion, revolution, insurrection, military or usurped power or civil war
- (c) Riot, commotion or disorder except where solely restricted to employees of the Contractor or its sub-Contractors or sub-suppliers
- (d) Earthquake, flood, fire or other natural physical disasters except to the extent that any such disaster is caused by, or its effects contributed to by, the party claiming force majeure.

Force majeure shall not include a general industrial dispute or failure by approved sub-contractors.

1.1.31.2 If either party considers that any circumstance of Force Majeure has occurred which may affect materially the performance of its obligations then he shall forthwith notify the other in writing to that effect giving full details of the circumstances giving rise to the Force Majeure event.

1.1.31.3 Neither party shall be considered to be in default of its obligations under the Contract to the extent that it can establish that the performance of such obligations is prevented by any circumstance of Force Majeure which arises after the date of the Contract and which was not foreseeable at the date of the Contract.

1.1.31.4 If the performance of the obligations of either party under the Contract is so prevented by circumstances of Force Majeure and shall continue to be so prevented for a period of less than 30 days then during that period the Contract shall be considered as suspended. Upon the ending of the Force Majeure event the Contractual obligations of the parties shall be reinstated with such reasonable modifications to take account of the consequences of the Force Majeure event as may be agreed between the parties or, in default of such agreement, as may be determined by an Expert appointed under this Agreement. Notwithstanding such suspension the Contractor shall use his reasonable endeavours to assist the Authority in the performance of the Contract.

1.1.31.5 If performance of the obligations of either party under the Contract is so prevented by circumstances of Force Majeure and shall continue to be so prevented for a period in excess of 30 days then the Contract shall be terminated by mutual consent and, subject to sub-Clause 1.1.31.6 below neither party shall be liable to the other as a result of such termination.

1.1.31.6 If the Contract is so terminated then subject to the transfer to the Authority of the benefit referred to in sub-Clause 1.1.31.7 below the Authority shall pay to the Contractor such reasonable sum as may be agreed between the parties or in default of agreement as may be determined by Expert Determination in accordance with this Agreement in respect of costs incurred and commitments already entered into by the Contractor at the date of the Force Majeure notice, less the amount of any payments already made to the Contractor at the date of the Force Majeure notice. If the amount of such advance payments made to the Contractor exceeds the sum due to the Contractor under this sub-Clause then the Contractor shall repay the balance to the Authority.

1.1.31.7 The Contractor shall transfer to the Authority the benefit of all work done by it or their approved sub-Contractors, if any, and sub-suppliers in the performance of the Contract up to the date of the Force Majeure notice, so far as the rights in the same have accrued to the Contractor prior to the Force Majeure notice or will do so on the payment under sub-Clause 1.1.31.6 above.

### **1.1.32 Vetting of Contractors**

1.1.32.1 The sensitivity, confidentiality and security of information relating to the service provided must be guaranteed by the Contractor that no member of the Contractor's staff shall divulge such information. A written undertaking may be required.

1.1.32.2 The Contractor and any Sub-Contractor must ensure that the details required by the Authority for all staff who may be involved in the provision of service are provided in order to enable the Authority to undertake security clearance. The details must be supplied at the start of the Contract and the Contractor must allow sufficient time for the vetting process before the contractor staff can commence work for the Authority. Up to 28 days, after the receipt of correctly completed forms by the vetting department, must be allowed for the vetting process.

1.1.32.3 Failure to take account of clause 1.1.32.2 will constitute a delay by the Contractor.

1.1.32.4 The Contractor must accept that the Authority reserves the right to decline security clearance for any such member of staff without providing a reason. No member of staff will be allowed to visit Greater Manchester Police premises unaccompanied without the required security clearance.

1.1.32.5 The Contractor must ensure that its list of security cleared personnel is constantly kept up-to-date.

1.1.32.6 The Contractor must provide the Authority's internal and external auditors or other agents authorised by the Authority, with access to the data files and facilities relating to the service provided. Such access must extend to any information or records [magnetic or otherwise] belonging to the Contractor which relate to the operation and provision of the service.

1.1.32.7 Depending upon the sensitivity of the contract and the required access to the Authority's assets, the Contractor, its personnel and any sub-contractors or agents may require in depth vetting, which may include including examination of personal finance. Contracts that involve any issues in respect of National Security will also require that contractors, its personnel, sub-contractors and agencies have been resident in the UK for at least three (3) years prior to the intended start date of the contract.

1.1.32.8 Chief Officers and Local Policing Bodies are also prohibited from entering into a contract for the provision of services if it would permit a barred person named on the Barred List held by the College of Policing to be involved in the exercise of relevant public functions in relation to all new contracts entered into on or after the 15 December 2017. The Authority is under a duty to ensure that all new contracts entered into with the police for the provision of services do not permit a barred person to be involved in the exercise of relevant public functions within the local policing body or police force.

