

1. **THE MAYOR’S OFFICE FOR POLICING AND CRIME**

**-and –**

1. **GMK Limited**

**FRAMEWORK AGREEMENT**

**for the purchase of Goods**

**SUPPLY AND DELIVERY OF AMMUNITION**

**SS2/18/18**

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**THIS FRAMEWORK AGREEMENT** is dated 21 March 2023

**BETWEEN:**

1. The Mayor’s Office for Policing and Crime, whose office is at City Hall, The Queen’s Walk, London SE1 2A (the “**Authority**” which expression shall include its successors and assignees); and,

GMK Limited a company registered in England and Wales with company registration number 08420479 whose registered office is situated at Bear House, Concorde Way, Fareham, Hampshire. PO15 5RL & Skydock, Spridlington Road, Faldingworth, Lincolnshire. LN8 3SQ (the “**Contractor**”)

(together the “**Parties**”).

**BACKGROUND**

1. The Contractor is engaged in the business of providing ammunition.
2. The Authority wishes to appoint the Contractor to provide the goods described in the Agreement to the Authority and the Contractor is willing to provide the same and to accept such appointment upon the terms and conditions of this Agreement.

**IT IS AGREED THAT**

**GENERAL PROVISIONS**

**Definitions and Interpretations**

* + 1. In this Agreement unless the context otherwise requires the following provisions shall have the meanings given to them below:

“Acceptance Test” the process followed by the Authority to determine if the Goods are in accordance with the requirements and adequate for use with the Authority’s designated equipment.

“Agreement” means this written agreement between the Authority and the Contractor consisting of these Terms and Conditions, the Schedules or and all other documents attached to this document.

“Agreement Price” means the price (exclusive of any applicable VAT), payable to the Contractor by the Authority under the Agreement, as set out in the Pricing Schedule, for the full and proper performance by the Contractor of its obligations under the Agreement but before taking into account the effect of any adjustment of price in accordance with clause 3.4 (Price Adjustment).

“Agreement Term” means the period from 21 March 2023 to 20 March 2027 unless extended in accordance with this Agreement.

“Approval” means the written consent of the Authority.

“Authority” means the Mayor’s Office for Policing and Crime.

“Call-Off Contract” means any contract entered into by the Authority, an Eligible User and the Contractor consisting of these framework terms and conditions and any Schedules or other documents attached to it (in each case as amended from time to time in accordance with the terms of this agreement).

“Commencement Date” means 21 March 2023

“Confidential Information” means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party and all personal data and sensitive personal data within the meaning of the DPA. Confidential Information shall not include information which:

* + - 1. was public knowledge at the time of disclosure (otherwise than by breach of clause 5.3 (Confidential Information));
			2. was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
			3. is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
			4. is independently developed without access to the Confidential Information.

“Contractor” means GMK Limited of Bear House, Concorde Way, Fareham, Hampshire. PO15 5RL

“Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer” take the meaning given in the GDPR.

“Data Loss Event” means any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach.

“Data Subject Access Request” means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

“Default” means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject-matter of the Agreement and in respect of which such Party is liable to the other.

“DPA 2018” means Data Protection Act 2018.

“Data Protection Impact Assessment” means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

**“**Data Protection Legislation” means (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iiii) all applicable Law about the processing of personal data and privacy

 “Default” means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject-matter of the Agreement and in respect of which such Party is liable to the other.

“Eligible User” means any Eligible User named in the Authority’s OJEU contract notice and/or procurement documents for this Contract who may purchase the Services in accordance with the terms and conditions of this Framework Agreement.

“Expert” means the person appointed by the mutual agreement of the Parties, or in accordance with clause 9.2, the cost of whose appointment shall be equally borne by the Parties.

“Force Majeure” means in relation to either Party any event which is beyond the reasonable control of that Party and which materially and adversely affects its ability to perform its obligations under the Agreement.

“Framework Agreement” means these terms and conditions agreed between the Authority for and on behalf of itself any Eligible Users and the Contractor consisting of these clauses and any Schedules or other documents attached to it (in each case as amended from time to time in accordance with the terms of this agreement).

“GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679).

“Goods” means any such goods as are to be supplied by the Contractor (or by the Contractor’s sub-contractor) under the Agreement as specified in the Specification.

“Good Industry Practice” means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.

“Implementation Plan” means the programme of work containing the timescales and detailed Stage requirements for implementing this Contract, a copy of which is set out in the Schedule entitled “Implementation Plan

“Insurance Schedule” means the Schedule of that name containing details of the insurance(s) that the Contractor is required to effect and maintain.

“Intellectual Property Rights” means patents, inventions, trade marks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

“Key Sub-contract” means each Sub-contract with a Key Sub-Contractor

“Key Sub-contractor” means each of the Sub-contractors listed as such in schedule 16 (Notified Sub-contractors); any Sub-contractor with a Subcontractor replacing an Key Sub-contractor listed in schedule 16 which is in the opinion of the Authority performs business critical to the role in the provision of the Goods, any Sub-contractor with a contract value in access of 10% of the aggregate charges payable under this agreement.

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“Law” means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements or any Regulatory Body of which the Contractor is bound to comply.

“LED” means Law Enforcement Directive (Directive (EU) 2016/680).

“Monitoring Schedule” means the [ ] Schedule annexed to this Agreement.

“Party” means a party to the Agreement.

“Purchase Order Number” means the order number issued by the Authority which must be quoted on all invoices in order for payment to be made.

“Premises” means the location where the Goods are to be supplied, as set out in the Specification Schedule.

“Pricing Schedule” means the Schedule containing details of the Agreement Price.

“Protective Measures” mean appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

“Quality Plan” the Contractor's plan that reflects the quality management systems and process in relation the Goods supplied within this agreement.

“Replacement Contractor” means any third party provider appointed by the Authority to supply any goods which are substantially similar to any of the Goods and which the Authority receives in substitution for any of the Goods following the expiry, termination or partial termination of the Agreement.

Service Failure any defect in the Goods or failure of the Contractors Goods, which results in a failure to function in accordance with the requirements of this Agreement.

“Specification” means the description of the Goods to be supplied under the Agreement as set out in the Specification Schedule including, where appropriate, the quantity of the Goods and any applicable or appropriate industry quality standards; details of the Premises; a description of any installation and/or commissioning works to be carried out by the Contractor or any Staff; any equipment with which the Goods must be compatible; the date(s) and time(s) of delivery of the Goods and any necessary training or instruction to be given to the Authority by the Contractor in connection with the use or maintenance of the Goods; and details of any Support Services (as that expression is defined in the Support Services Schedule, if applicable).

“Specification Schedule” means the schedule setting out the Specification annexed to this Agreement.

"Staff" means all employees, staff, workers, agents and consultants of the Contractor, and of any sub-contractor or other third party with whom the Contractor contracts in order to source the Goods or any part of them, who are engaged in the provision of the Goods from time to time.

“Sub-processor” means any third Party appointed to process Personal Data on behalf of the Contractor related to this Contract.

“Support Services Schedule” means the schedule annexed to this Agreement.

“Tender” means the document(s) submitted by the Contractor to the Authority in response to the Authority’s invitation to suppliers for formal offers to supply it with the Goods.

“2015 Regulations” means the Public Contracts Regulations 2015.

“Working Day” means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

* + 1. The interpretation and construction of this Agreement shall be subject to the following provisions:
			1. words importing the singular meaning include where the context so admits the plural meaning and vice versa;
			2. words importing the masculine include the feminine and the neuter;
			3. reference to a clause is a reference to the whole of that clause unless stated otherwise;
			4. reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
			5. reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
			6. the words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”;
			7. headings are included in the Agreement for ease of reference only and shall not affect the interpretation or construction of the Agreement; and
			8. references to the Authority include the police officers and staff of the Metropolitan Police Service maintained by the Authority.
		2. The schedules to this Agreement shall have effect.

**1.2 Agreement Term**

1.2.1 The Agreement shall remain in force throughout the Agreement Term unless it is otherwise terminated in accordance with the provisions of the Agreement, or otherwise lawfully terminated or extended under clause 6.8.

**1.3** **Contractor’s Status**

1.3.1 At all times during the Agreement Term the Contractor shall be an independent contractor and nothing in the Agreement shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Agreement.

## 1.4 Obligations of the MOPAC and other Eligible Users

1.4.1 Save as otherwise expressly provided, the obligations of an Eligible User under these Framework Agreement Terms and Conditions are the same obligations of the Authority in its capacity as a contracting party and shall only come into force when the Eligible User enters into a Call-Off Contract with the Contractor. Nothing in the Framework Agreement shall operate as an obligation upon, or in any other way fetter or constrain an Eligible User in any other capacity, nor shall the exercise by an Eligible User of its duties and powers in any other capacity lead to any liability under the Framework Agreement (howsoever arising) on the part of the Eligible User to the Contractor. For the avoidance of doubt the Metropolitan Police, Mayors’ Office for Policing and Crime shall not be liable in any way for any obligations of Eligible Users (excluding the Authority) under call-off contracts entered into by any other Eligible User (excluding the Authority).

1.4.2 This Framework Agreement is not under any circumstances a commitment by the Authority or any of the Eligible Users to purchase. Commitment to purchase will only be made when an Eligible User enters into a Call-Off Contract upon receipt by the Contractor of the completed Call-Off form by the Eligible User (signed by the person appointed by that Eligible User with the appropriate authority to enter into contracts).

1.4.3 Subject to any Law a Eligible User is not bound to and has no obligation to purchase any of its requirements, or any given value or volume of services from the Contractor and shall be free at any time to purchase any such services from one or more other service providers whether included on this Framework or being outside of the same.

1.4.4 Only in matters of urgency, or where the Eligible User is unable to generate a Purchase Order Number, and only where the Eligible User have confirmed in writing in advance of any work being carried out by a Contractor will a Call-off Contract exist without a Purchase Order Number.

1.4.5 No Eligible User shall be responsible for the fees/costs/ payments or any other duties or obligations owed to the Contractor by another Eligible User under a Call-off contract.

**1.5** **Notices**

1.5. Any notice or consent which is to be given by either Party to the other shall only be valid if given by letter (sent by hand, first class post, recorded delivery or special delivery), or by facsimile transmission (confirmed by letter). Any such notice or consent shall be deemed to have been duly received:

1.5.1.1 if hand delivered, at the time of actual delivery;

1.5.1.2 if dispatched by first class post, recorded delivery or special delivery, 2 Working Days after the day on which the relevant letter was posted to the correct address;

1.5.1.3 if dispatched by facsimile transmission, 4 hours after successful transmission to the correct number;

Provided in each case that if the deemed receipt time occurs either on a day that is not a Working Day or after 1700 hours on a Working Day, then the notice or consent in question shall not in fact be deemed to have been received until 1000 hours on the next following Working Day (such times being local time at the address of the recipient).

**1.6 Mistakes in Information**

1.6.1 The Contractor shall be responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Contractor in connection with the supply of the Services and shall pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein.

**1.7 Conflicts of Interest**

1.7.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff is placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Authority under the provisions of the Agreement. The Contractor will disclose to the Authority full particulars of any such conflict of interest which may arise.

1.7.2 The Authority reserves the right to terminate the Agreement immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Authority under the provisions of the Agreement. The actions of the Authority pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

**2** **THE GOODS**

**2.1** **The Specification**

2.1.1 The Contractor shall supply and, where relevant, install the Goods in accordance with the Specification when required to do so by the Authority.

**2.2** **The Goods**

2.2.1 If requested by the Authority, the Contractor shall provide the Authority with sufficient samples of Goods for evaluation and approval, at the Contractor’s cost and expense.

2.2.2 The Contractor shall ensure that the Goods are fully compatible with any other equipment with which they are intended to be used or interfaced with, to the extent specified in the Specification.

2.2.3 The Contractor acknowledges that the Authority relies on the skill and judgment of the Contractor in the supply of the Goods and the performance of its obligations under the Agreement.

2.2.4 In providing the Goods the Contractor shall use all reasonable endeavours, throughout the Agreement Term, to deliver value for money to the Authority.

**2.3** **Delivery**

2.3.1 The Contractor shall deliver the Goods at the time(s) and date(s) set out in the Specification Schedule. If the Contractor intends to use a third party carrier to deliver any Goods:

2.3.1.1 it shall only use a suitable third party carrier Approved by the Authority; and

2.3.1.2 the Contractor shall (for the avoidance of doubt) remain fully responsible to the Authority for ensuring that the Goods in question are delivered in accordance with the Agreement, including at the time(s) and date(s) specified in the Specification.

2.3.2 Unless otherwise stated in the Specification, and subject to the other provisions of the Agreement:

2.3.2.1 where the Goods are to be delivered by the Contractor, the point of delivery shall be when the Goods have been unloaded by the Contractor or its carrier from the transporting vehicle at the Premises and (if applicable) either stacked or (if the Contractor is responsible under the Agreement for installation) installed in accordance with the Agreement;

2.3.2.2 where the Goods are to be collected by the Authority (which shall only be the case where this is expressly stated in the Specification or otherwise expressly agreed in writing by the Authority) the point of delivery shall be when the Goods have been loaded on the Authority’s vehicle.

2.3.3 The Authority shall be under no obligation to accept delivery of or pay for any Goods delivered in excess of the quantity ordered. If the Authority elects not to accept delivery of such over-delivered Goods it shall give notice in writing to the Contractor to remove them within 5 Working Days and to refund to the Authority any expenses incurred by it as a result of such over-delivery (including but not limited to the costs of moving and storing the Goods), failing which the Authority may dispose of such Goods and recover from the Contractor the costs of such disposal. The risk in any over-delivered Goods shall remain with the Contractor unless they are accepted by the Authority.

2.3.4 The Authority shall be under no obligation to accept delivery of or pay for any Goods supplied earlier than the relevant time and date for delivery stated in the Specification. If the Authority refuses delivery of any Goods in accordance with this clause:

2.3.4.1 the Contractor shall arrange for delivery to occur at the required time and date, as stated in the Specification or otherwise expressly agreed in writing by the Authority at the time; and

2.3.4.2 for the avoidance of doubt, risk in the relevant Goods shall remain with the Contractor until delivered to the Authority in accordance with clause 2.3.4.1.

2.3.5 Unless expressly agreed to the contrary, the Authority shall not be obliged to accept delivery by instalments.

**2.4** **Risk and Ownership**

2.4.1 Save as otherwise provided in the Agreement, risk in the Goods shall, without prejudice to any other rights or remedies of the Authority (including the Authority’s rights and remedies under clause 2.6 (Inspection, Rejection and Guarantee)), pass to the Authority at the time of delivery in accordance with the Agreement.

2.4.2 Ownership in the Goods shall, without prejudice to any other rights or remedies of the Authority (including the Authority’s rights and remedies under clause 2.6 (Inspection, Rejection and Guarantee)), pass to the Authority at the time of delivery (or payment, if earlier), save that:

2.4.2.1 ownership in any Leased Goods (as that expression is defined in the Leased Goods Schedule, if applicable) shall not pass to the Authority.

**2.5** **Non-Delivery**

2.5.1 On dispatch of any consignment of the Goods the Contractor shall send the Authority an advice note specifying the means of transport, the place and date of dispatch, the number of packages and their weight and volume. Where the Goods, having been placed in transit, fail to be delivered to the Authority on the due date for delivery, the Authority shall, (provided that the Authority has been advised in writing of the dispatch of the Goods), within 10 Working Days of the notified date of delivery, give notice to the Contractor that the Goods have not been delivered and may request the Contractor free of charge to deliver substitute Goods within the timescales specified by the Authority.

**2.6** **Inspection, Rejection and Guarantee**

2.6.1 The Authority or its authorised representatives may inspect or test the Goods either complete or in the process of manufacture during normal business hours on reasonable notice at the Contractor’s premises and the Contractor shall provide all reasonable assistance in relation to any such inspection or test free of charge. No failure to make a complaint at the time of any such inspection or test and no approval given during or after such inspection or test shall constitute a waiver by the Authority of any rights or remedies in respect of the Goods and the Authority reserves the right to reject the Goods in accordance with clause 2.6.2.