### **1.1.33 Confidentiality and Data Protection**

1.1.33.1 Each party shall treat the Contract and any information, which may include Personal Data and/or Sensitive Personal Data, it may have obtained or received in relation thereto or arising out of or in connection with the performance of the Contract or its negotiation or relating to the business or affairs of the other as private and confidential including, but not limited to, technical or trade secrets and the confidential aspects of tenders, and neither party shall publish or disclose the same or any particulars thereof without the prior written consent of the other or as may be permitted under the later provision of this Clause and Clause 1.1.34 below.

1.1.33.2 The obligations expressed in sub-Clause 1.1.33.1 above shall not apply to any information which:

Is or subsequently comes into the public domain otherwise than by breach of this Clause;

Is already in the possession of the receiving party without an accompanying obligation of confidentiality;

Is obtained from a third party who is free to divulge the same;

Is independently and lawfully developed by the recipient or its subcontractor outside the scope of the Contract.

Is required to be disclosed under the law of England and Wales or the rules of any relevant regulatory authority.

1.1.33.3 So far as it may be necessary for the performance of the Contract or for the operation and maintenance of the subject matter of the Contract each party may divulge any information to be kept confidential under sub-Clause 1.1.33.1 of this Clause to their employees, agents and approved sub-Contractors, whom have signed an 'Undertaking of Confidentiality' and been subjected to background enquires by GMP's Force Vetting Unit where necessary (as per sub-clause 1.1.33.5), on a "need to know" basis but undertake that they will ensure compliance by such employees, agents, and sub-Contractors with the obligations as to confidentiality expressed in this Clause and will be responsible to the other party for any failure by any employee, agent or sub-Contractor to comply with such obligations whether such employee, agent or sub-Contractor was aware of them or not.

1.1.33.4 Both parties shall ensure that they, their employees, agents and sub-Contractors shall observe the requirements of the United Kingdom General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 and any amendments or revisions thereto in the provision and use of the subject matter of the Contract and shall comply with any request made or direction given to the other which is directly due to the requirements of such Legislation.

1.1.33.5 Where the services described within this contract require the processing of Personal Data and/or Special Category Data for which the Contractor is the Data Controller, the Contractor will ensure that; all processing of Personal Data and/or Special Category Data is done so in accordance with their obligations under the UK GDPR, the Data Protection Act 2018 and the Human Rights Act 1998, and; they notify any particulars as may be required to the Information Commissioner.

Where the services described within this contract require the processing of Personal Data and/or Special Category Data for which the Chief Constable of GMP is the Data Controller, the Contractor will be a Data Processor and the following sub-Clauses 1.1.33.6 to 1.1.33.21 will apply to this Contract.

1.1.33.6 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Chief Constable is the Controller and the Contractor is the Processor. The only processing that the Processor (Contractor) is authorised to do will be listed in a completed Schedule of Processing, Personal Data and Data Subjects (Data Processing Agreement) to be provided by the Controller to the Processor and may not be determined by the Processor.

1.1.33.7 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.

1.1.33.8 The Processor shall provide all reasonable assistance to the Controller in the Preparation of any Data Protection Impact Assessment (an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data) prior to commencing any processing. Such assistance may, at the discretion of the Controller,



include:

- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
- (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

1.1.33.9 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

- (a) process that Personal Data only in accordance with the Data Processing Agreement and Schedule attached thereto, or any other further written instructions of the Controller, unless the Processor is required to do otherwise by Law. If it is so required, the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
  - (i) nature of the data to be protected;
  - (ii) harm that might result from a Data Loss Event;
  - (iii) state of technological development; and
  - (iv) cost of implementing any measures;
- (c) ensure that :
  - (i) the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular the Data Processing Agreement and attached Schedule);
  - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
    - (A) are aware of and comply with the Processor's duties under this sub-Clause;
    - (B) are subject to appropriate confidentiality undertakings with the Processor or any third party Sub-processor;
    - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and
    - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
  - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or LED Article 37) as determined by the Controller;
  - (ii) the Data Subject has enforceable rights and effective legal remedies;
  - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
  - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.

1.1.33.10 Subject to sub-Clause 1.1.33.9, the Processor shall notify the Controller immediately if it:

- (a) receives a Data Subject Request (or purported Data Subject Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event.

Any notification under sub-Clause 1.1.33.10 (f) must include (if known by the Processor):

- (i) The nature of the Data Loss Event
- (ii) The approximate number of Data Subjects who may be affected by the Data Loss Event;
- (iii) The type of personal data lost;
- (iv) The likely consequences of the Data Loss Event and the level of risk perceived to the rights and freedoms of individuals;
- (v) Any measures that the Processor has taken or proposes to take to address the Data Loss Event

1.1.33.11 The Processor's obligation to notify under sub-Clause 1.1.33.10 shall include the provision of further information to the Controller in phases, as details become available.

- 1.1.33.12 The Processor shall take all steps as reasonably required by the Controller, and provide all reasonable assistance to the Controller, in order for the Controller to deal with any Data Loss Event, including where relevant, notification to a regulatory authority and notification to individual Data Subjects.
- 1.1.33.13 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under sub-Clause 1.1.33.10 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
  - (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the Controller following any Data Loss Event;
  - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 1.1.33.14 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this sub-Clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the processing is not occasional;
  - (b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; and
  - (c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 1.1.33.15 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 1.1.33.16 Each Party shall designate a data protection officer if required by the Data Protection Legislation.
- 1.1.33.17 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:
- (a) notify the Controller in writing of the intended Sub-processor and processing;
  - (b) obtain the written consent of the Controller;
  - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this sub-Clause 1.1.33.17 such that they apply to the Sub-processor; and
  - (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

- 1.1.33.18 The Processor shall remain fully liable for all acts or omissions of any Sub-processors.
- 1.1.33.19 The Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
- 1.1.33.20 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 1.1.33.21 Where the Parties include two or more Joint Controllers as identified in any Schedule attached to a Data Processing Agreement in accordance with UK GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in a Schedule for Joint Controller Agreement that will be inserted into the Data Processing Agreement in replacement of the above sub-Clauses 1.1.33.6 to 1.1.33.20 for the Personal Data under Joint Control.
- 1.1.33.22 The Contractor recognises that the Chief Constable has obligations relating to the security of data in his control under the Data Protection Act 2018, ISO/IEC 27001, the PIAB Information Systems National Policing Community Security Policy and the Government Protective Marking Scheme.
- 1.1.33.23 The Contractor agrees to comply with all security requirements concerning the handling, transmission, transport, storage, access or use of any information which may be as directed by GMP prior to commencement of or during the existence of this Contract.
- 1.1.33.24 The Contractor is required to handle all information received under the terms of this contract in accordance with the requirements of the Government Protective Marking Scheme protective marking shown, if no marking is shown the data should be handled in accordance with at least the RESTRICTED marking.
- 1.1.33.25 All information or data obtained from GMP by the Contractor shall be retained for no longer than is necessary for the performance of this contract and shall be destroyed securely or returned as soon as practicable once it is no longer required for the performance of the Contract. The Contractor will provide a written declaration that this has been done.
- 1.1.33.26 The Contractor undertakes to ensure that he and his employers, associates, servants, and subcontractors abide by the provisions of the Official Secrets Acts 1911 to 1989 and Section 182 of the Finance Act 1989 as amended. The provisions of this Clause shall continue in perpetuity.

#### **1.1.34 Freedom of Information Act 2000**

- 1.1.34.1 The Contractor shall provide all reasonable assistance to enable the Authority to comply with any request received under the Freedom of Information Act (FOIA) applicable to a Local Policing Body and the guidance contained in the code of Practice issued under Section 45 of the Act.
- 1.1.34.2 In the event that any request made under the FOIA relates to the Contractor, the services, the contract price or any other matter which falls under the auspices of this agreement, the Authority shall consult with the Contractor prior to disclosure.
- 1.1.34.3 The guiding principle of the Authority will be that all information should be disclosed except where the Authority can demonstrate good reason not to disclose. If the Contractor wishes to reserve any information from disclosure under the Act he must put forward any information or classes of information which it is wished to have (reserved information)

reserved and the grounds of the exemption which relate to the information which may be one of more of the following:

- (a) That the information constitutes a trade secret and is eligible for exemption under section 43(1) of the Act.
- (b) That the disclosure of the information would or would be likely to prejudice the commercial interest of any person section 43(2) of the Act.
- (c) That the information will be disclosed by the contractor to the Authority and that the nature of the information, or the circumstances in which it is imparted or the circumstances are otherwise such as to justify the acceptance by the Authority of an obligation of confidence in respect of it section 41(1) of the Act.
- (d) That the information is personal data or otherwise relates to the private life of an individual which is appropriate for protection section 40 of the Act.
- (e) Any other specific exemption under the Act.

1.1.34.4 In relation to all other information the Authority shall have an absolute discretion to determine the question of disclosure having consulted with the Contractor in accordance with clause 1.1.34.2 above.