2.6.2 The Authority may by written notice to the Contractor reject any of the Goods which:

2.6.2.1 fail to conform to the approved sample, fail to meet the Specification or any other term of this Agreement or have otherwise not been delivered in accordance with the Agreement. Such notice shall be given within 10 Working Days after delivery to the Authority of such Goods or within such longer period after delivery as the Authority may reasonably specify to the Contractor in order for the Authority properly to inspect and/or test the Goods, or

2.6.2.2 subsequently fail due to a manufacturing defect, or failure to meet the specification as defined by the Authority. Such notice shall be given within 10 Working Days the Authority have become aware of the failure of such Goods.

2.6.3 If the Authority rejects any of the Goods pursuant to this clause the Authority may (without prejudice to other rights and remedies) either:

2.6.3.1 have such Goods promptly, and in any event within 5 Working Days, either repaired by the Contractor or replaced by the Contractor with Goods which conform in all respects with the approved sample, the Specification and all other requirements of the Agreement and due delivery shall not be deemed to have taken place until such repair or replacement has occurred; or

2.6.3.2 obtain a refund (if payment for the Goods has already been made) from the Contractor in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Authority in obtaining other goods in replacement provided that the Authority uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement goods.

2.6.4 The issue by the Authority of a receipt note for the Goods shall not constitute any acknowledgement of the condition, quantity or nature of those Goods, or the Authority’s acceptance of them.

2.6.5 Without prejudice to any other rights or remedies of the Customer under the Agreement, if within 3 months of receipt any defects of design, workmanship or materials develop in the Goods on the Customer’s written request the Contractor shall at its own expense either replace the Goods in which such defects have developed with Goods that are free from defects or make good such defects as may be agreed between the parties in writing.

2.6.6 Any Goods rejected or returned by the Authority as described in clause 2.6.2 shall be returned to the Contractor at the Contractor’s risk and expense.

**2.7** **Labelling and Packaging**

2.7.1 The Goods shall be packed and marked in a proper manner and in accordance with the Authority’s instructions and any statutory requirements and any requirements of the carriers. In particular the Goods shall be marked with the Agreement number (or other reference number if appropriate) and the net, gross and tare weights, the name of the contents shall be clearly marked on each container and all containers of hazardous Goods (and all documents relating thereto) shall bear prominent and adequate warnings.

**2.8** **Training**

2.8.1 Where indicated in the Specification Schedule, the Agreement Price shall include the cost of instruction of the Authority’s personnel in the use and maintenance of the Goods and such instruction shall be in accordance with the requirements detailed in the Specification Schedule.

**2.9** **Agreement Performance**

2.9.1 The Contractor shall perform its obligations under the Agreement:

2.9.1.1 with appropriately experienced, qualified and trained personnel with all due skill, care and diligence;

2.9.1.2 in accordance with Good Industry Practice; and

2.9.1.3 in compliance with all applicable Laws.

2.9.2 The Contractor shall ensure that:

2.9.2.1 the Goods conform in all respects with the Specification and, where applicable, with any sample approved by the Authority;

2.9.2.2 the Goods operate in accordance with the relevant technical specifications and correspond with the requirements of the Specification and any particulars specified in the Agreement;

2.9.2.3 the Goods conform in all respects with all applicable Laws; and

2.9.2.4 the Goods are free from defects in design, materials and workmanship and are fit and sufficient for all the purposes for which such Goods are ordinarily used and for any particular purpose made known to the Contractor by the Authority.

2.9.3 The Contractor shall further ensure that all Goods containing or consisting of computer hardware and/or software ("Computer Systems"):

2.9.3.1 are free from defects and/or disabling codes and have been duly tested to ensure that there are no hidden defects or disabling codes and are subject to recognised and appropriate release procedures, including the latest version of a proprietary virus detection software package approved by the Authority, and the Contractor shall procure that corresponding obligations are imposed on its sub-contractors or agents;

2.9.3.2 in respect of software, have been obtained from a reputable and reliable software developer and not through any interest group or multi-organisational software sharing scheme;

2.9.3.3 will comply and function substantially in accordance with their user documentation.

2.9.4 In providing the Goods and any related services, the Contractor shall, and shall procure that its Staff shall, act in accordance with Good Industry Practice:

2.9.4.1 ensure that any Computer Systems, related hardware and/or software it or any its Staff uses and/or supplies to the Authority are free from corrupt data, viruses, worms, malware and any other computer programmes which might cause harm or disruption to the Authority's computer systems;

2.9.4.2 comply with all back-up, security and virus checking procedures and policies of the Authority, including those relating to the use of personal computer systems, hardware and/or software by the Contractor's Staff.

**2.10** **Manner of Carrying out Installation Work**

2.10.1 The Contractor shall not deliver any materials or plant nor commence any work on the Premises without obtaining prior Approval. Notwithstanding the foregoing, the Contractor shall, at the Authority’s written request, remove from the Premises any materials brought into the Premises by the Contractor, which in the reasonable opinion of the Authority are either hazardous, noxious or not in accordance with the Agreement and substitute proper and suitable materials at the Contractor’s expense as soon as reasonably practicable.

2.10.2 Any access to, or occupation of, the Premises which the Authority may grant the Contractor from time to time shall be on a non-exclusive licence basis free of charge. The Contractor shall use the Premises solely for the purpose of performing its obligations under the Agreement and shall limit access to the Premises to such Staff as is necessary for that purpose. The Contractor shall co-operate (and ensure that its Staff co-operate) with such other persons working concurrently on the Premises as the Authority may reasonably request.

2.10.3 When the Contractor reasonably believes it has completed the Installation Works it shall notify the Authority in writing without delay. Following receipt of such notice, the Authority shall inspect the Installation Works and shall, by giving written notice to the Contractor:

2.10.3.1 accept the Installation Works, or

2.10.3.2 reject the Installation Works and provide reasons to the Contractor if, in the Authority’s reasonable opinion, the Installation Works do not meet the requirements set out in the Specification.

2.10.4 If the Authority rejects the Installation Works in accordance with clause 2.10.3.2, the Contractor shall immediately rectify or remedy any defects and if, in the Authority’s reasonable opinion, the Installation Works do not, within 5 Working Days, meet the requirements set out in the Specification, the Authority may terminate the Agreement with immediate effect by notice in writing.

2.10.5 The Installation Works shall be deemed to be completed when the Contractor receives a notice issued by the Authority in accordance with clause 2.10.3.1. Notwithstanding acceptance of any Installation Works in accordance with that clause, the Contractor shall remain solely responsible for ensuring that the Goods and the Installation Works conform to the Specification. No rights of estoppels or waiver shall arise as a result of the acceptance by the Authority of the Installation Works.

2.10.6 Throughout the Agreement Period, the Contractor shall:

2.10.6.1 have at all times all licences, approvals and consents necessary to enable the Contractor and Staff to carry out the Installation Works;

2.10.6.2 provide all tools and equipment (or procure the provision of all tools and equipment) necessary for completion of the Installation Works;

2.10.6.3 not, in the performance of its obligations under the Agreement, in any manner endanger the safety or unlawfully interfere with the safety or convenience of the public.

2.10.7 On completion of any Installation works the Contractor shall remove its plant, equipment and unused materials and shall leave the Premises in a clean, safe and tidy condition. The Contractor is solely responsible for making good any damage to the Premises or any objects contained therein, other than fair wear and tear, which is caused by the Contractor or any Staff.

**2.11** **Contractor’s Staff**

2.11.1 The Authority may, by written notice to the Contractor, refuse to admit onto, or withdraw permission to remain in the Premises:

2.11.1.1 any member of the Staff; or

2.11.1.2 any person employed or engaged by any member of the Staff,

whose admission or continued presence would, in the reasonable opinion of the Authority, be undesirable.

2.11.2 At the Authority’s written request, the Contractor shall provide a list of the names and addresses of all persons who may require admission in connection with the Agreement to the Premises, specifying the capacities in which they are concerned with the Agreement and giving such other particulars as the Authority may reasonably request.

2.11.3 The Contractor shall ensure that its Staff, engaged on the Premises, comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when at or outside the Premises.

2.11.4 The Contractor acknowledges that the Authority shall be free to search any member of Staff and shall procure that its Staff co-operate fully with the Authority for these purposes. The Contractor shall also ensure that all of its Staff carry out their duties and act while on the Premises or while providing the Goods in an orderly and appropriate manner, having regard to the nature of their duties and that they shall at all times be dressed appropriately in view of their job category and the Goods they are to provide.

2.11.5 If and when requested by the Authority, the Contractor shall procure (in respect of its Staff) from each person identified by the request a signed statement that he understands that the Official Secrets Acts 1911 to 1989 applies to him both during the carrying out and after expiry or termination of the Agreement.

2.11.6 The Contractor shall comply with all requirements of the Authority's policies in force from time to time in respect of vetting the identity and bona fides of any Staff requiring admission to the Authority's premises in connection with the Agreement. The decision of the Authority as to any person being undesirable or failing such vetting procedures shall be final and conclusive.

2.11.7 The Contractor shall ensure that only such of its Staff as have been authorised by the Authority be permitted access to the Premises, information or assets or otherwise have any involvement in the provision of the Goods.

2.11.8 The Contractor undertakes only to nominate such persons as it believes, acting reasonably and in good faith, will require vetting pursuant to this clause 2.11 in order to carry out work pursuant to the Agreement. The Authority reserves the right to charge a fee to the Contractor in respect of the vetting procedure carried out in relation to those persons nominated by the Contractor for vetting.

2.11.9 Those persons authorised to carry out work in respect of the Agreement may, at the discretion of the Authority, be issued with a photopass confirming their identity. The Contractor shall ensure, at its costs, that all relevant persons attend any location as the Authority shall direct for the issue of such photopasses.

2.11.10 Where the photopasses are required:

2.11.10.1 the Contractor shall issue an authenticated photopass to each person authorised to carry out work in respect of the Agreement and required to have access to the relevant premises in order to do so and shall provide a second copy of each photopass for retention by the Authority;

2.11.10.2 the Contractor shall retrieve and destroy photopasses from any person that ceases to be authorised to carry out work in relation to the Agreement or to require access to the relevant premises in order to do so;

2.11.10.3 photopasses will be valid for a period of 3 years or such shorter period as the Authority may direct and in order that the Authority may be assured of the continuing suitability of staff to be employed in relation to the Agreement the Contractor shall ensure that completed security questionnaires are submitted in respect of relevant staff not less than 6 weeks before the expiry of any existing pass.

2.11.11 The Contractor shall be required to submit a completed security questionnaire for each of its Staff who require access to any confidential information in relation to the performance of its obligations under the Agreement. The security questionnaires must be completed by the individuals concerned and submitted not later than 6 weeks prior to work commencing. In the case of additional or replacement Staff being nominated by the Contractor, completed security questionnaires must be submitted no later than 6 weeks prior to the date on which the relevant individuals are required to commence work. Whether authority shall be given to any individual shall be for the Authority to decide and its decision in this matter shall be final and conclusive.

2.11.12 To ensure compliance with the requirements of this clause 2.11, the Contractor shall at no additional cost to the Authority nominate one of its employees as security controller for the purposes of the Agreement and ensure that such nominated employee discharges the following responsibilities:

 2.11.12.1 ensuring only those Staff who require access to confidential information in relation to performance of the Contractor's obligations under the Agreement are nominated for security clearance;

 2.11.12.2 distribution of security questionnaires;

 2.11.12.3 securing the accurate and timely completion of such;

 2.11.12.4 confirmation and validation of the content of the security questionnaires;

 2.11.12.5 promoting security awareness and ensuring Staff understand their responsibilities under the Agreement;

 2.11.12.6 liaison with the Authority's representatives and the Metropolitan Police Service Security Branch;

 2.11.12.7 undertaking training in the role and responsibilities of security controller;

2.11.12.8 securing the return and destruction of photopasses as required; and

 2.11.12.9 carrying out such other activities as the Authority may from time to time direct.

**2.12** **Provision of Information**

2.12.1 Without prejudice to any other provisions in the Agreement, including those in the Monitoring Schedule (if used), the Contractor shall provide such information in relation to the performance of its obligations and compliance with the Law required under the Agreement (including information in respect of claims, progress against relevant timescales or milestones and information required by the Authority for the purposes of re-tendering provision of the Goods) as the Authority may reasonably request from time to time, such information to be provided in the format and within the timescales reasonably specified by the Authority. The Contractor shall ensure that all such information is accurate and complete and, in respect of any information required by the Authority for re-tendering purposes, shall notify the Authority without delay of any changes to information previously provided to the Authority.

**3 PAYMENT AND AGREEMENT PRICE**

**3.1 Agreement Price**

3.1.1 In consideration of the Contractor’s performance of its obligations under the Agreement, the Authority shall pay the Agreement Price in accordance with clause 3.2 (Payment and VAT).

3.1.2 The Authority shall, in addition to the Agreement Price and following receipt of a valid VAT invoice, pay the Contractor a sum equal to the VAT chargeable on the value of the Goods supplied in accordance with the Agreement.

**3.2 Payment and VAT**

3.2.1 The Parties agree that:

3.2.1.1 any payment due under this Agreement from the Authority to the Contractor is to be made no later than the end of a period of 30 days from the date on which the Authority completes any process of verification that the invoice is value and undisputed;

3.2.1.2 the Authority is to consider and verify any invoice submitted by the Contractor in a timely manner with a view to ascertaining whether the invoice is valid and undisputed; and

3.2.1.3 the Contractor will include in any subcontract which it awards provisions:

3.2.1.3.1 imposing, as between the parties to that subcontract, requirements to the same effect as those clauses 3.2.1.1 and 3.2.1.2 of this Agreement refer to; and

3.2.1.3.2 requiring the sub-contractor party to that subcontract to include in any subcontract which it in turn awards provisions imposing, as between the parties to that subcontract, requirements to the same effect as those referred to in clauses 3.2.1.3.1 and 3.2.1.3.2 of this Agreement; and

3.2.1.3.3 to have regard to any guidance issued by the Minister for the Cabinet Office under regulation 113(4) of the 2015 Regulations.

3.2.2 The Contractor shall ensure that each invoice contains the information set out in clause 3.6 and that it is supported by any other documentation reasonably required by the Authority to substantiate the invoice. Without prejudice to the generality of the previous sentence, the Contractor shall ensure that each invoice contains details of the appropriate Purchase Order Number issued by the Authority in respect of the Goods in question. The Authority may withhold payment if a Purchase Order Number is not included on the invoice.

3.2.3 The Contractor shall add VAT to the Agreement Price at the prevailing rate as applicable.

3.2.4 The Contractor shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Authority at any time in respect of the Contractor’s failure to account for or to pay any VAT relating to payments made to the Contractor under the Agreement. Any amounts due under this clause 3.2.4 shall be paid by the Contractor to the Authority not less than 5 Working Days before the date upon which the tax or other liability is payable by the Authority.

3.2.5 The Contractor shall not suspend the supply of the Goods unless the Contractor is entitled to terminate the Agreement under clause 8.2.3 (Termination on Default) for failure to pay undisputed sums of money. Interest shall be payable by the Authority on the late payment of any undisputed sums of money properly invoiced, such interest to accrue on a daily basis at the rate of 1% per annum above the Bank of England base rate for the time being.

**3.3 Recovery of Sums Due**

3.3.1 Wherever under the Agreement any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Authority in respect of any breach of the Agreement), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Agreement or under any other agreement or contract with the Authority.

3.3.2 Any overpayment by either Party, whether of the Agreement Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

3.3.3 The Contractor shall make all payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Contractor.

3.3.4 Unless otherwise specified in the Agreement, any sum payable by the Contractor to the Authority under the Agreement or by either Party to the other under clause 3.3.2 shall be paid in cleared funds, within 5 Working Days of a demand for the same being notified by the recipient Party to the paying Party, to such bank or building society account as the recipient Party may from time to time direct.

**3.4 Price Adjustment**

3.4.1 The mechanism for reviewing the Agreement Price is set out in the Pricing Schedule.

**3.5 Euro**

3.5.1 Any requirement of Law to account for the Goods in Euro’s (or to prepare for such accounting) instead of and/or in addition to Sterling, shall be implemented by the Contractor free of charge to the Authority.

**3.6 Form of Invoice**

3.6.1 Unless otherwise agreed in writing by the Authority, all invoices shall include the following information:

3.6.1.1 the Agreement number;

3.6.1.2 the Purchase Order Number;

3.6.1.3 the specification number;

3.6.1.4 an invoice number;

3.6.1.5 the project number;

3.6.1.6 a detailed description of the Goods and any other deliverables under this Agreement;

3.6.1.7 a detailed description of any recoverable expenses and the amounts of such;

3.6.1.8 the location, date or time period of delivery of the Goods;

3.6.1.9 the Contractor’s VAT number;

3.6.1.10 the amount due exclusive of VAT, other duty or early settlement discount;

3.6.1.11 the VAT rate and VAT amount;

3.6.1.12 the amount of any other duty or early settlement discount;

3.6.1.13 the amount due inclusive of VAT and any other duty or early settlement discount;

3.6.1.14 the source/name of the person at the Authority responsible for the order to which the invoice relates;

3.6.1.15 the source of authorisation of payment;

3.6.1.16 details of the Agreement's BACS details or other method of payment;

3.6.1.17 the Contractor’s contact details; and

3.6.1.18 the date of the invoice.

all invoices for the MPS should be addressed **to PURCHASE TO PAY, SSCL – POLICE SERVICES, PO BOX 14077, NEWPORT, GWENT NP10 8FZ.**

**4** **STATUTORY OBLIGATIONS AND REGULATIONS**

**4.1 Prevention of Corruption**

4.1.1 The Contractor shall:

4.1.1.1 comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010 (the “Relevant Requirements”);

4.1.1.2 not commit to any Prohibited Act or engage in any activity, practice or conduct that would constitute a Prohibited Act by it, or the Authority if such activity, practice or conduct had been carried out in the United Kingdom;

4.1.1.3 devise, implement and enforce throughout the Agreement Period its own written policies and procedures, including adequate procedures under the Bribery Act 2010, in order to ensure compliance by:

4.1.1.3.1 the Contractor;

4.1.1.3.2 the Staff; and,

4.1.1.3.3 any other associated persons of the Contractor,

with the Relevant Requirements and clause 4.1.1 (4.1.1.2), and the Contractor shall produce to the Authority copies of such written policies and procedures within 7 days of signature of this Agreement and at any time upon request by the Authority;

4.1.1.4 promptly report to the Authority any request or demand for any undue financial or other advantage of any kind received by the Contractor in connection with the performance of this Agreement;

4.1.1.5 immediately notify the Authority in writing if a foreign public official becomes an officer or employee of the Contractor or acquires a direct or indirect interest in the Contractor, and the Contractor warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Agreement;

4.1.1.6 within 2 months of the Commencement Date, and annually thereafter, certify to the Authority in writing signed by an officer of the Contractor, compliance with this clause 4.1.1 by the Contractor and all persons associated with it under clause 4.1.2. The Contractor shall provide such supporting evidence of compliance as the Authority may reasonably request.

4.1.2 The Contractor shall ensure that any person associated with the Contractor who is performing services in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Contractor in this clause 4.1 (the “Relevant Terms”), the Contractor shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Authority for any breach of the Relevant Terms, and shall be directly liable to the Authority for any breach by such persons of any of the Relevant Terms.

4.1.3 If the Contractor (including any member of the Contractor’s Staff, Sub-Contractor, third party or agent, in all cases whether or not acting in the Contractor’s knowledge) engages in conduct prohibited by this clause 4.1 or commits any offence under the Bribery Act 2010, the Authority may:

4.1.3.1 terminate this Agreement with immediate effect and recover from the Contractor the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Goods and any additional expenditure incurred by the Authority throughout the remainder of the Agreement Term; or

4.1.3.2 recover in full from the Contractor any other loss sustained by the Authority in consequence of any breach of the conditions set out in this clause.

4.1.4 For the purposes of this clause 4.1:

4.1.4.1 the meaning of “adequate procedures” and “foreign public official” and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively;

4.1.4.2 a person associated with the Contractor includes but is not limited to any Sub-Contractor or third party of the Contractor; and

4.1.4.3 Prohibited Act’ means any of the following:

4.1.4.3.1 offering, giving or agreeing to give to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body any gift or consideration of any kind as an inducement or reward:

4.1.4.3.2 for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this Agreement, or any other contract with the Authority or any other public body; or

4.1.4.3.3 for showing or refraining from showing favour or disfavour to any person in relation to this Agreement or any such contract;

4.1.4.3.4 paying commission or agreeing to pay any commission to the Authority or any other public body or any person employed by or on behalf of the Authority, or any other public body in connection with this Agreement, or any other contract with the Authority, or any other public body or person employed by or on behalf of the Authority, or any other public body; or

4.1.4.3.5 committing any offence:

4.1.4.3.5.1 under the Bribery Act 2010; or

4.1.4.3.5.2 under any Law creating offences in respect of fraudulent acts; or

4.1.4.3.5.3 at common law in respect of fraudulent acts,

in relation to this Agreement, or any other contract with the Authority, or any other public body or person employed by or on behalf of the Authority, or any other public body.

**4.2 Prevention of Fraud**

4.2.1 The Contractor shall take all reasonable steps, in accordance with Good Industry Practice, to prevent fraud by Staff and the Contractor (including its shareholders, members, directors) in connection with the receipt of monies from the Authority.

4.2.2 The Contractor shall notify the Authority immediately if it has reason to suspect that any fraud in relation to any contracts with the Authority has occurred or is occurring or is likely to occur.

4.2.3 If the Contractor or its Staff commits fraud in relation to this Agreement or any contract with the Authority, the Authority may:

4.2.3.1 terminate the Agreement and recover from the Contractor the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Goods and any additional expenditure incurred by the Authority throughout the remainder of the Agreement Term ; or

4.2.3.2 recover in full from the Contractor any other loss sustained by the Authority in consequence of any breach of this clause.

**4.3 Discrimination**

4.3.1 The Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Contractor shall not unlawfully discriminate within the meaning and scope of the Human Rights Act 1988, the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

**4.4 The Contracts (Rights of Third Parties) Act 1999**

4.4.1 A person who is not a Party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both Parties. This clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999.

**4.5 Environmental**

4.5.1 The Contractor shall comply with all relevant environmental Law.

**4.6 Health and Safety**

4.6.1 The Contractor shall, and shall ensure that all Staff and Sub-Contractors shall, when working on any site in connection with the Agreement comply with all relevant health and safety legislation, codes of practice and any other appropriate standards, policies, procedures and documentation notified by the Authority. This will include, but is not limited to, the following:

4.6.1.1 Health and Safety at Work etc. Act 1974;

4.6.1.2 Management of Health and Safety at Work Regulations 1999;

4.6.1.3 Workplace (Health, Safety and Welfare) Regulations 1992;

4.6.1.4 Control of Substances Hazardous to Health Regulations 2002;

4.6.1.5 Provision and Use of Work Equipment Regulations 1998;

4.6.1.6 Personal Protective Equipment at Work Regulations 1992;

4.6.1.7 Construction (Design and Management) Regulations 2007;

4.6.1.8 Electricity at Work Regulations 1989;

4.6.1.9 Personal Protective Equipment Regulations;

4.6.1.10 The Authority’s Safety Rules for contractors and sub-contractors;

4.6.1.11 Work at Heights Regulations 2005;

4.6.1.12 any legislation which is equivalent to any of the legislation referred to in this clause 4.6 and which is in force in any other jurisdiction in which any activities are carried out under or in connection with the Agreement by the Contractor or any of its Staff or Sub-Contractors.

The Authority may carry out an inspection or audit of the Contractors systems and procedures for complying with its legal responsibilities at anytime.

4.6.2 The Contractor shall provide applicable hazard information such as material safety data sheets and shall inform the Authority of all regulations, guidance and significant risk (statutory or otherwise) which the Contractor knows or believes to be associated with the Goods and/or any combination of the Goods with another product/service, in the event of any release or spillage of substances hazardous to the environment, the Contractor will notify the Authority and the appropriate statutory bodies immediately and ensure that all necessary remedial action is taken to protect the environment.

4.6.3 The Contractor shall notify the Authority of past enforcement action taken against the Contractor and provide such details of prosecutions, fines, accident history and frequency rate as may be considered necessary by the Authority.

4.6.4 The Contractor shall provide the Authority on request with a copy of its health and safety policy, risk assessments, method statements and safe systems and procedures. Notwithstanding this, the Contractor shall ensure that its Staff and Sub-Contractors comply at all times with the Authority's "Health and Safety Policy and Safety Rules for Contractors and Sub Contractors" (or any applicable replacement policy or rules from time to time) in so far as it or they are relevant to the Agreement.

4.6.5 The Contractor shall comply with any health and safety related conditions stipulated by the Authority from time to time. Such conditions override details contained in the Contractor's internal documentation.

4.6.6 The Contractor shall notify the Authority in writing without delay of all incidents, which either could have lead, or did lead, to injury and/or damage. Where incidents are reportable under the Reporting of Injuries, Diseases and Dangerous Occurrence Regulations 1995, a completed copy of form F2508 and an investigation report shall be supplied.

4.6.7 The Contractor shall ensure that sufficiently trained and competent employees will be provided to undertake the duties defined in the Agreement and shall provide evidence of competency where required by the Authority.

4.6.8 The Contractor shall provide product specifications, technical supporting information, user instructions and maintenance information relating to any Goods to be supplied to the Authority.

**5** **PROTECTION OF INFORMATION**

**5.1 Data Protection Act**

5.1.1 The Parties acknowledge that for the Controller purposes of the Data Protection Legislation, the Authority is the and the Contractor is the Processor. Where either party processes Personal Data on behalf of the other party in relation to this agreement, the provisions of this clause shall apply. Prior to carrying out any such data processing the parties shall complete the information specified in the Data Processing Activities Schedule and shall keep such information updated throughout the term of the agreement.

5.1.2 The Contractor shall notify the Authority immediately if it considers that any of the Authority’s instructions infringe the Data Protection Legislation.

5.1.3 The Contractor shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:

5.1.3.1 a systematic description of the envisaged processing operations and the purpose of the processing;

5.1.3.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;

5.1.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

5.1.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

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

5.1.4.1 process Personal Data only in accordance with instructions of the Authority, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;

5.1.4.2 ensure that it has in place Protective Measures, which have been reviewed and approved by the Authority as appropriate to protect against a Data Loss Event having taken account of the:

5.1.4.2.1 nature of the data to be protected;

5.1.4.2.2 harm that might result from a Data Loss Event;

5.1.4.2.3 state of technological development; and

5.1.4.2.4 cost of implementing any measures;

5.1.4.3 ensure that :

5.1.4.3.1 the Contractor’s Staff do not process Personal Data except in accordance with this Contract;

5.1.4.3.2 it takes all reasonable steps to ensure the reliability and integrity of any Contractor’s Staff who have access to the Personal Data and ensure that they:

5.1.4.3.2.1 are aware of and comply with the Contractor’s duties under this clause 5.1;

5.1.4.3.2.2 are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;

5.1.4.3.2.3 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 Authority or as otherwise permitted by this Contract; and

5.1.4.3.2.4 have undergone adequate training in the use, care, protection and handling of Personal Data; and

5.1.4.4 not transfer Personal Data outside of the EU unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:

5.1.4.4.1 the Authority or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Authority;

 5.1.4.4.2 the Data Subject has enforceable rights and effective legal remedies;

5.1.4.4.3 the Contractor 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 Authority in meeting its obligations); and

5.1.4.4.4 the Contractor complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;

5.1.4.5 at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Contract unless the Contractor is required by Law to retain the Personal Data.

5.1.5 Subject to clause 5.1.6, the Contractor shall notify the Authority immediately if it:

5.1.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);

5.1.5.2 receives a request to rectify, block or erase any Personal Data;

5.1.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

5.1.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;

5.1.5.5 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

5.1.5.6 becomes aware of a Data Loss Event.

5.1.6 The Contractor’s obligation to notify under clause 5.1.5 shall include the provision of further information to the Authority in phases, as details become available.

5.1.7 Taking into account the nature of the processing, the Contractor shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 5.1.5 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

5.1.7.1 the Authority with full details and copies of the complaint, communication or request;

5.1.7.2 such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

5.1.7.3 the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;

5.1.7.4 assistance as requested by the Authority following any Data Loss Event;

5.1.7.5 assistance as requested by the Authority with respect to any request from the Information Commissioner’s Office, or any consultation by the Authority with the Information Commissioner's Office.

5.1.8 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:

5.1.8.1 the Authority determines that the processing is not occasional;

5.1.8.2 the Authority determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and

5.1.8.3 the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

5.1.9 The Contractor shall allow for audits of its Data Processing activity by the Authority or the Authority’s designated auditor.

5.1.10 The Contractor shall designate a data protection officer if required by the Data Protection Legislation.

5.1.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Contractor must:

5.1.11.1 notify the Authority in writing of the intended Sub-processor and processing;

5.1.11.2 obtain the written consent of the Authority;

5.1.11.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause such that they apply to the Sub-processor; and

5.1.11.4 provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.

5.1.12 The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.

5.1.13 The Contractor 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).

5.1.14 The Parties agree to take account of any guidance issued by the Information Commissioner’s Office. The Authority may on not less than 30 Working Days’ notice to the Service Provider amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner’s Office.

**5.2 Official Secrets Act 1911 to 1989, S182 of the Finance Act 1989**

5.2.1 The Contractor shall comply with, and shall ensure that its Staff comply with, the provisions of:

5.2.1.1 the Official Secrets Acts 1911 to 1989; and

5.2.1.2 Section 182 of the Finance Act 1989.

5.2.2 In the event that the Contractor or its Staff fail to comply with this clause, the Authority reserves the right to terminate the Agreement by giving notice in writing to the Contractor.

**5.3 Confidential Information**

5.3.1 The Contractor shall keep confidential and shall use its best endeavours to ensure that its staff keep confidential any and all information (written electronic or oral) which is learnt or obtained by the Contractor and/or its Staff in the provision of the Goods and shall restrict disclosure of the same only to those staff who need to know said information in order to provide the Goods. This provision shall continue in perpetuity but shall not apply to disclosures which the Contractor or its Staff are required to make by law or under the provisions or rules of their professional body.

**5.4 Freedom of Information**

5.4.1 The Contractor acknowledges that the Authority is subject to the Freedom of Information Act (FOIA) and the Environmental Information Regulations and the Contractor shall assist and cooperate with the Authority (at the Contractor’s expense) to enable the Authority to comply with these information disclosure requirements.

5.4.2 The Contractor shall provide required information, and use its best endeavours to procure that its agents, employees and contractors provide information, to the Authority within the timeframes requested by the Authority.

5.4.3 The Authority shall be responsible for determining at its absolute discretion whether any information:

5.4.3.1 is exempt from disclosure;

5.4.3.2 is to be disclosed in response.

5.4.4 The Contractor acknowledges that the Authority may be obliged to disclose information without consulting with the Contractor or following consultation with the Contractor and having taken its views into account.

5.4.5 The Contractor shall ensure that all information produced during the Agreement Term or relating to the Goods is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.

5.4.6 The Contractor shall not respond directly to a request for information from a third party unless expressly authorised to do so by the Authority.

5.4.7 The Contractor acknowledges that any lists or schedules provided by it outlining confidential Information are of indicative value only and that the Authority may nevertheless be obliged to disclose Confidential Information in accordance with the Freedom of Information Act 1998 or other relevant legislation.

**5.5 Publicity, Media and Official Enquiries**

5.5.1 The Contractor shall not make any press announcement or publicise the Agreement or any part thereof in any way, except with the Approval of the Authority.

5.5.2 The Contractor shall take all reasonable steps to ensure that its Staff, contractors and professional advisors comply with clause 5.5.

**5.6 Security**

5.6.1 The Authority shall be responsible for maintaining the security of the P remises in accordance with its standard security requirements. The Contractor shall comply, and shall ensure that all Staff comply, with all applicable security requirements of the Authority from time to time, including (where applicable) all security requirements in respect of the Premises and/or any Confidential Information of the Authority (including documents containing confidential and/or secret information) Authority (including documents containing confidential and/or secret information) time to time.