1.1.34.5 The Contractor shall indemnify the Authority and hold it harmless from and against all liability, costs, claims, actions, losses, damages and expenses whatsoever arising directly or indirectly as a result on any decision by the Information Commissioner that information classed by the Contractor as confidential should be disclosed under the Freedom of Information Act 2000.

1.1.34.6 The Authority will not enter into contractual terms which purport to restrict the disclosure of information held by the Authority and relating to the contract and will look to reject confidentiality clauses relating to the terms, value and performance wherever possible.

1.1.34.7 Any request received by the Contractor or third party for disclosure of information owned by the Authority, such information may include matters relating to, or arising out of the performance of the Agreement, should, without delay, be forwarded to the Authority to be dealt with in order to comply with its obligations and legal duties under the FOIA, within the requisite period (20 working days), and the Contractor or third party should assist the Authority in responding to the access request.

#### **1.1.35 Copyright**

1.1.35.1 Copyright in the documents comprising the Contract shall vest in the Authority but the Contractor may obtain or make at his own expense any further copies required for use by the Contractor in performing the Contract.

1.1.35.2 All reports and other documents and materials and the copyright or similar protection therein arising out of the performance by the Contractor of his duties hereunder are hereby assigned to and shall vest in the Authority absolutely.

1.1.35.3 The provisions of this Condition shall apply during the continuance of this Contract and after its termination howsoever arising.

#### **1.1.36 Standard of the Works**

1.1.36.1 The standard of work shall be as specified in the Contract. To the extent that the standard of work has not been specified the Contractor shall use good quality materials, the best applicable techniques and standards and execute the Contract with care, skill and diligence in accordance with best practice.

1.1.36.2 The Contractor warrants and represents that all staff assigned to the performance of the Contract shall possess such skill and experience as is necessary for the proper performance of the Contract.

1.1.36.3 The Contractor shall provide the Authority with such reports of his work at such intervals and in such form as the Authority may require from time to time.

#### **1.1.37 Inspection by Authorised Representative**

The Tenderer shall permit any duly authorised representative of the Authority either before or during the Contract period to carry out or have carried out such inspections and/or investigations and/or tests as the Authority shall consider necessary upon giving reasonable notice to the Tenderer so as to ensure that the Tenderer is able to fulfil all of his obligations under any Contract which the Authority may be considering awarding or have awarded to him.

#### **1.1.38 Specification**

During the course of the contract the Authority may wish to make amendment to the specification. The successful tenderer will use all reasonable endeavours to comply advising the Authority of any variation in price which may occur as a result of these amendments.

#### **1.1.39 Defective equipment**

The Contractor shall indemnify the Authority against any liability under the Employer's Liability (Defective Equipment) Act, 1969, either as originally enacted or as subsequently amended or replaced, for personal injury suffered by any employee of the Authority in consequence of any defect in anything supplied by or on behalf of the Contractor to the Authority under the contract or under any contract between the Contractor and the Authority entered into pursuant to the Contract.

#### **1.1.40 Deficiency of items**

If, following the receipt and examination or testing of any Item offered for delivery, the Authority considers that such Item does not conform in all respects with the requirements of the Authority as stated in the Tender Documents or that the same is in any way deficient the Contractor shall:

- (a) Within a reasonable period determined by the Authority having regard to all the circumstances and in particular the nature of this agreement and the Items contracted to be supplied hereunder ('the Reasonable Period') rectify the position to the entire satisfaction of the Approving Officer following notice being given to the Contractor about any deficiency in fulfilling his contractual obligations, and;
- (b) Where an invoice has been rendered in respect of such Item the Contractor shall forthwith issue a Credit Note for the Item supplied and rejected and re-invoice the replacement Item separately following delivery of the same;

Provided always that nothing shall prejudice the right of the Authority to take any action or recover any monies in respect of any breach of this agreement.

#### **1.1.41 Quantities**

The quantities stated in the Specification are those which are estimated as the probable requirements of the Authority for the period of the Contract, but the Authority may at its option require the provision under any item in the specification of any quantity greater or less than the quantity specified in such item.