**5.7 Intellectual Property Rights**

5.7.1 Intellectual Property Rights belonging to the Authority created prior to the beginning of the Agreement Term shall continue to belong to the Authority and the Contractor shall be entitled to use such documentation, data or other information only for purposes envisaged by or arising under this Agreement. Intellectual Property Rights created by the Contractor during the Agreement Term in their performance of this Agreement shall be the sole property of the Authority provided that the Contractor shall have free and unfettered access during the Agreement Term to such Intellectual Property Rights for all purposes envisaged by or arising under this Agreement.

5.7.1 Subject to 5.7.11, all Intellectual Property Rights in any guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material (the "**IP Materials**"):

5.7.1.1 furnished to or made available to the Contractor by or on behalf of the Authority shall remain the property of the Authority or its licensors; and

5.7.1.2 prepared by or for the Contractor on behalf of the Authority for use, or intended use, in relation to the performance by the Contractor of its obligations under the Agreement shall belong to the Authority;

 and the Contractor shall not, and shall ensure that the Staff shall not, (except when necessary for the performance of the Agreement) without prior Approval, use or disclose any Intellectual Property Rights in any such IP Materials.

5.7.2 The Contractor hereby assigns to the Authority, with full title guarantee, all Intellectual Property Rights which may subsist in the IP Materials prepared in accordance with clause 5.7.1.2. This assignment shall take effect on the Commencement Date or as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Contractor. The Contractor shall execute all documentation necessary to effect this assignment.

5.7.3 The Contractor shall waive or procure a waiver of any moral rights subsisting in IP Materials produced by the Contractor in the performance of the Agreement.

5.7.4 The Contractor shall ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Agreement grants to the Authority a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty free and irrevocable and shall include the right for the Authority to sub-license, transfer, novate or assign to other Contracting Authorities, the Replacement Contractor or to any other third party supplying services to the Authority.

5.7.5 The Contractor shall not infringe any Intellectual Property Rights of any third party in supplying the Goods and the Contractor shall, during and after the Agreement Period, indemnify and keep indemnified and hold the Authority harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority may suffer or incur as a result of or in connection with any breach of this clause, except where any such claim arises from:

 5.7.5.1 items or materials based upon designs supplied by the Authority; or

 5.7.5.2 the use of data supplied by the Authority which is not required to be verified by the Contractor under any provision of the Agreement.

5.7.6 The Authority shall notify the Contractor in writing of any claim or demand brought against the Authority for infringement or alleged infringement of any Intellectual Property Right in materials supplied or licensed by the Contractor.

5.7.7 The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim for breach of Intellectual Property Rights in materials supplied or licensed by the Contractor, provided always that the Contractor:

 5.7.7.1 shall consult the Authority on all substantive issues which arise during the conduct of such litigation and negotiations;

 5.7.7.2 shall take due and proper account of the interests of the Authority; and

 5.7.7.3 shall not settle or compromise any claim without the Authority’s prior written consent (not to be unreasonably withheld or delayed).

5.7.8 The Authority shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the Authority or the Contractor by a third party for infringement or alleged infringement of any third party Intellectual Property Rights in connection with the performance of the Contractor’s obligations under the Agreement and the Contractor shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Contractor shall not, however, be required to indemnify the Authority in relation to any costs and expenses incurred in relation to or arising out of a claim, demand or action which relates to the matters in clause 5.7.5.1 or 5.7.5.2.

5.7.9 In connection with any negotiations or litigation conducted by the Contractor under clause 5.7.7, and subject to the Contractor complying with its obligations under that clause, the Authority shall not without the prior written consent of the Contractor (such consent not to be unreasonably withheld or delayed) make any admissions which may be prejudicial to the defence or settlement of the relevant claim.

5.7.10 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Rights is made in connection with the Agreement or in the reasonable opinion of the Contractor is likely to be made, the Contractor shall notify the Authority and, at its own expense and subject to the consent of the Authority (not to be unreasonably withheld or delayed), use its best endeavours to:

 5.7.10.1 modify any or all of the Goods without reducing the performance or functionality of the same, or substitute alternative Goods of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that the provisions herein shall apply mutatis mutandis to such modified Goods or to the substitute Goods; or

5.7.10.2 procure a licence to use and supply the Goods, which are the subject of the alleged infringement, on terms which are acceptable to the Authority,

 and in the event that the Contractor is unable to comply with clauses 5.7.10.1 or 5.7.10.2 within 30 Calendar Days of receipt of the Contractor’s notification the Authority may terminate the Agreement with immediate effect by notice in writing.

5.7.11 The Contractor grants to the Authority a royalty-free, irrevocable and non- exclusive licence (with a right to sub-licence) to use any Intellectual Property Rights that the Contractor owned or developed prior to the Commencement Date and which the Authority reasonably requires in order to use the Goods and exercise its rights and take the benefit of this Agreement.

**5.8 Audit**

5.8.1 The Contractor shall keep and maintain until 6 years after the end of the Agreement Term, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Goods supplied under it, all expenditure reimbursed by the Authority, and all payments made by the Authority. The Contractor shall on request afford the Authority and/or the National Audit Office (or any other applicable national audit body from time to time) and their respective representatives such access to those records as may be requested by the Authority in connection with the Agreement.

**5.9 Transparency**

5.9.1 The Contractor acknowledges that the Authority is subject to the Elected Local Policing Bodies (Specified Information) Order 2011 and hereby gives its consent for the Authority to publish this Agreement when the Authority is required to do so.

5.9.2 The Authority at its sole discretion may redact all or part of the Agreement Information prior to its publication. In doing so the Authority will take account of the FOIA. The Authority may consult with the Contractor regarding any redactions to this Agreement to be published pursuant to this clause. The final decision regarding publication and/or redaction of the Agreement Information shall be that of the Authority.

5.9.3 The Contractor shall assist and cooperate with the Authority to enable the Authority to publish the Agreement.

**6** **CONTROL OF THE AGREEMENT**

**6.1 Transfer and Sub-Contracting**

6.1.1 The Contractor shall not assign, sub-contract or in any other way dispose of the Agreement or any part of it without prior Approval. Sub-contracting any part of the Agreement shall not relieve the Contractor of any of its obligations or duties under the Agreement.

**6.2 Waiver**

6.2.1 The failure of either Party to insist upon strict performance of any provision of the Agreement, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Agreement.

6.2.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause 1.4 (Notices).

6.2.3 A waiver of any right or remedy arising from a breach of the Agreement shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Agreement.

**6.3 Variation**

6.3.1 This Agreement shall not be varied or amended unless such variation or amendment is agreed in writing by a duly authorised representative on behalf of the Authority and by a duly authorised representative of the Contractor.

**6.4 Severability**

6.4.1 If any provision of the Agreement 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 of the Agreement shall continue in full force and effect as if the Agreement had been executed with the invalid, illegal or unenforceable provision eliminated.

**6.5 Remedies in the event of inadequate performance**

6.5.1 Where there is a failure to comply with the Agreement and the failure is not remedied to the satisfaction of the Authority within 14 days it will be considered a material breach.

6.5.2 In the event that the Authority is of the reasonable opinion that there has been a material breach of the Agreement by the Contractor, then the Authority may, without prejudice to its rights under clause 8.2 (Termination on Default), do any of the following:

6.5.2.1 without terminating the Agreement, itself supply or procure the supply of all or part of the Goods until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the Authority that the Contractor will once more be able to supply all or such part of the Goods in accordance with the Agreement and for the avoidance of doubt, in such circumstances, the Authority shall have no liability to pay the Agreement Price in respect of those Goods which the Authority has itself supplied or procured;

6.5.2.2 without terminating the whole of the Agreement, terminate the Agreement in respect of part of the Goods only (whereupon a corresponding reduction in the Agreement Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Goods; and/or

6.5.2.3 terminate, in accordance with clause 8.2 (Termination on Default), the whole of the Agreement.

6.5.3 Without prejudice to its right under clause 3.3 (Recovery of Sums Due), the Authority may charge the Contractor for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Goods by the Authority or a third party (including pursuant to clause 6.5.2) to the extent that such costs exceed the payment which would otherwise have been payable to the Contractor for such part of the Goods and provided that the Authority uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Goods.

6.5.4 If the Contractor fails to supply any of the Goods in accordance with the provisions of the Agreement and such failure is capable of remedy, then the Authority shall be entitled to instruct the Contractor to remedy the failure, in which event the Contractor shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within 10 Working Days or such other period of time as the Authority may direct.

6.5.5 In the event that:

6.5.5.1 the Contractor fails to comply with clause 6.5.4 and the failure is materially adverse to the interests of the Authority or prevents the Authority from discharging a statutory duty; or

6.5.5.2 the Contractor persistently fails to comply with clause 6.5.4;

 the Authority may terminate the Agreement with immediate effect by notice in writing.

**6.6 Remedies Cumulative**

6.6.1 Except as otherwise expressly provided by the Agreement, all rights and remedies available to either Party under the Agreement or otherwise are cumulative and may be exercised concurrently or separately, and the exercise of any one right or remedy shall not be deemed an election of such right remedy to the exclusion of, and shall be without prejudice to the availability of, any other right or remedy.

**6.7 Monitoring of Agreement Performance**

6.7.1 Without prejudice to any other provisions in the Agreement, including those in the Monitoring Schedule (if used), the Contractor shall provide such information in relation to the performance of its obligations and compliance with the Law required under the Agreement (including information in respect of claims, progress against relevant timescales or milestones and information required by the Authority for the purposes of re-tendering provision of the Goods) as the Authority may reasonably request from time to time, such information to be provided in the format and within the timescales reasonably specified by the Authority. The Contractor shall ensure that all such information is accurate and complete and, in respect of any information required by the Authority for re-tendering purposes, shall notify the Authority without delay of any changes to information previously provided to the Authority.

**6.8 Extension of Initial Agreement Term**

6.8.1 The Authority may extend the duration by giving written notice to the Contractor not less than 6 months prior to end of the Agreement beyond the Agreement Term by no more than 2 years. The provisions of the Agreement will apply throughout any such extended period subject to any agreed variation or amendment made in accordance with this Agreement.

**6.9 Entire Agreement**

6.9.1 The Agreement constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Contractor acknowledges and agrees that it has not been induced to enter into the Agreement in reliance upon, and in connection with the Agreement does not have any remedy and waives all rights in respect of, any warranty, representation, statement, agreement or undertaking of any nature whatsoever other than as expressly set out in the Agreement, except that this clause shall not exclude liability in respect of any fraudulent misrepresentation.

6.9.2 In the event of, and only to the extent of, any conflict or inconsistency between the clauses of the Agreement, the Schedules and any other documents referred to in or attached to the Agreement, the conflict or inconsistency shall be resolved in accordance with the following order of precedence:

6.9.2.1 first priority, the clauses of the Agreement;

6.9.2.2 second priority, the Schedules (including the Specification);

6.9.2.3 third priority, any other document referred to in or attached to the Agreement.

**6.10 Counterparts**

6.10.1 This Agreement may be executed in counterparts, each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

**7 LIABILITIES**

**7.1 Liability, Indemnity and Insurance**

7.1.1 Neither Party excludes or limits liability to the other Party for:

7.1.1.1 death or personal injury caused by its negligence; or

7.1.1.2 fraud; or

7.1.1.3 fraudulent misrepresentation; or

7.1.1.4 any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982; or

7.1.1.5 any liability arising under any indemnity provision in the Agreement, save for the indemnity set out at clause 7.1.2, or (in the case of the Contractor only) any liability arising under clause 4.1.3 (Prevention of Corruption).

7.1.2 Subject to clauses 7.1.3 and 7.1.4, the Contractor shall indemnify the Authority and keep the Authority indemnified fully against all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of, or in consequence of, the actual or purported supply, delayed supply or failure to supply the Goods or the performance or non-performance by the Contractor of its obligations under the Agreement or the presence of the Contractor or any Staff on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly or indirectly by any act or omission of the Contractor.

7.1.3 Subject always to clause 7.1.1, the liability of either Party for Defaults shall be subject to the following limits:

7.1.3.1 save as provided by clause 7.1.3.3, the liability of either Party for any single Default resulting in loss of or damage to the property of the other Party shall not exceed £10m;

7.1.3.2 save as provided by clause 7.1.3.3, the aggregate liability under the Agreement of either Party for any and all Defaults (other than a Default covered by clause 7.1.3.1) shall not exceed 150% of the contract price.

7.1.3.3 to the extent that the liability of the Contractor for any particular Default is (or, but for any breach of the Agreement by the Contractor, would be) covered by any insurance which the Contractor is required under the Agreement to maintain, the Contractor shall at a minimum be liable to the Authority in respect of that Default up to the Insurance Limit, even if this results in the liability of the Contractor under the Agreement exceeding the limits specified in clauses 7.1.3.1 or 7.1.3.2, as applicable.

7.1.4 Without prejudice to its liability to indemnify the Authority under the Agreement, the Contractor shall take out and maintain, or procure the taking out and maintenance of the insurances specified in the Insurance Schedule (“the Required Insurances”), together with any other insurances as may be required by Law. All insurances of the kind specified in the Insurance Schedule shall comply in all respects with the requirements set out in the Insurance Schedule.

7.1.5 The Contractor shall ensure that the Required Insurances are taken out with insurers of good financial standing and of good repute in the United Kingdom insurance market and that the relevant policies are effective in each case not later than the date on which the relevant risk commences.

7.1.6 The Contractor shall not (and shall use all reasonable endeavours to procure that none of its sub-contractors shall) take any action or fail to take any reasonable action, or (insofar as it is reasonably within its power) permit anything to occur in relation to it, which would entitle any insurer to refuse to pay any claim under any policy in which the Contractor is an insured, a co-insured or additional insured person.

7.1.7 The Contractor shall in respect of the Required Insurances:

7.1.7.1 provide for 5 Working Days prior written notice of their cancellation or non-renewal to be given to the Authority. Failure to do so will be deemed to be a material breach of the Agreement;

7.1.7.2 insofar as they relate to damage to assets, cover the same for the full reinstatement or replacement value;

7.1.7.3 in respect of third party public and products liability insurance, procure that this shall contain an indemnity to principals clause under which the Authority shall be indemnified in respect of claims made against the Authority arising from death or bodily injury or third party property damage and for which the insured is legally liable in the provision of the Goods or in connection with the Agreement.

7.1.8 The Contractor shall provide on request by the Authority:

7.1.8.1 evidence of the Required Insurances in a form satisfactory to the Authority;

7.1.8.2 evidence in a form satisfactory to the Authority, that the premiums payable under the Required Insurances have been paid and that those insurances are in full force and effect and meet the insurance requirements of the Contractor in respect thereof,

provided that neither inspection, nor receipt of such evidence shall constitute acceptance by the Authority of the terms thereof, nor be a waiver of the Contractor’s liability under the Agreement.

7.1.9 Renewal certificates or cover notes, in a form satisfactory to the Authority, in relation to any of the Required Insurances shall be obtained by the Contractor as and when requested and certified copies shall be forwarded to the Authority as soon as possible but in any event no later than 10 Working Days following the request.

7.1.10 If the Contractor is in breach of clause 7.1.5 in respect of any Required Insurance, the Authority may pay any premiums required to keep such insurance in force or itself procure such insurance and may, in either case, recover such amounts from the Contractor on written demand, together with all expenses incurred in procuring such insurance.

7.1.11 The Contractor shall promptly notify to insurers any matter arising from or in relation to the Agreement for which it may be entitled to claim under any of the Required Insurances and diligently pursue any valid insurance claim.

7.1.12 In the event that the Authority receives a claim relating to the Goods or the Agreement, the Contractor shall co-operate with the Authority or its insurers and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.

7.1.13 The Contractor shall:

7.1.13.1 (except where the Authority is the claimant party) give the Authority notification within 10 Working Days after any claim in excess of £50,000 relating to the provision of the Goods or the Agreement on any of the Required Insurances or which, but for the application of the applicable policy excess, would be made on any of the application of the applicable policy excess, would be made on any of the Required Insurances and (if required by the Authority) provide full details of the incident giving rise to the claim;

7.1.13.2 promptly and diligently deal with all claims received relating to the Required Insurances and in accordance with the relevant insurers’ requirements;

7.1.13.3 (except where the Authority is the claimant party) in relation to all claims relating to the Required Insurances, give the Authority details of the value and nature of all such claims relating to the provision of the Goods or the Agreement as may from time to time be required by the Authority.