#### **1.1.42 Pricing**

- 1.1.42.1** The Tenderer shall comply with all the terms and conditions contained herein relating to Pricing. No price variation will be considered otherwise than in accordance with the price variations detailed in this clause.
- 1.1.42.2** Tendered prices must include all costs incurred in providing the Items (including delivery) as specified in the Tender Documents but shall, unless otherwise indicated in the Tender Documents, exclude Value Added Tax, where applicable.
- 1.1.42.3** Tender Documents shall be completed exactly as indicated therein and any Tenderer submitting a separate general 'Price List' or stating that a list price less a discount shall apply or such other similar practice will result in the Tender being disregarded.
- 1.1.42.4** Clauses 1.1.42.5 to 1.1.42.7 shall only apply to the Contract if the Contractor expressly requests incorporation therein by a reference to this clause in the tender; otherwise the prices quoted in the tender shall be firm and shall apply without variation to all goods supplied by the Contractor in accordance with the Contract and throughout the Contract period.
- 1.1.42.5** Any claim for a price increase must be fully substantiated and proved to the satisfaction of the Authorised Officer by the production of purchase invoices, full details of manufacturing costs or such other evidence as is considered essential to the examination of the claim. Any such claim by the Contractor shall be notified to the Authority, in writing, at least 28 days prior to the effective date of such an increase. The imposition of Price Increases will not be carried out until formal acceptance in writing is given by the Authorised Officer.
- 1.1.42.6** If during the Contract period a decrease in the price of comparable quantities of similar goods is quoted or charged by the Contractor to other customers, the Contractor will implement such a reduced price in favour of the Authority and will notify, in writing, to that effect.
- 1.1.42.7** The Authority reserves the right to determine the Contract forthwith in the event that it deems any increase in price unreasonable.
- 1.1.42.8** Preference will be given to tenders in which firm prices are quoted without reference to price variation clauses.

#### **1.1.43 Business Continuity**

- 1.1.43.1** The Civil Contingencies Act 2004, places a statutory duty on the Chief Officer of Police to have a Business Continuity Management (BCM) in place to ensure continued service delivery of essential services. BCM is also a regulatory requirement for compliance with the PIAB Information Systems National Policing Community Security Policy and an integral part of the Force's risk management framework
- 1.1.43.2** All business activity may become subject to disruptions, such as technology failure, flooding, utility disruption and terrorism. BCM provides the capability to adequately react to operational disruptions, while protecting the welfare and safety of staff.
- 1.1.43.3** It is incumbent upon the Contractor to provide all information requested by the Authority in respect of Business Continuity and the goods / services that are the subject of the contract.

#### **1.1.44 Option for other Police Forces to Join**

This contract will be open for use by other UK police forces. The Authority will notify the Contractor, in writing, during the continuation of this agreement of the intention of any other Police Forces to enter into this agreement. In such event the Contractor agrees that the terms and conditions of this agreement shall apply to the course of dealings between such Police Forces, their Commissioner's and Contractor.

**1.1.45 Equality Act 2010**

**1.1.45.1** The Contractor shall provide all reasonable assistance to enable the Authority to comply with the Public Sector Equality Duty under Section 149 of the Equality Act 2010.

**1.1.45.2** The Contractor, their employees and agents must not discriminate unlawfully in employment on all protected grounds under the Equality Act 2010 and take all reasonable steps to prevent such discrimination by any sub contractors.

**1.1.46 The Public Services (Social Value) Act 2012**

**1.1.46.1** The Contractor will be required to support the Authority's economic and social objectives. Therefore selection and award criteria, specification requirements and contract performance conditions may relate in particular to social and environmental considerations.



## **SPECIAL CONDITIONS FOR THE PROVISIONS OF GOODS**

### **1.2.1 Contractor to inform himself fully**

- 1.2.1.1 The Contractor shall be deemed to have examined the requirements specified and these Conditions of Contract. No claim from the Contractor for additional payment shall be allowed on the grounds of misinterpretation of any matter relating to the requirements specified in these Conditions of Contract on which the Contractor could reasonably have satisfied himself beforehand with reference to the Authorised Officer, or such other means as may have been appropriate.
- 1.2.1.2 The Contractor shall be deemed to have satisfied himself before submitting the tender as to the accuracy and sufficiency of the rates and prices stated by him in his tender which shall (except in so far as it is otherwise provided in the Contract) cover all its obligations under the Contract and shall be deemed to have obtained for himself all necessary information as to risks, contingencies and any other circumstances which might reasonably influence or affect his tender.

### **1.2.2 Failure to remedy deficiency**

- 1.2.2.1 Should the Contractor fail to remedy any deficiency in the fulfilment of his contractual obligations, about which notice has been given to him, within the reasonable period, the Authority shall be empowered to take such steps as it in its absolute discretion considers necessary so as to rectify the position to the satisfaction of itself and recover any costs thereby incurred from the Contractor.
- 1.2.2.2 In the case of Items which have been supplied and delivered pursuant to an order made by the Authority and which have not been accepted by the Authorised Officer for whatever reason but which have not been removed by the Contractor within the period specified in the notice requiring the removal of such Items following notice having been received by him ownership in the goods shall pass to the Authority who may cause any such goods to be removed sold or otherwise disposed of as they in their absolute discretion shall think fit without being or becoming liable to the Contractor for any loss or damage sustained by him in consequence thereof and without being or becoming liable to account in any way to the Contractor for any monies paid to the Authority in the event of sale.

### **1.2.3 Quality of goods delivered**

The goods to be supplied under the Contract are to be of the quality or sort and weight or measure (exclusive of packages) mentioned in the Specification and shall correspond in all respects with the pre production samples submitted by the Tenderer (which shall, on the acceptance of the Tender by the Authority, in such event become the standard samples for the purposes of the Contract).

### **1.2.4 Nature of goods**

The Authority may require samples of any Item for which a Tender has been submitted and Tenderers shall make no charge of any kind therefore. Such samples shall be readily available and may be subjected to any test which the Authority considers necessary in order to evaluate Tenders properly. The award of the contract is subject to approval of samples. The Authority will make random checks or tests to ensure that all items supplied or to be supplied under the contract shall be equal in all respects to the approved samples and any other specified requirements are met and if there is any deficiency whatsoever in any Item so checked or tested the costs incurred by the Authority carrying out such check or test shall be borne by the Tenderer. The Authority may also seek from the Tenderer a refund, compensation or replacement of any item which was the subject of random sampling but which proved to be deficient.

### **1.2.5 Delivery**

- 1.2.5.1 The articles or materials shall be delivered free of charge to the Authority, and at the risk of the Contractor at places and in accordance with the directions contained in the tender documents.
- 1.2.5.2 The Authority shall be under no obligation to return any packaging materials; if it does so, such return shall be at the Contractor's risk and expense.
- 1.2.5.3 The Authority reserves the right to add to or delete from any schedule of premises provided to the Contractor, in such an event the Authority will not accept liability for any additional costs or inconvenience caused to the Contractor.
- 1.2.5.4 The time of delivery shall be of the essence and failure to deliver within the time promised or specified shall enable the Authority (at its option) to release itself from any obligation to accept and pay for the Goods and/or to cancel all or part of the order therefore, in either case without prejudice to its other rights and remedies.
- 1.2.5.5 Title and risk in the goods shall, without prejudice to any other rights or remedies of the Authority, pass to the Authority at the time of acceptance.

### **1.2.6 Rejections**

Any goods delivered, which in the opinion of the Authority or its authorised officers, are not of the stipulated sort, quality, weight or measure, or not otherwise approved may be rejected. Any goods so rejected shall be removed by, and at the expense of, the Contractor within seven days after notice has been given him of their rejection. If not so removed, the Authority may remove the said articles or materials and charge the Contractor with all expenses incurred in such removal.

### **1.2.7 Official order, receipt, and acknowledgement**

- 1.2.7.1 The Authority shall not be responsible for having received any articles or materials unless an official order and a delivery note or written receipt be produced by the Contractor signed on behalf of the Authority, by their authorised officer.
- 1.2.7.2 The Contractor must acknowledge all orders by email, to the buyer, as per the contact details stated within the purchase order.

### **1.2.8 Items to be supplied to a planned programme**

All and any Items supplied or to be supplied under this agreement shall be supplied in accordance with the planned programme (if any) set out in the Tender Documents.

### **1.2.9 Free-Issue Materials**

Where the Authority for the purpose of the Contract issues materials free of charge to the Contractor such materials shall be and remain the property of the Authority. The Contractor shall maintain all such materials in good order and condition and shall use such materials solely in connection with the Contract. The Contractor shall notify the Authority of any surplus materials remaining after completion of the Services and shall dispose of them as the Authority may direct. Waste of such materials arising from bad workmanship or negligence of the Contractor or any of its servants, agents or sub-contractors shall be made good at the Contractor's expense. Without prejudice to any of the rights of the Authority, the Contractor shall deliver up such materials whether processed or not to the Authority on demand.

#### **1.2.10 Liens**

The Contractor shall protect and shall hold all property of the Authority free from all liens, charges and other encumbrances.

#### **1.2.11 Patents**

The Contractor shall not, in connection with the Contract, use, manufacture, supply or deliver any process, article, matter or thing, the use, manufacture, supply or delivery of which would be an infringement of any patent or patent rights, and the Contractor shall indemnify the Authority from all proceedings, damages, costs, charges, expenses, loss and liability which the Authority may sustain, incur, or be put to by reason or in consequence directly or indirectly of any breach of this provision (whether wilful or inadvertent), and against the payment of any royalties or other monies which the Authority may have to make to any person or body entitled to patent rights in respect of any process, article, matter or thing used, manufactured, supplied or delivered by the Contractor in connection with the Contract.