**7.2 Warranties and Responsibilities**

7.2.1 The Contractor warrants and represents that:

7.2.1.1 it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Agreement and that the Agreement is executed by a duly authorised representative of the Contractor;

7.2.1.2 in entering the Agreement it has not committed any fraud;

7.2.1.3 it has not committed any offence under the Bribery Act 2010;

7.2.1.4 as at the Commencement Date, all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Agreement;

7.2.1.5 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Agreement;

7.2.1.6 it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Agreement;

7.2.1.7 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor’s assets or revenue;

7.2.1.8 it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Agreement;

7.2.1.9 in the 3 years prior to the date of the Agreement:

7.2.1.9.1 it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;

7.2.1.9.2 it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and

7.2.1.9.3 it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Agreement.

**8** **DEFAULT, DISRUPTION AND TERMINATION**

**8.1 Termination on insolvency and change of control**

8.1.1 The Authority may terminate the Agreement with immediate effect by giving notice in writing where the Contractor is a body corporate (where a limited company, a limited liability partnership or otherwise) and in respect of the Contractor:

8.1.1.1 a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or

8.1.1.2 a shareholders’ meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed or any other step is taken with a view to it being determined that it be wound-up (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or

8.1.1.3 a petition is presented for its winding up (which is not dismissed within 10 Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors’ meeting is convened pursuant to the Insolvency Act 1986; or

8.1.1.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or asset; or

8.1.1.5 an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or

8.1.1.6 it is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or

8.1.1.7 being a “small company” within the meaning of section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to schedule A1 of the Insolvency Act 1986; or

8.1.1.8 it is for any reason dissolved or struck-off the register of companies; or

8.1.1.9 any event similar to those listed in clauses 8.1.1.1 to 8.1.1.9 occurs under the law of any jurisdiction.

8.1.2 The Authority may terminate the Agreement with immediate effect by giving notice in writing where the Contractor is an individual and:

8.1.2.1 an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Contractor’s creditors; or

8.1.2.2 a petition is presented and not dismissed within 14 days or an order is made for the Contractor’s bankruptcy; or

8.1.2.3 a receiver, a similar officer is appointed over the whole or any part of the Contractor’s assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets; or

8.1.2.4 the Contractor is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of section 268 of the Insolvency Act 1986; or

8.1.2.5 a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Contractor’s assets and such attachment or process is not discharged within 10 Working Days; or

8.1.2.6 he dies or adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005; or

8.1.2.7 he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business

8.1.3 The Authority may terminate the Agreement with immediate effect by giving notice in writing where the Contractor is a partnership and in respect of the Contractor:

8.1.3.1 a proposal is made for a voluntary arrangement within Article 4 of the Insolvent Partnerships Order 1994 or a proposal is made for any other composition, scheme, arrangement with, or assignment for the benefit of, its creditors;

8.1.3.2 it is for any reason dissolved;

8.1.3.3 a petition is presented for its winding-up or for the making of any administration order, or an application is made for the appointment of a provisional liquidator;

8.1.3.4 a receiver, or similar officer, is appointed over the whole or any part of its assets;

8.1.3.5 the partnership is deemed unable to pay its debts within the meaning of section 222 or 223 of the Insolvency Act 1986 as applied and modified by the Insolvent Partnerships Order 1994;

8.1.3.6 any of the following occurs in relation to any of its partners:

8.1.3.6.1 an application for an interim order is made pursuant to Section 252-253 of the Insolvency Act 1986 or a proposal is made for any composition, scheme or arrangement with, or assignment for the benefit of, his creditors;

8.1.3.6.2 a petition is presented for his bankruptcy;

8.1.3.6.3 a receiver, or similar officer is appointed over the whole or any part of his assets.

8.1.4 The Contractor shall notify the Authority immediately if the Contractor undergoes a change of control within the meaning of section 4.16 of the Income and Corporation Taxes Act 1988 (“change control”). The Authority may terminate the Agreement with immediate effect by giving notice in writing within 6 months of:

8.1.4.1 being notified that a change of control has occurred; or

8.1.4.2 where no notification has been made, the date that the Authority becomes aware of the change of control,

but shall not be permitted to terminate where an Approval was granted prior to the change of control.

**8.2 Termination on Default**

8.2.1 The Authority may terminate the Agreement with immediate effect by giving written notice to the Contractor if the Contractor commits a Default and if:

8.2.1.1 the Contractor has not remedied the Default to the reasonable satisfaction of the Authority within 10 Working Days, or such other period as may be specified by the Authority, after issue of a written notice specifying the Default and requesting it to be remedied; or

8.2.1.2 the Default is not, in the reasonable opinion of the Authority, capable of remedy; or

8.2.1.3 the Default, in the reasonable opinion of the Authority, is a material breach of the Agreement; or

8.2.1.4 the Default relates to a failure to meet and/or rectify performance in respect of particular service levels or key performance indicators and the failure in question is of a severity that permits the Authority by reference to other provisions in the Agreement (where in a Schedule of otherwise) to terminate the Agreement.

8.2.2 In the event that through any Default of the Contractor, data transmitted or processed in connection with the Agreement is either lost or sufficiently degraded as to be unusable, the Contractor shall be liable for the cost of reconstitution of that data and shall reimburse the Authority in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

8.2.3 If the Authority fails to pay the Contractor undisputed sums of money when due, the Contractor shall notify the Authority in writing of such failure to pay if the Authority fails to pay such undisputed sums within 90 Working Days of the date of such written notice, the Contractor may terminate shall not apply where failure to pay is due to the Authority exercising its rights under clause 3.3.1 (Recovery of Sums Due).

**8.3 Termination under the 2015 Regulations**

8.3.1 In the event that any of the grounds in regulation 73(1) of the 2015 Regulations applies to this Agreement or the Contractor, the Authority may terminate the Agreement by giving reasonable notice to the Contractor.

**8.4 Break**

8.4.1 The Authority shall have the right to terminate the Agreement at any time for any reason by giving to the Contractor not less than 3 month’s prior written notice.

**8.5 Consequences of Expiry or Termination**

8.5.1 Where the Authority terminates the Agreement under clauses 4.1 (Prevention of Corruption), 4.2 (Prevention of Fraud), 4.6 (Health and Safety), 5.2 (Official Secrets and the Finance Act), 5.3 (Confidentiality), 5.7 (Intellectual Property), 6.5 (Remedies in the event of inadequate performance), 8.1 (Termination on insolvency), 8.2 (Termination on Default) or 8.6 (Disruption) and then makes other arrangements for the supply of Goods, the Authority may recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Agreement Term .

8.5.2 Save as otherwise expressly provided in the Agreement termination or expiry of the Agreement shall be without prejudice to any rights, remedies or obligations accrued under the Agreement prior to termination or expiration and nothing in the Agreement shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry.

8.5.3 Termination of the Agreement shall not affect the continuing rights, remedies or obligations of the Authority or the Contractor under clauses 3.2 (Payment and VAT), 3.3 (Recovery of Sums Due), 4.1 (Prevention of Corruption), 5.1 (Data Protection Act), 5.2 (Official Secrets Act 1911 to 1989, Section 182 of the Finance Act 1989), 5.3 (Confidential Information), 5.4 (Freedom of Information), 5.7 (Intellectual Property Rights), 5.8 (Audit), 6.6 (Remedies Cumulative), 7.1 (Liability, Indemnity and Insurance), 8.5 (Consequences of Expiry of Termination), 8.7 (Recovery upon Expiry or Termination), 8.9 (Cooperation with Retendering) and 9.1 (Governing Law and Jurisdiction).

**8.6 Disruption**

8.6.1 The Contractor shall take reasonable care to ensure that in the performance of its obligations under the Agreement it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.

**8.7 Recovery upon Termination**

8.7.1 On the termination of the Agreement for any reason, the Contractor shall:

8.7.1.1 immediately return to the Authority all information and documentation belonging to the Authority;

8.7.1.2 assist and co-operate with the Authority with any re-tender; and

8.7.1.3 promptly provide all information concerning the provision of the Goods which may reasonably be requested by the Authority.

**8.8 Force Majeure**

8.8.1 The Contractor shall not be liable to the Authority under this Agreement if it is unable to perform its obligations by reason of a Force Majeure event, provided that the Contractor shall use all reasonable endeavours to minimise the effect of the Force Majeure and to resume performance of its obligations as soon as practicable.

8.8.2 Where Force Majeure has a material effect on the provision of the Goods for longer than 20 Working Days, the Authority may terminate this Agreement immediately at any time on or after the 21st Working Day.

**8.9 Cooperation with Retendering**

8.9.1 In the event that the Authority decides to re-tender the provision of the Goods the Contractor shall, if requested by the Authority, provide the Authority with such information as is relevant to the Goods and which may reasonably be required in connection with the preparation of a tender for the provision of the Goods by a person submitting such a tender.

8.9.2 In the event that the Authority decides to re-tender the provision of the Goods the Contractor shall within 10 Working Days of being so requested by the Authority fully and accurately disclose to the Authority for the purposes of TUPE all information relating to its employees engaged in providing Goods under the Agreement in particular, but not necessarily restricted to, the following:

8.9.2.1 The total number of personnel whose employment with the Contractor is liable to be terminated at the expiry of this Agreement but for any operation of law; and

8.9.2.2 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);

8.9.2.3 the contract of employment;

8.9.2.4 sick pay and any entitlement to private medical insurance;

8.9.2.5 details of any entitlement to any insurance scheme of any kind;

8.9.2.6 if a company car is provided as a benefit in kind, the age and make of the vehicle, the mileage and the presence of any extras;

8.9.2.7 any bonus schemes in which the Contractor’s employees participate or are entitled to participate;

8.9.2.8 details of any discretionary arrangement that may benefit the Contractor’s employees, such as share schemes and full details of the discretion and how it is operated;

8.9.2.9 full details of any claim being made or anticipated to be made by the Contractor’s employees such as personal injury claim or harassment;

8.9.2.10 full details of any enhanced redundancy scheme operated for the benefit of the Contractor’s employees;

8.9.2.11 holiday entitlement.

8.9.3 The Authority may disclose any such information as is referred to in clauses 8.9.1 or 8.9.2 to any third party who has expressed an interest in tendering for the provision of the Goods. The Contractor will co-operate with the re-tendering of the Goods by allowing the Replacement Contractor to communicate and meet the affected employees and/or their representatives.

8.9.4 In the event that the information provided by the Contractor in accordance with clauses 8.9.1 and 8.9.2 becomes inaccurate for any reason the Contractor shall notify the Authority of the inaccuracies and provide the amended information.

8.9.5 The Contractor shall indemnify the Authority and/or any Replacement Contractor against all costs expenses and liabilities arising out of or in connection with any claim or demand or other legal recourse against the Authority and/or any Replacement Contractor by or in respect of any individual employed or engaged or formerly employed or engaged in the provision of any of the Goods who claims (where correctly or not) that the Authority and/or the Replacement Contractor has inherited any contract of employment or liability in respect of them by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006.

**9 DISPUTES AND LAW**

**9.1 Governing Law and Jurisdiction**

9.1.1 Subject to the provisions of clause 9.2, the Authority and the Contractor accept the exclusive jurisdiction of the English courts and agree that the Agreement and all non-contractual obligations and other matters arising from or connected with it are to be governed and construed to English Law.

**9.2 Dispute Resolution**

9.2.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the Commercial Director of each Party.

9.2.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

9.2.3 If the dispute cannot be resolved by the Parties pursuant to clause 9.2.1 the Parties shall refer it to mediation pursuant to the procedure set out in clause 9.2.5 unless (a) the Authority considers that the dispute is not suitable for resolution by mediation; or (b) the Contractor does not agree to mediation.

9.2.4 The obligations of the Parties under the Agreement shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Contractor and the Staff shall comply fully with the requirements of the Agreement at all times.

9.2.5 The procedure for mediation and consequential provisions relating to mediation are as follows:

9.2.5.1 a neutral adviser or mediator (the “Mediator”) shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Part shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to an appropriate mediation provider to appoint a Mediator.

9.2.5.2 The Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiation to be held. If considered appropriate, the Parties may at any stage seek assistance from an appropriate mediation provider to provide guidance on a suitable procedure.

9.2.5.3 Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.

9.2.5.4 If the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives.

9.2.5.5 If the Parties fail to reach agreement in the structured negotiations within 60 Working Days of the Mediator being appointed or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts (unless the dispute is referred to arbitration pursuant to the procedures set out in clause 9.2.6).

9.2.6 Subject to clause 9.2.2 the Parties shall not instigate court proceedings until the procedures set out in clauses 9.2.1 and 9.2.3 have been completed save that:

9.2.6.1 the Authority may at any time before court proceedings are commenced service a notice on the Contractor requiring the dispute to be referred to and resolved by arbitration in accordance with clause 9.2.7.

9.2.6.2 if the Contractor intends to commence court proceedings, it shall serve written notice on the Authority of its intentions and the Authority shall have 21 days following receipt of such notice to serve a reply on the Contractor requiring the dispute to be referred to and resolved by arbitration in accordance with clause 9.2.7.

9.2.6.3 the Contractor may request by notice in writing to the Authority that any dispute be referred and resolved by arbitration in accordance with clause 9.2.7, to which the Authority may consent as it sees fit.

9.2.7 In the event that any arbitration proceedings are commenced pursuant to clause 9.2.6:

9.2.7.1 the arbitration shall be governed by the provisions of the Arbitration Act 1996;

9.2.7.2 the Authority shall give a written notice of arbitration to the Contractor (the “Arbitration Notice”) stating:

9.2.7.2.1 that the dispute is referred to arbitration; and

9.2.7.2.2 providing details of the issues to be resolved;

9.2.7.3 the London Court of International Arbitration (“LCIA”) procedural rules in force at the date that the dispute was referred to arbitration in accordance with 9.2.7.2 shall be applied and are deemed to be incorporated by reference to the Agreement and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;

9.2.7.4 the tribunal shall consist of a sole arbitrator to be agreed by the Parties;

9.2.7.5 if the Parties fail to agree the appointment of the arbitrator within 10 Working Days of the Arbitration Notice being issued by the Authority under clause 9.2.7.2 or if the person appointed is unable to unwilling to act, the arbitrator shall be appointed by the LCIA;

9.2.7.6 the arbitration proceedings shall take place in London and in the English language; and

9.2.7.7 the arbitration proceedings shall be governed by and interpreted in according with English law.

**10. QUALITY**

## 10.1 Quality Plans

## 10.1.1 The Contractor shall develop, within 30 Calendar Days of the Effective Date, Quality Plans that:

### ensure that all aspects of the Services are the subject of quality management systems; and

### are consistent with ISO 9001:2008 or any equivalent standard which is generally recognised as having replaced it.

## 10.1.2 The Contractor shall obtain the Authority Representative’s written approval of the Quality Plans developed pursuant to clause 10.1.1 before beginning to implement them, which approval shall not be unreasonably withheld or delayed. The Contractor acknowledges and accepts that the Authority's approval shall not act as an endorsement of the Quality Plans and shall not relieve the Contractor of its responsibility for ensuring that the Services are provided to the standard required by this Agreement.

## 10.1.3 The Contractor shall procure that the Services are carried out in compliance with the Quality Plans.

## 10.1.4 Any Changes to the Quality Plans shall be agreed in accordance with the Change Control Procedure. Quality Monitoring

## 10.2 Quality Monitoring and Audits

## 10.2.1 The Authority Representative may carry out audits of the Contractor’s quality management systems (including all relevant Quality Plans and any quality manuals and procedures) at regular intervals. The parties anticipate that these audits will be carried out at intervals of approximately three months, but the Authority Representative may carry out other periodic monitoring or spot checks at any other time. In each case, the Contractor shall co-operate, and shall procure that its Sub-contractors co-operate, with the Authority Representative, including by providing the Authority Representative with all information and documentation, and access to any relevant Contractor Personnel and/or to any relevant Site, which he reasonably requires in connection with his rights under this clause at no additional charge to the Authority.

**Performance Monitoring**

## The Authority may monitor the performance of the Services by the Contractor.

## The Contractor shall co-operate, and shall procure that its Sub-contractors co-operate, with the Authority in carrying out the monitoring referred to in clause 13.6 at no additional charge to the Authority.

## If the Contractor believes that the Authority's monitoring of the Services is unreasonable the Contractor may escalate the issue with the Authority using the Escalation Process.

**Warning Notices and Increased Monitoring**

## Without prejudice to the other rights or remedies of the Authority, if at any time the Contractor has:

### committed any material Default of its obligations under this Agreement; or

### in respect of its performance of the Services, fallen to or below a Service Threshold;

### accrued two (2) or more Service Failures in any three (3) month period;

### accrued five (5) or more events giving rise to Service Credits and/or Delay Payments in any calendar month; or

### failed to achieve any Milestone by its associated Milestone Date,

then the Authority may, but is not obliged to, give a written notice (a “**Warning Notice**”) to the Contractor setting out the matter or matters giving rise to such notice and containing a reminder to the Contractor of the implications of such notice. Any such notice shall state on its face that it is a Warning Notice.

## Without prejudice to the other rights or remedies of the Authority, if the Contractor receives two (2) or more Warning Notices in any period of three (3) calendar months in respect of any Services (or any part thereof), the Authority may, by written notice to the Contractor, reasonably increase the level of its monitoring of the Contractor, or (at the Authority's option) require the Contractor to increase the level of its monitoring of its own performance of its obligations under this Agreement, in respect of the Services (or relevant part thereof) to which the Warning Notices relate until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the Authority that it shall perform (and is capable of performing) its obligations under this Agreement, in which case, the following provisions shall apply:

### any such notice to the Contractor shall specify in reasonable detail the additional measures to be taken by the Authority or by the Contractor (as the case may be) in monitoring the performance of the Contractor;

### if the Contractor (acting reasonably) objects to any of the specified measures on the grounds that they are excessive it shall notify the Authority in writing within two (2) Working Days of the receipt of the notice referred to in clause 13.10.1 of the measures objected to (and of any changes necessary in order to prevent prejudice to the Contractor's performance of its obligations under this Agreement);

### the measures to be taken by the Authority and/or the Contractor (as the case may be) shall be agreed the parties or, in the absence of agreement within three (3) Working Days of the Authority's receipt of the Contractor's objection, determined pursuant to the Dispute Resolution Procedure; and

### the Contractor shall bear its own costs and shall reimburse the Authority in respect of any additional costs that are directly incurred by the Authority in respect of any such additional measures.

## If at any time the Contractor is in Default such that any element of the Services has become materially unfit for purpose such that the Contractor cannot deliver a material part of that Service the Authority shall notify the Contractor that it requires a Remedial Plan which should be prepared in accordance with the Remedial Plan Process detailed in clause 56 (Remedial Plan Process).

**IN WITNESS** of which this this Contract has been duly executed by the parties.

**SIGNED** for and on behalf of **The Mayor’s Office for Policing and Crime**

**Signature**: ………………………………………….

**Name:** …………………………………

**Date:** ………………………………….

**SIGNED** on behalf of **GMK Ltd**

**Signature:** ………………………………………….

**Name:** …………………………………

**Date:** …………………………………..

**1. SPECIFICATION SCHEDULE**

Goods to be supplied:

5.56mm TACTICAL Bonded 62g

Code: ZUK223T3

1. **INTRODUCTION**
2. This document sets out the detailed statement of requirements for **Operational Ammunition 5.56 x 45 mm** as well as the evaluation methodology to be used to assess and score the technical sections.
3. The evaluation is a phased approach, with each stage representing a gateway to the next phase.
4. The initial part of the evaluation is the review and verification of documentation and written responses from the Bidder.
5. The later part is physical review and user testing of Bidders samples to validate that they are as described within the documentation and to assess suitability and performance against the MPS requirements.
6. A separate document entitled **PPG-RPT-18/040** **AMMUNITION TEST METHODOLOGY** sets out the details of how the testing will be conducted. The numbering of the sections in this document is designed to mirror the numbering of the sections in PPG-RPT-18/040, and hence there may be gaps in the numbering within this SoR.
7. **INSTRUCTIONS FOR ITT SUBMISSION**
8. Bidders must respond to the ITT Technical and Commercial Questions. Their written response should be in a simple format that clearly references the questions as set out within the ITT Response Table.
9. Bidders must complete the template provided at **ANNEX 2 Compliance Template**. This is a summary of all the requirements for the Technical File and Components.
10. Technical File Requirements - Bidders must state if the technical file they are submitting is compliant against each requirement and reference where their evidence of this compliance is within their Technical File i.e. Technical File Reference and Page Number. Bidders must provide documentary evidence for all technical file requirements i.e. data sheets, certification, reports.
11. Components Requirements – Bidders must state if they consider their submission to be compliant with the Component requirements and reference any evidence of this compliance.
12. The Authority’s Commercial and Technical evaluation panel will assess the technical and commercial written response and score it in accordance with the default-marking scheme as detailed in the Invitation to Tender (ITT).
13. The Authority’s Technical Evaluation panel will assess the completed matrix and technical file for compliance with the requirements.
14. The Technical File will be assessed for completeness and to verify those requirements where the manufacturer’s declaration is considered sufficient.
15. Given the documentation required is extensive and complex, the Authority may, but is not obliged to, request additional information for clarification purposes.
16. All Technical File and Statement of Compliance Matrices will be scored as a **PASS/FAIL**
17. ***The Authority will exclude a Tender from the competition, which fails the compliance of Phase 1.***
18. Bidders that PASS will be invited to provide their samples for each submission and proceed to Phase 2.

**Note:** Bidders should note that the documentation is also used as a basis for later delivery acceptance inspections and for synchronising the manufacturer’s and MPS instrumentation. Bidder’s responses to the Phase 1 information will be incorporated into the contract at **Schedule 1**.

# PHASE 1 - TECHNICAL FILE – ESSENTIAL

**Evaluation: This section will be scored as a PASS/FAIL**

The bidder must supply the following technical information in the order specified.

**1.1 DATA SHEET** indicating:

**1.1.1 Manufacturer**

**1.1.2 Product name** and product code.

**1.1.3 Calibre**

**1.1.4 Bullet** identification, manufacturer, weight and product code.

* + 1. **Ballistic coefficient** and, if possible, coefficient of drag.
		2. **Cartridge case** identification, manufacturer and product code.
		3. **Primer** identification, manufacturer and product code.
		4. **Propellant** identification, manufacturer, charge weight and product code.
		5. **Raw materials** used for bullet core, jacket and cartridge case.

**1.2 Official Certificate of C.I.P. Conformance**

The certificate, from a C.I.P. Proof House, shall refer to the ammunition offered and shall not be older than two years.

**1.3 MATERIAL DATA SAFETY SHEET**

In English, of all toxic materials.

**1.4 EMISSION ANALYSIS**

The emissions analysis must be obtained using a verifiable measurement method and must refer to, and include, a document describing it. The certificate shall refer to the ammunition offered and must not be older than two years.

**1.5 SCALE DRAWINGS**

 Of the cartridge case, case head, bullet and primer.

**1.6 DESCRIPTION OF ACCEPTABLE MANUFACTURING TOLERANCES**

This should include cartridge length, min/max primer seating depth and any other tolerances that the manufacturer specifies in the production of the supplied ammunition**.**

**1.7 DESCRIPTION OF PACKAGING**

As defined in specification section 7. Packaging and Labelling requirements

**1.8 SHELF LIFE**

 The shelf life and description of recommended storage conditions.

**1.9 MEASUREMENT DATA**

Obtained using manufacturer’s calibrated instrumentation, or from an independent test laboratory, and the same ammunition lot which will be delivered for evaluation tests.

* + 1. **Primer sensitivity** - distribution as defined in NATO Manual of Proof and Inspection Procedures document PFP(NAAG-LG/3-SG/1)D(2004)1 section 24 “Primer Sensitivity Test Procedure”. Alternative methods are acceptable. A description of the method, measurement parameters, and instrumentation should be provided.
		2. **Bullet seating tightness -** individual measurements, maximum, minimum, mean value and standard deviation per random sample of 20 with a description of the method and instrumentation.
		3. **Bullet mass -** individual measurements, maximum, minimum, mean value and standard deviation per random sample of 20.
		4. **Propellant charge mass -** individual measurements, maximum, minimum, mean value and standard deviation per random sample of 20.
		5. **Velocity -** individual measurements, maximum, minimum, mean value and standard deviation per random sample of 20 in temperatures –20, +20 and +40 ºC with a description of method, measurement distance, test weapon and instrumentation.
		6. **Precision** - test targets with clean and fouled barrel with descriptions of test weapon and shooting distance. Fouled barrel test condition is obtained by firing 100 rounds of subject ammunition after the clean barrel precision test. The targets must show a total of 20 + 20 shots that should consist of a sufficient number of targets to allow distinguishing individual shots. A printout of an electronic target system showing impacts and impact coordinates is preferable instead of copies of actual targets. The method, weapon and firing distance should be the same used by the manufacturer for normal quality assurance and must be described.
		7. **Chamber pressure** (C.I.P. specified method) - individual measurements, maximum, minimum, mean values and standard deviations of a sample of 20 in temperatures -20, +20 and +40 ºC with pressure curves and description of test weapon and instrumentation. If the manufacturer has access to EPVAT equipment, then that data should be included.

**NOTE:** If the manufacturer does not normally gather data for a particular requirement, they should provide details from similar tests which they are capable of performing.

# PHASE 2 - COMPONENT REQUIREMENTS

**Evaluation: This section will be scored as a PASS/FAIL**

Bidders’ submitted samples will be inspected and measured to assess compliance with the Technical File and Dimensions Requirements.

Samples for testing will be examined for evidence of any of the defects listed at Table 1: ‘External Inspection Assessment’.

If the number of defects exceeds that permitted in Table 3, below, this shall result in a FAIL. If any critical defects are found this shall result in a FAIL

***The Authority shall exclude a Tender from the competition, which fails the Compliance of Phase 2.***

## 2.1 Dimensions and Defects

|  |  |  |
| --- | --- | --- |
| **No.** | **Priority** | **Requirement** |
| **2.1.1** | **Essential** | **Dimensions**The ammunition shall be built to SAAMI or NATO recommended standards. All ammunition will be compatible with, and safe to use in weapons manufactured to C.I.P., SAAMI and NATO specifications.Verification:Phase 1 - Technical File |
| **Rscore** | Fail = REJECT |
| **2.1.2** | **Essential** | **Defects**The ammunition shall be free from defects. This shall be assessed in accordance with the following: Table 3: External Inspection Assessment.Sampling as specified in sampling procedures.**No critical, or no more than one major, fault in the inspected sample shall be accepted.**Verification:Phase 2 - Visual Inspection (see PPG-RPT-18-040 Section 2.1) |
| **Rscore** | Fail = REJECT |

**Table 1: External Inspection Assessment**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Component** | **Fault** | **Critical** | **Major** | **Minor** |
| **Overall** | Corrosion | YES |  |  |
| Cartridge dimensions outside specification | YES |  |  |
| Wrong ammunition type in box | YES |  |  |
| Discolouration |  |  | YES |
| Bullet or primer sealant stains |  | YES |  |
| **Bullet** | Incomplete jacket | YES |  |  |
| Seated upside down | YES |  |  |
| Missing | YES |  |  |
| Dents and scratches |  |  | YES |
| Seated askew | YES |  |  |
| Loose seating | YES |  |  |
| **Cartridge Case** | Dents and scratches |  | YES |  |
| Plating partially or entirely missing or flaking | YES |  |  |
| Case head rounded or bevelling | YES |  |  |
| Case mouth deformed or cracked | YES |  |  |
| Case body or head cracked | YES |  |  |
| Head-Stamp entirely or partially missing or illegible | YES |  |  |
| Missing Sealant  | YES |  |  |
| **Primer** | Missing, deformed or seated upside down | YES |  |  |
| Seated higher than case head | YES |  |  |
| Missing sealant  | YES |  |  |
| No critical, or no more than one major, fault in the inspected sample shall be accepted. If any critical defects are found this shall result in a FAIL. The Authority shall exclude a Bidder from the Tender, which fails the Compliance of Phase 2 |

***Reference:*** *MIL-STD-636 ‘Visual Inspection Standards for Small Arms Ammunition through Calibre .50’, or equivalent document. Visual standards contained in MIL-STD-636 will be used where appropriate.*

## 2.2 Cartridge Case

|  |  |  |
| --- | --- | --- |
| **No.** | **Priority** | **Requirement** |
| **2.2.1** | **Essential** | **Case Material**Operational ammunition case material shall be stainless steel or nickel-plated brass.Re-used cases are not acceptable.Verification:Phase 1 – Technical File |
| **Rscore** | Fail = REJECT |
| **2.2.2** | **Essential** | **Head-Stamp**The minimum head-stamp shall consist of: Manufacturer identification,Calibre designation,Verification:Phase 1 – Technical File |
| **Rscore** | Fail = REJECT |
| **2.2.3** | **Desirable** | **Case Sealant**The case mouth shall be sealed with a suitable sealant OPERATIONAL AMMUNITION ONLYVerification:Phase 1 - Technical FilePhase 2 - Visual Inspection |
| **Rscore** | Fail = REJECT |
| **2.2.4** | **Essential** | **Water-Tightness**The cartridge case, bullet and primer assembly shall be completely water-tight in accordance with the test procedure described in NATO AEP-97, section 27Verification:Phase 1 - Technical FilePhase 2 - Visual Inspection (see PPG-RPT-18-040 Section 2.2) |
| **Rscore** | Fail = REJECT |

## 2.3 Bullet

|  |  |  |
| --- | --- | --- |
| **No.** | **Priority** | **Requirement** |
| **2.3.1** | **Essential** | **Bullet Mass**The unfired bullet mass is ≥50 grains and ≤70 grains Verification:Phase 1 - Technical FilePhase 2 – Visual Inspection (see PPG-RPT-18-040, section 2.3) |
| **Rscore** | Fail = REJECT |
| **2.3.2** | **Essential** | **Bullet Design**The bullet is a monolithic hollow point or bonded jacketed soft point expanding design with or without polymer tips or cavity filler.Verification:Phase 1 – Technical FilePhase 2 – Visual Inspection |
| **Rscore** | Fail = REJECT |
| **2.3.3** | **Essential** | **Bullet Materials**Describe the materials and construction of the bulletVerification:Phase 1 – Technical File |
| **Rscore** | Fail = REJECT |
| **2.3.4** | **Essential** | **Lead Contamination**The bullet shall be designed to eliminate airborne lead contamination.Verification:Phase 1 – Technical File |
| **Rscore** | Fail = REJECT |
| **2.3.5** | **Essential** | **Barrel Wear**The materials and construction of the bullet shall not cause accelerated barrel wear.Verification:Phase 1 – Technical File |
| **Rscore** | Fail = REJECT |
| **2.3.6** | **Essential** | **Barrel Rifling Effect**The materials and construction of the bullet shall be sufficient to retain barrel rifling marks.Verification:Phase 1 – Technical File.Phase 4 – Wound Ballistics |
| **Rscore** | Fail = REJECT |
| **2.3.7** | **Essential** | **Bullet Seating Tightness**The minimum individual seating tightness is 200 N.Verification:Phase 1 - Technical FilePhase 2 - Visual Inspection (see PPG-RPT-18-040, section 2.4) |
| **Rscore** | Fail = REJECT |

|  |  |  |
| --- | --- | --- |
| **2.3.8** | **Essential** | **Bullet Strength**The bullet is constructed so that repeated chambering shall not significantly deform it.Verification:Phase 1 – Technical FilePhase 2 – Manual Chambering Test with acceptable change of length <0.25 mm (see PPG-RPT-18-040, section 2.4) |
| **Rscore** | Fail = REJECT |
| **2.3.9** | **Essential** | **X-Ray Detectability**The bullet must contain X-Ray detectable materials.Verification:Phase 1 - Technical FilePhase 2 - Analysis by X-Ray |
| **Rscore** | Fail = REJECT |

## 2.4 Primer

|  |  |  |
| --- | --- | --- |
| **No.** | **Priority** | **Requirement** |
| **2.4.1** | **Essential** | **Primer Non-Corrosiveness**The primer is non-corrosive.Verification:Phase 1 - Technical File |
| **Rscore** | Fail = REJECT |
| **2.4.2** | **Essential** | **Primer Sensitivity and Insensitivity** As defined in “NATO Manual of Proof and Inspection Procedures document PFP (NAAG-LG/3-SG/1)D(2004)1 Section 24 “Primer Sensitivity Test Procedure”” or alternative, manufacturer specified, method.Verification:Phase 1 - Technical File |
| **Rscore** | Fail = REJECT |
| **2.4.3** | **Essential** | **Primer Sealant**The primer annulus and primer chamber shall be sealed with a suitable sealant.Verification:Phase 1 - Technical File |
| **Rscore** | Fail = REJECT |
| **2.4.4** | **Essential** | **Lead**The Operational round primer shall NOT be lead free.Verification:Phase 1 - Technical File |
| **Rscore** | Fail = REJECT |

**NOTE:** *Visual inspection is continuous during the Phase 2-3 each bullet is still subject to the external inspection against the assessment table 3. Critical/Major’s will be recorded and can result in a fail.*

# PHASE 3 - INTERNAL & EXTERNAL BALLISTIC REQUIREMENTS

**Evaluation:** These shall be scored as a PASS/FAIL and a **ranking method** shall then be used with the **Precision with Test Barrel** (3.5.2) results to take through the **top four (4)** submissions.