#### **1.2.12 Warranties/Guarantees**

Unless agreed otherwise, including manufacturers warranties, the Contractor shall guarantee the goods for the shorter of 12 months from putting into service or 18 months from delivery. If the Authority shall, within such guarantee period or within 30 days thereafter, give notice in writing to the Contractor of any defect in any of the Goods as may have arisen during such guarantee period under proper and normal use, the Contractor shall (without prejudice to any other rights and remedies which the Authority may have) as quickly as possible remedy such defects (whether by repair or replacement as the Authority shall elect) without cost to the Authority.

#### **1.2.13 Liquidated Damages**

- 1.2.13.1 Where the Contractor has failed to supply goods within the response time stated then the ordering Authority will be at liberty to deduct liquidated damages from payments due to the contractor.
- 1.2.13.2 Damages will be in the sum of 10% of the value of the late order per week or in such other sum that is a genuine pre-estimate of the Authority's loss arising from any such delay. This will be calculated pro rata for periods of less than, or more than, one week.
- 1.2.13.3 The ordering Authority shall have the right to deduct the appropriate amount from the amount owed to the contractor/invoice received. Contracts completed late may result in no further work being given to the contractor.

#### **1.2.14 Contract Completion**

Towards the end of the contract the Contractor must provide all and any Management Information requested by the Authority for re-tendering purposes.

### **1.3 SPECIAL CONDITIONS FOR THE PROVISION OF SERVICES**

#### **1.3.1 Contractor to Inform Himself Fully**

1.3.1.1 The Contractor shall be deemed to have examined the Premises, the requirements specified and these Conditions of Contract. No claim from the Contractor for additional payment will be allowed on the grounds of the Contractor's misinterpretation of any matter relating to the Premises, or of any misinterpretation of the requirements specified or of any misunderstanding of these conditions of Contract (general or specific) which the Contractor could reasonably have satisfied himself by a visit to the Premises, reference to the Authorised Officer or such other means as may be appropriate.

1.3.1.2 Visits to inspect the premises must be by prior arrangement with the Authorised Officer.

#### **1.3.2 Failure to remedy deficiency**

Should the Contractor fail to remedy any deficiency in the fulfilment of his contractual obligations, about which notice has been given to him, within a reasonable period, the Authority shall be empowered to take such steps as it in its absolute discretion considers necessary so as to rectify the position to the satisfaction of itself and recover any costs thereby incurred from the Contractor.

#### **1.3.3 Fees and Expenses**

1.3.3.1 Fees tendered/quoted are to be fully inclusive of all disbursements, general and office overheads. No additional costs will be considered by the Authority.

1.3.3.2 VAT, where applicable, shall be shown separately on all invoices as a strictly net extra charge.

#### **1.3.4 Equipment**

1.3.4.1 The Contractor shall provide all the equipment necessary for the provision of the Services.

1.3.4.2 The Contractor shall make no delivery of Equipment nor commence any work on the Authority's Premises without obtaining the Authorised Officer's prior approval.

1.3.4.3 All equipment brought onto the Authority's Premises shall be at the Contractor's own risk. The Contractor shall provide for the haulage or carriage thereof to the premises and the removal of equipment when no longer required at its sole cost. The Contractor shall ensure that the Authority's Premises are appropriate to contain and operate the Equipment.

1.3.4.4 The Contractor shall maintain all items of equipment within the Authority's Premises in a safe, serviceable and clean condition.

1.3.4.5 All equipment shall be at the risk of the Contractor and the Authority shall have no liability for any loss of or damage to any equipment unless the Contractor is able to demonstrate that such loss or damage was caused or contributed to by the negligence or default of the Authority.

1.3.4.6 The Authority may at its option purchase any item of equipment from the Contractor at any time, if the Authority considers that the item is likely to be required in the provision of the Services following the expiry or termination of the contract. The purchase price to be paid by the Authority shall be the fair market value.

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

- (a) The removal from the Authority's Premises of any equipment which in the opinion of the Authority are either hazardous, noxious or not in accordance with the Contract; and/or
  - (b) The substitution or proper and suitable materials, plant, equipment; and/or
  - (c) The removal and proper re-execution notwithstanding any previous test thereof or interim payment therefore of any work which, in respect of material or workmanship, is not in the opinion of the Authorised Officer in accordance with the Contract.
- 1.3.4.8 On completion of the Services the Contractor shall remove the equipment and unused materials and shall clear away from the Authority's Premises all rubbish arising out of the Services, make good any damage caused to the Authority's Premises by the removal of the equipment and leave the Authority's Premises in a neat and tidy condition.