Bidders’ submitted samples shall be subjected to Functional Tests to assess they meet the requirements.

Defined Tests shall be performed as described in **Ammunition Test Methodology PPG-RPT-18/040**.

## 3.1 Chamber Pressure

|  |  |  |
| --- | --- | --- |
| **No.** | **Priority** | **Requirement** |
| **3.1.1** | **Essential** | **Chamber Pressure**The ammunition conforms to C.I.P requirements.Verification:Phase 1 – Technical File – C.I.P Certificate of ConformancePhase 3 – Visual Inspection of fired case and weapon chamberPhase 4 – Visual Inspection of fired case and weapon chamber |
| **Rscore** | If inspection of fired cartridge cases gives cause for concern, the ammunition shall be submitted to a C.I.P Proof House for measurement.Fail (Over Proof pressure) = REJECT |

## 3.2 Functional Reliability Tests

These tests have defined parameters which must be met in accordance with the tolerances and guidance given, as set out in Table 2 **Functional Reliability**

|  |  |  |
| --- | --- | --- |
| **No.** | **Priority** | **Requirement** |
| **3.2.1** | **Essential** | **Functional Reliability**The ammunition shall function in all reference weapons. Manual extraction of chambered ammunition shall be possible by hand. **No critical, or no more than one major, malfunction caused by the ammunition shall be accepted.** In case of a single major malfunction the functionality is retested, using an alternative weapon and magazine of the same type. See failure classification below, Table 5.Verification:Phase 3 - Functional Reliability Test (see PPG-RPT-18-040, section 3.2) |
| **Rscore** | Fail = REJECT |

**Table 2: Functional Reliability Assessment**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Failure** | **Critical** | **Major** | **Minor** |
| 1 | Bullet stuck in the barrel(powder ignition failure) | YES |  |  |
| 2 | Base rupture | YES |  |  |
| 3 | Case body rupture | YES |  |  |
| 4 | Case body bulge | YES |  |  |
| 5 | Case mouth split | YES |  |  |
| 6 | Case body split | YES |  |  |
| 7 | Primer blown off | YES |  |  |
| 8 | Primer rupture | YES |  |  |
| 9 | Case plating peels off |  | YES |  |
| 10 | Failure to feed | YES |  |  |
| 11 | Failure to extract(also manual extraction) | YES |  |  |
| 12 | Failure to eject | YES |  |  |
| 13 | Inconsistent or erratic ejection |  | YES |  |
| 14 | Misfire | YES |  |  |
| 15 | Cook-off | YES |  |  |
| *Note: All rounds fired in evaluation testing will be included in assessment of functional reliability.* |

## 3.3 Unburnt Propellant

This test has defined parameters which must be met in accordance with the guidance given as set out in **Ammunition Test Methodology PPG-RPT-18/040**.

|  |  |  |
| --- | --- | --- |
| **No.** | **Priority** | **Requirement** |
| **3.3.1** | **Essential** | **Unburnt Propellant**The ammunition shall not discharge excessive unburnt propellant from a short barrel test weaponVerification:Phase 3 - Unburnt Propellant Test (see PPG-RPT-18-040, section 3.3) |
| **Rscore** | Fail = REJECT |

**Table 3: Unburnt Propellant Test**

|  |  |  |
| --- | --- | --- |
| **Test** | **Unburnt Propellant****Mass (g) – Ranked Lowest to Highest** | **Score**  |
| Unburnt Propellant | M1 | 10 |
| Unburnt Propellant | M2 | 8 |
| Unburnt Propellant | M3 | 5 |
| Unburnt Propellant | M4 | 2 |

## 3.4 Weapon Damage

This test has defined parameters which must be met in accordance with the guidance given, as set out in **Ammunition Test Methodology PPG-RPT-18/040**.

|  |  |  |
| --- | --- | --- |
| **No.** | **Priority** | **Requirement** |
| **3.4.1** | **Essential** | **Weapon Damage**No visible damage to weapon breech face after an endurance test of 250 shotsVerification:Phase 3 - Weapon Damage Test with chosen reference weapon (see PPG-RPT-18-040, section 3.4) |
| **Rscore** | Fail = REJECT |

##

## 3.5 Velocity

These tests have a defined parameter, which is:

The standard deviation of velocity measured at least 50 consecutive shots shall be less than or equal to 15 m/s.

Guidance is set out in **Ammunition Test Methodology PPG-RPT-18/040**.

|  |  |  |
| --- | --- | --- |
| **No.** | **Priority** | **Requirement** |
| **3.5.1** | **Essential** | **Manufacturer’s Stated Velocity**The bullet velocity is detailed within the manufacturer’s +/- temperature rangeVerification:Phase 1 - Technical File |
| **Rscore** | Fail = REJECT |
| **No.** | **Priority** | **Requirement** |
| **3.5.2** | **Essential** | **Measured Velocity**To be conducted with both long and short reference weapons.The standard deviation of velocity measured at least 50 consecutive shots shall be less than or equal to 15 m/s.Verification:Phase 3 - Velocity Measurement (see PPG-RPT-18-040, section 3.5) |
| **Rscore** | Fail = REJECT |

**3.6 Impulse Noise Test**

This Section and Test are not specified for this Ammunition type, and hence are intentionally not included.

**3.7 Precision**

This requirement has defined parameters detailed below, which must be met.

The test will be conducted in accordance with the guidance in **Ammunition Test Methodology PPG-RPT-18/040**.

The test will be scored in accordance to group size that is set out in Table 4 below.

**Table 4: Precision P*total* Score**

|  |  |
| --- | --- |
| **Total Precision Test Group Size – Small to Large** | **Score** |
| 1 | 10 |
| 2 | 8 |
| 3 | 5 |
| 4 | 2 |
| 5 (and beyond) | Reject |
| ***NOTE****: If two natures achieve the same group size then they will be awarded the same points relative to their position in Table 6.* **The top 4 ammunition submissions with the smallest totals will pass through to the next phase – any others will take no further part in the evaluation.** |

|  |  |  |
| --- | --- | --- |
| **No.** | **Priority** | **Requirement** |
| **3.7.1** | **Essential** | **Manufacturer’s Stated Precision**Manufacturers stated group size for a minimum of five shots from a test barrelVerification:Phase 1 – Technical File |
|  |  |
| **No.** | **Priority** | **Requirement** |
| **3.7.2** | **Essential** | **Precision with Test Barrel**The extreme spread of a 10 shot group measured as the centre to centre distance, shot with test barrel at a minimum distance of 50 m from the target.The top 4 ammunition submissions with the smallest totals will pass through to the next phase – all others will take no further part in the evaluation.Verification:Phase 3 - Precision (see PPG-RPT-18-040, section 3.7)  |
| **Rscore** | Phase 3 - Top 4 smallest totals to go through to next phase.Fail = 5th place and lower, REJECT |

|  |  |  |
| --- | --- | --- |
| **No.** | **Priority** | **Requirement** |
| **3.7.3** | **Essential** | **Precision with Service Weapon**The extreme spread of a 10 shot group measured as the centre to centre distance, shot with a service weapon mounted in a rest at a minimum distance of 50 m from the target.Verification:Phase 3 - Precision (see PPG-RPT-18-040, section 3.7) |
| **Rscore** | This test is to identify any precision issues when the ammunition is used within the service weapon |

**PHASE 4 - TERMINAL BALLISTIC REQUIREMENTS**

## 4.1 Body Armour Perforation

**Evaluation: This section will be scored as a PASS/FAIL**

This requirement has defined parameters detailed below, which must be met.

The test will be conducted in accordance with the guidance in **Ammunition Test Methodology PPG-RPT-18/040**

|  |  |  |
| --- | --- | --- |
| **No.** | **Priority** | **Requirement** |
| **4.1.1** | **Essential** | **Body Armour Perforation**The bullet shall not perforate a representative CAST HO3 body armour upgrade plate when fired using the universal receiver with test barrel, at a velocity commensurate with that of the Sig MCX. Verification:Phase 4 - Body Armour Perforation (BA) Test (see PPG-RPT-18-040, section 4.1) |
| **Rscore** | Fail = REJECT |

**4.2 Frangible Ammunition Test**

This Section and Test are not specified for this Ammunition type, and hence are intentionally not included.

## 4.3 Wound Ballistics

These requirements have defined parameters, which must be met.

|  |  |  |
| --- | --- | --- |
| **No.** | **Priority** | **Requirement** |
| **4.3.1** | **Essential** | **Wound Ballistics**The Bullet shall be able to consistently perform when fired at tissue simulant through a series of five tests. Verification:Phase 4 – Wound Ballistic Tests |
| **Rscore** | Fail = REJECT |

**Wound Ballistic Evaluation**:

1. This section will be scored in accordance to the **Evaluation Methods** set out below and indicated in Tables 7 -11.
2. Further details of all the testing methods that will be used are set out in **Ammunition Test Methodology PPG-RPT-18/040**
3. The Wound Ballistics evaluation is conducted by a series of tests, consisting of firing into blocks of calibrated 10% ballistic gelatine, with some of the shots passing first through a series of barriers. All shots shall be fired using an appropriate test barrel, unless the test authority has reason to specify reference weapons as an alternative.
4. All tests shall be repeated using new gelatine blocks and new test materials. Only those projectiles trapped in gelatine shall be used for measurements. Any shot resulting in the projectile exiting through the side of a gelatine block shall be re-shot and shall not adversely affect the performance of the test sample. If a projectile is not trapped due to excessive deflection by the intervening barrier, the test is not repeated and 0 score is awarded.

The tests shall be repeated at least five times. But no more than ten attempts shall be made to get five results, after which 0 score is awarded for the failures.

The scoring is intended to reward higher performing ammunition in areas of most importance to the MPS.

**Barrier Weightings *-*** The different barriers for the wound ballistic effects have been allocated weighting based on the MPS priorities and requirements.

Table 5 below sets out the five different test scenarios and their weightings.

Scores for each of the properties measured in the five scenarios are assigned and detailed in Table 5.

**Table 5: Wound Ballistic Tests**

|  |  |  |
| --- | --- | --- |
| **Test** | **Description** | **Weightings** |
| HC 50 | Bare gelatine with simulated heavy clothing at 50 m. | 10 |
| AG 50 | Bare gelatine behind vehicle windscreen glass, at 50 m and at 45 degrees to line of fire. | 8 |
| CD 50 | Bare gelatine behind simulated car door, at 50 m and at 90 degrees to line of fire. | 6 |
| DW 50 | Bare gelatine behind simulated domestic double glazed window, at 50 m, and at 90 degrees to line of fire. | 4 |
| BG 50 | Bare gelatine at 50 m. | 1 |

###

### Wound Ballistics Reference Values

Table 6 describes the three different parameters measured in each of the gelatine blocks.

**Table 6: Properties Measured in Wound Ballistics Tests**

|  |  |
| --- | --- |
| **Property** | **Description** |
| **Ltotal** | Total gelatine penetration of the retained mass |
| **mr%** | Retained mass of the largest component of the projectile, expressed as a percentage of the nominal bullet mass |
| **VTC** | Maximum Volume of Temporary Cavity |

**Maximum Penetration Depth**

Table 7 shows the scoring used for the Maximum Penetration Depth into the gelatine block.

If a score of zero is awarded for the **Ltotal** then the ammunition shall be rejected from the evaluation and no further testing shall be performed on it.

**Table 7: Scoring of Maximum Penetration Depths**

|  |  |
| --- | --- |
| **Maximum Gelatine Penetration of the Retained Mass of Bullet (mm)** | **Score** |
| >500 | 0 |
| 451 - 500 | 7 |
| 401 - 450 | 9 |
| 350 - 400 | 10 |
| 301 - 349 | 7 |
| 250 - 300 | 1 |
| <250 | 0 |
| Note: If a score of zero is awarded for the **Ltotal** then the ammunition shall be rejected from the evaluation and no further testing shall be performed on it. |

**Retained Bullet Mass**

Table 9 shows the scoring used for the Retained Mass of the bullet extracted from the gelatine block.

**Table 8: Threshold Values for Percentage Retained Bullet Mass**

|  |  |
| --- | --- |
| **Test** | ***Retained Bullet Mass (%)*** |
| BG 50 | ≥ 93 |
| HC 50 | ≥ 93 |
| DW 50 | ≥ 55 |
| AG 50 | ≥ 55 |
| CD 50 | ≥ 55 |

**Table 9: Scoring of Recovered Bullet Mass**

|  |  |
| --- | --- |
| **Recovered Bullet Mass relative to the Nominal Bullet Mass (%)** | **Score** |
| **BG 50** | **HC 50** | **DW 50** | **AG 50** | **CD 50** |
| ≥ 98 | ≥ 98 | ≥90 | ≥90 | ≥90 | 10 |
| n/a | n/a | 80 to < 90 | 80 to < 90 | 80 to < 90 | 8 |
| n/a | n/a | 70 to < 80 | 70 to < 80 | 70 to < 80 | 5 |
| n/a | n/a | 55 to < 70 | 55 to < 70 | 55 to < 70 | 2 |
| < 93 | < 93 | <55 | <55 | <55 | 0 |

**Maximum Volume of Temporary Cavity**

There are no threshold values set for the maximum volume of the temporary cavity.

Instead this parameter is used as a ranking tool, as per Table 10, below.

**Table 10: Volume of Temporary Cavity Score**

|  |  |
| --- | --- |
| **Volume of Temporary Cavity – ranked Largest to Smallest** | **Score**  |
| 1 | 10 |
| 2 | 8 |
| 3 | 5 |
| 4 | 2 |

**Combination of Wound Ballistics Scores**

The scores obtained from the three Wound Ballistics parameters shall be summed and weighted according to the barriers, in order to combine them as the Cumulative Score (CS) as seen below. The three parameters are scored such that they are assigned equal significance.

**Cumulative Score (CS) = [(LTOTAL + MR% + 6*VTC*) / 100]3**

Where:

* **LTOTAL = 10(average HC 50 Ltotal) + 8(average AG 50 Ltotal) +6(average CD 50 Ltotal) +4(average DW 50 Ltotal) + (average BG 50 Ltotal)**
* **MR% =** **10(average HC 50 mr%) + 8(average AG 50 mr%) +6(average CD 50 mr%) +4(average DW 50 mr%) + (average BG 50 mr%)**
* ***VTC* =** **10(average HC 50 VTC) + 8(average AG 50 VTC) +6(average CD 50 VTC) +4(average DW 50 VTC) + (average BG 50 VTC)**

The Cumulative Score is then normalised to provide the Final Score, which is a maximum of 100%, which corresponds to the Technical component of the overall Tender Score.

The Final Score (FS) is calculated as below:

**Final Score (FS) = (CS / CSmax) x 100**

- where CS is the Cumulative Score being considered and CSmax is the highest Cumulative Score achieved by any of the four Phase 4 submissions.