### **1.3.5 Liquidated Damages**

- 1.3.5.1 Where the Contractor has failed to supply services within the response time stated then the ordering Authority will be at liberty to deduct liquidated damages from payments due to the contractor.
- 1.3.5.2 Damages will be in the sum of 10% of the value of the late delivery of services per week or in such other sum that is a genuine pre-estimate of the Authority's loss arising from any such delay. This will be calculated pro rata for periods of less than, or more than, one week.
- 1.3.5.3 The ordering Authority shall have the right to deduct the appropriate amount from the amount owed to the contractor/invoice received. Contracts completed late may result in no further work being given to the Contractor.

### **1.3.6 Health and Safety**

- 1.3.6.1 The Authority recognises that contract work on GMP premises remains part of the Authority's undertaking. The duties to ensure that work is carried out in a safe manner cannot be totally delegated to the Contractor. In the spirit of co-operation and partnership, GMP will endeavour to work with the Contractor to ensure the highest standards of health and safety at all times.
- 1.3.6.2 The Authority will require that the Contractor takes all reasonable steps to carry out the work safely. The Health and Safety Policy, Risk Assessments and, where necessary, Method Statements must be supplied and complied with in all respects. The Contractor must be fully aware of, and comply with, all Health and Safety legislation and best practice applicable to the work being undertaken. The Contractor will take steps to monitor Health and Safety compliance, and will promptly act to correct shortcomings in organisation or arrangements. Participating Commissioner's may issue guidelines to Contractors, which they would be expected to observe.
- 1.3.6.3 It is essential that Risk Assessments and Method Statements are available not only for the initial contract bid purposes, but are also developed and applied on all future work on GMP premises. To this end, tenderers are required to submit a generic Risk Assessment/Method Statement, together with one site-specific Risk Assessment/Method Statement with this tender submission. Contractors who are subsequently awarded Framework status will be required to provide a site-specific Risk Assessment/Method Statement which they are invited to bid for.

### **1.3.7 Environmental Requirements**

The Contractor shall, when working on the Authority's Premises, perform the contract in accordance with the Authority's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting

substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

### **1.3.8 Transfer of Undertakings (Protection of Employment) Regulations (2006)**

- 1.3.8.1 The Parties recognise that should the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 (TUPE) apply in respect of the award of the Contract, and that for the purposes of those Regulations, the undertaking concerned (or any relevant part of the undertaking) shall transfer to the Contractor on commencement of the Contract.
- 1.3.8.2 During the period of three months preceding the expiry of the Contract or after the Client has given notice to terminate the Contract, or the Contractor stops trading, and within 20 working days of being so requested by the Authority, the Contractor shall fully and accurately disclose to the Authority for the purposes of TUPE all information relating to its employees engaged in providing Services under the Contract in particular, but not necessarily restricted to the following:
- (a) the total number of personnel whose employment with the Contractor is liable to be terminated at the expiry of this Contract but for any operation of law; and
  - (b) for each person, age and gender, details of their salary, and pay settlements covering that person which relate to future dates but which have already been agreed and their redundancy entitlements (the names of individual members of staff do not have to be given); and
  - (c) information about the other terms and conditions on which the affected staff are employed, or about where that information can be found; and
  - (d) details of pension entitlements, if any.
- 1.3.8.3 The Contractor shall permit the Authority to use the information for the purposes of TUPE and of re-tendering. The Contractor will co-operate with the re-tendering of the contract by allowing the transferee to communicate with and meet affected employees and / or their representatives.
- 1.3.8.4 The Contractor agrees to indemnify the Authority fully and to hold it harmless at all times from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities whatsoever in any way connected with or arising from or relating to the provision of information under this clause, 1.3.8.
- 1.3.8.5 In the event that the information provided by the Contractor in accordance with the above becomes inaccurate, whether due to changes to the employment and personnel details of affected employees made subsequent to the original provision of such information or by reason of the Contractor becoming aware that the information originally given was inaccurate, the Contractor shall notify the Authority of the inaccuracies and provide the amended information.
- 1.3.8.6 The provisions of this Condition shall apply during the continuance of this Contract and indefinitely after its termination.
- ### **1.3.9 The Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) (Regulations) 2015**
- 1.3.9.1 The IPCC has oversight of complaints and other matters relating to a Contractor who has entered into a contract with a Police and Crime Commissioner or a Chief Officer to provide a service to a Chief Officer.

1.3.9.2 This includes persons working for a Contractor that has a contract with a Commissioner or a Chief Officer and also includes subcontractors.

1.3.9.3 Contractors must ensure compliance with “contractor standards” which means the behaviours and standards that they are required to comply with under the Contractor’s conduct and performance policies that apply to the particular contract between the Contractor and a Commissioner or a Chief Officer.

#### 1.3.10 **Contract Completion**

Towards the end of the contract the Contractor must provide all and any Management Information requested by the Authority for re-tendering purposes.