**2. PRICING SCHEDULE**

It is agreed that the goods (listed above) shall be supplied at the following price:

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  |  |
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|  |  |  |  |  |

Delivery Charges are as follows:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Deliveries Cost ( per delivery per location)** | **London Police Forces**  | **England Police Forces** | **Northern Ireland Police Forces** | **Scotland Police Forces** | **Wales Police Forces** |
| **Delivery Standard** |  |  |  |  |  |
| **Delivery Express/Urgent** |  |  |  |  |  |

**3. INSURANCE SCHEDULE**

The section of this Schedule that relates to “Professional Indemnity Insurance” is only likely to be required if the Services involve provision of professional advice, design or specification services by the Contractor. If this section is not required, it should be deleted from the Schedule.

The limit of indemnity for professional indemnity insurance should be considered for each procurement. The suggested levels of cover for contracts of normal complexity and with no abnormal risks should be at least £1 million, but will more routinely be up to £10m and will exceptionally be more. This limit should be reviewed on a contract by contract basis to reflect the subject matter of the Agreement in question. The Limit of Indemnity should be dependent on a proportional risk assessment i.e. potential for financial loss to the Authority following negligent advice of the Contractor. If it felt that for a particular requirement this level could be deemed as discriminatory against bidders taking into consideration the potential risks of the contract then lower thresholds can be considered.

This needs to be completed prior to issuing the ITT.

Third Party Public and Products Liability Insurance

*Insured*

The Contractor

*Interest/Insured Risks*

To indemnify the Insured in respect of all sums that it may become legally liable to pay as damages (including claimant’s costs and expenses) in respect of accidental:

1. death, bodily injury to, or sickness, anguish or shock whether mental or otherwise, or illness or disease contracted by any person (other than employees of the Contractor);
2. loss or damage to property;

happening during the Period of Insurance (as defined below) and arising out of or in connection with the provision of the Goods and/or the Agreement.

*Limit of Indemnity*

Not less than [£5,000,000 (five million pounds)] in respect of any one occurrence the number of occurrences being unlimited, but in respect of products liability not less than [£5,000,000 (five million pounds)] for each and every occurrence and in the aggregate per annum and, in respect of pollution liability (to the extent pollution liability is insured by the policy), not less than £1,000,000 (one million pounds) for each and every occurrence.

*Territorial Limits*

United Kingdom

*Jurisdiction relating to policy interpretation*

Courts of England and Wales

*Choice of Law*

This insurance shall be governed in accordance with the laws of England and Wales

*Period of Insurance*

From the date of the Agreement for the duration of the Agreement.

Professional Indemnity Insurance

*Insured*

Contractor

*Interest/Insured Risks*

To indemnify the Insured in respect of all sums that it may become legally liable to pay (including claimants costs and expenses) as a result of any claim or claims first made against the Insured during the Period of Insurance (as defined below) by reason of any negligent act, error and/or omission arising from or in connection with the provision of the Goods and/or the Agreement.

*Limit of Indemnity*

Not less than £1,000,000 (one million pounds) per claim and in the aggregate per annum.

*Territorial Limits*

United Kingdom

*Jurisdiction relating to policy interpretation*

Courts of England and Wales

*Choice of Law*

This insurance shall be governed in accordance with the laws of England and Wales.

*Period of Insurance*

From the date of the Agreement for the duration of the Agreement and for a further period of 6 years following the expiry or earlier termination of the Agreement.

Compulsory Insurance

The Contractor and any sub-contractors of the Contractor are required to meet their United Kingdom statutory insurance obligations in full. Insurances required to comply with all statutory requirements including, but not limited to, United Kingdom employers' liability and motor third party liability insurance.

The limit of indemnity for the employers' liability insurance shall not be less than GBP [10,000,000 (ten million pounds sterling)] (or such other limit as may be required by law from time to time) for any one occurrence inclusive of costs, the number of occurrences being unlimited.

**4. STANDARD CALL-OFF FORM SCHEDULE**

**Guidance Notes:**

The Eligible User must ensure that this letter is completed by them before Goods are purchased. This letter sets out the basis of their call-off contract entered into between the Eligible User and the Contractor under the Framework Agreement. For the avoidance of doubt this letter only needs to be completed once, unless the terms within it are varied by the Eligible User during the term of their Call-Off contract

The Eligible User may vary or delete any section where indicated as required.

**[*Eligible User to insert* own *letterhead*]**

[*name and address of the Supplier*]

 [*Date*]

Dear Sirs

**Call-Off for the provision of [ ] from the Framework Agreement dated [ ] made between the Mayor’s Office for Policing and Crime and [ ] (the Contractor)**

[ ] (“the Eligible User”) wishes to place a call-off with you in accordance with the Terms and Conditions of the above Framework Agreement.

For the purpose of this Call-Off form –

* capitalised terms and expressions used in this form have the same meanings given to them in or pursuant to the Framework Agreement;
* references to Appendices are references to the appendices to this letter; and
* the Appendices shall form part of this Call-off form.

This Call-Off form constitutes the provision by you to us of the Contract Services (specified in Appendix 1) from the Effective Date (specified in Appendix 1) on the basis of the Day Rates / Contract Charges (set out in Appendix 2) and, save as varied and / or supplemented pursuant to the provisions (set out in Appendix 3) in accordance with the Framework Terms.

A Call-Off Contract shall be formed when you receive the subsequent Purchase Order.

The terms and conditions of the Framework Agreement dated [ ]\_ made between the Mayor’s Office for Policing and Crime and [ ] (the Contractor) will apply to this Call-Off Contract unless otherwise varied as permitted by the Framework Agreement or by this letter.

Your contact will be [ ][*give name and contact details of the Eligible User’s contract manager]*.

Please would you return the attached duplicate of this letter with the acknowledgement signed by the appropriate authorised [Owner/ Executive/ Director/ Manager] within your organisation confirming that you agree with the terms set out in this letter.

Please note that no Purchase Orders can be raised with you until we have received your confirmation.

Yours faithfully

Eligible User

I hereby confirm receipt of the above Letter and the agreement of [**name of Supplier]** to provide to ***[name of Eligible User]*** the Contract Services as set out in this letter.

|  |  |
| --- | --- |
| Signed: | Date: |
| Name: | Status: |

**5. SUPPORT SERVICES SCHEDULE**

**NOT USED**

**6. LEASED GOODS SCHEDULE**

**NOT USED**

**7. ELECTRONIC TRADE SCHEDULE**

1. As a party to this agreement the Contractor agrees that they will register and transact with the eMarketplace Managed Service solution in any or all of the options described below (1.1 to 1.5):
	1. Receive electronic RFQs and free text purchase orders as emailed PDF attachments.
	2. Receive electronic RFQs and free text purchase orders and in turn convert electronic purchase orders to electronic invoices for submission through the Trading Network.
	3. Provide electronic catalogue content of the goods and/or services as detailed in the Agreement with the Contractor.
	4. Enable a punch-out link from the marketplace to their own online ordering portal.
	5. Undertake full back office integration with the eMarketplace Managed Service Solution in order to transact with the contracting authority through any of the means detailed above (1.1 to 1.4).

**8. RESPONSIBLE AND SUSTAINABLE PROCUREMENT SCHEDULE**

1. The Contractor shall perform its obligations under the Agreement in accordance with the spirit and objectives of 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.

2. The Authority is committed to ensuring that workers employed or engaged in its supply chains throughout the world are treated fairly, humanely and equitably and to this end the Contractor shall comply and shall ensure that its sub-contracts comply, in relation to all workers employed or engaged by it directly or indirectly inconnection with the supply of the Services, with the policies, procedures and requirements of the International Labour Organisation, the United Nations Universal Declaration of Human Rights and the Ethical Trading Initiative (“ETI”) Base Code as detailed in the Ethical Sourcing Appendix to this Agreement, or an equivalent code of conduct (the “Ethical Sourcing Principles”).

3. In so far as the Contractor or any Sub-Contractor or Staff dispose of any waste goods or other items (including electronic products) in the course of or in connection with the performance of the Contractor's obligations under the Agreement, the Contractor shall ensure that those goods or other items are disposed of in an environmentally friendly manner and in accordance with all applicable EU and UK laws and regulations, including (where applicable) the Environmental Protection Act 1990 and the Waste Electrical and Electronic Equipment Regulations 2006.

4. If and when requested to do so by the Authority at any time, the Contractor shall provide the Authority with such documents and/or permit representatives of the Authority to have such access to the Contractor's premises and personnel as the Authority may reasonably require for the purposes of verifying compliance on the part of the Contractor with its obligations under paragraphs 1 to 3 above.

5 The Contractor shall procure that each of its Sub-Contractors (if any) comply with obligations substantially similar to those set out in paragraphs 1 to 4 above.

6. The Contractor undertakes that it shall, and shall procure that any of its Sub- contractors shall, pay directly engaged personnel at rates of pay which are, and otherwise operate pay policies and pay processes which are, entirely consistent with the Authority's commitments under its accreditation licence, dated January 2014, with the Centre for Civil Society Limited, as such licence may be amended or replaced from time to time.

**7.** **LONDON LIVING WAGE**

For the purposes of this Clause, unless the context indicates otherwise, the following expressions have the corresponding meanings:

**“London Living Wage”** means the London rate for the basic hourly wage as updated and published annually by the CCSL (or any relevant replacement organisation) on its website ([www.livingwage.org.uk](http://www.livingwage.org.uk));

**“CCSL”** means the Centre for Civil Society Limited or any relevant replacement organisation as notified by the Authority from time to time; and

**“Subcontractor”** means a subcontractor (of any tier) of the Contractor.

7.1 The Contractor acknowledges and agrees that the Mayor of London pursuant to section 155 of the GLA Act has directed that members of the Authority Group including the Authority ensure that the London Living Wage be paid to anyone engaged by any member of the Authority Group who is required to discharge contractual obligations (whether as a direct contractor or a subcontractor (of any tier) of that direct contractor) on the Authority’s estate in the circumstances set out in clause 7.2.1.

7.2 Without prejudice to any other provision of this Contract, the Contractor shall:

7.2.1 ensure that its Staff and procure that the Staff of its Subcontractors engaged in the provision of the Services:

1. for two (2) or more hours of work in any given day in a week, for eight (8) or more consecutive weeks in a year; and
2. on the Authority’s Premises including (without limitation) premises and land owned or occupied by the Authority;

be paid an hourly wage (or equivalent of an hourly wage) equivalent to or greater than the London Living Wage;

7.2.2 ensure that none of:

1. its Staff; nor
2. the Staff of its Subcontractors;

engaged in the provision of the Services be paid less than the amount to which they are entitled in their respective contracts of employment;

7.2.3 provide to the Authority such information concerning the London Living Wage as the Authority or its nominees may reasonably require from time to time, including (without limitation);

1. all information necessary for the Authority to confirm that the Contractor is complying with its obligations under clause 7 and
2. reasonable evidence that clause 7.2.1.has been implemented;

7.2.4 disseminate on behalf of the Authority to:

1. its Staff; and
2. the Staff of its Subcontractors;

engaged in the provision of the Services such perception questionnaires as the Authority may reasonably require from time to time and promptly collate and return to the Authority responses to such questionnaires; and

7.2.5 co-operate and provide all reasonable assistance in monitoring the effect of the London Living Wage including (without limitation):

1. allowing the CCSL to contact and meet with the Contractor’s Staff and any trade unions representing the Contractor’s Staff;
2. procuring that the Contractor’s Subcontractors allow the CCSL to contact and meet with the Subcontractors’ Staff and any trade unions representing the Subcontractors’ Staff;

in order to establish that the obligation in clause 7.2.1.have been complied with.

7.3 For the avoidance of doubt the Contractor shall:

7.3.1 implement the annual increase in the rate of the London Living Wage; and

7.3.2 procure that its Subcontractors implement the annual increase in the rate of the London Living Wage;

on or before 1st April in the year following the publication of the increased rate of the London Living Wage.

7.4 The Authority reserves the right to audit (acting by itself or its nominee(s)) the provision of the London Living Wage to the Contractor’s Staff and the Staff of its Subcontractors.

7.5 Without limiting the Authority’s rights under any other termination provision in this Contract, the Contractor shall remedy any breach of the provisions of this clause 7 within four (4) weeks’ notice of same from the Authority (the “Notice Period”). If the Contractor remains in breach of the provisions of this clause 7 following the Notice Period, the Authority may by written notice to the Contractor immediately terminate this Contract.

8. During the Agreement Term, the Contractor shall on request by the Authority and as soon as reasonably practicable provide the Authority with such complete, accurate and up-to-date information as may be required by the Authority in order to monitor compliance by the Contractor and any Contractor Sub-Contractor with the obligations arising on the Contractor under this paragraph 8.

9. The Contractor shall only use and shall procure that each of its sub-contractors shall only use for the purpose of this Agreement, cleaning products (including, without limitation, the ingredients of those cleaning products) which are cruelty free and have not been tested on animals and which have been certified by Cruelty Free International as not tested on animals.

**9. VESTING SCHEDULE**

**NOT USED**

**10. HMRC STATUTORY DECLARATIONS SCHEDULE**

**Guidance Notes:**

This Schedule will be only be required where MPS is trading with other EU Member States for goods. If the Schedule is not required, all of the text below (and these drafting notes) should be deleted and the words "Not Used" inserted below instead.

1.1 ALL invoices (whether for goods or services) from Contractors in other EU member states must display MOPAC's VAT registration number (GB239 0150 84).

1.2 VAT-registered businesses that trade in goods with other EU member states are required to provide details of these transactions which are used for statistical purposes. Intrastat is the system used to collect these statistics. The MPS/MOPAC must comply with this requirement. Please note, only Goods will need to be reported and that Services do NOT apply.

1.3 The MPS/MOPAC are required to compile Intrastat returns and the following data will be required from the Contrcator:

1.3.1 the commodity code classification of the goods - this is an 8-digit code selected from a predefined list, which describes the goods;

1.3.2 the quantity of the goods - the format required depends on which commodity code is assigned. It can be either:

1.3.2.1 net mass (in kilograms) or

1.3.2.2 a supplementary unit (i.e. number of units, perhaps rounded);

 1.3.3 the country from which the goods have arrived;

 1.3.4 The delivery terms code - a 3-digit code, again selected from a predefined list.

**11. CONFIDENTIAL INFORMATION SCHEDULE**

**Guidance Notes: IF RELEVANT THIS WILL BE COMPLETED AT CONTRACT AWARD**

This Schedule will only be required where the parties wish to list below Confidential Information, including Commercially Sensitive Information. The information contained within this schedule shall not be published unless the information must be disclosed in accordance with clause 5.4 (Freedom of Information Act), and/or the information must be disclosed in accordance with any law from time to time in place (including the Elected Local Policing Bodies (Specified Information) Order 2011), and/or in the opinion of the Authority the Contractor has not acted reasonably in designating material and information as confidential.

**12. GUARANTEE SCHEDULE**

**NOT USED**

**13. QUALITY PLAN SCHEDULE**

The Contractors completed Quality Plan will be added here at contract award

**14. ACCEPTANCE AND TESTING SCHEDULE**

**To be completed at Contract Award**

**Definitions**

For the purposes of this Schedule, the following definition(s) shall apply:

## “Interim Acceptance Certificate” means a certificate signed by the Authority certifying that a specified part of the Deliverables have been successfully tested or that a number of individual system functions of the Deliverables have successfully completed the Acceptance Tests.

## “Deliverables” means the batch of Ammunition from the Contractor.

1.3 “FAT” the Factory acceptance test process that evaluates the product/equipment during and after assembly by verifying it is built and operating in accordance with the design specification.

##  1.4 “SAT” means Site Acceptance Testing carried during contract implementation and upon receipt of the Ammunition batch, to verify that the Ammunition is of the same quality and performance that passed the tender selection and that no damage has occurred during shipment.

# FAT

## 2.1 The Contractor and or manufacture shall provide the Authority with assurance that all their Ammunition Goods have been through their production testing in accordance with their internal and industry quality standards for supply of Ammunition.

## 2.2 The Contractor shall provide such assurance via certificate of conformance with each batch delivered to the Authority.

# SAT

## The Contractor shall ensure that each part of the Deliverables is ready for the SATs to be carried out by the date specified in the Implementation Plan.

## The Authority shall use the Testing Criteria as detailed in Ammunition Test Methodology for the SAT.

## The SATs shall be carried out by or on behalf of the Authority on the date specified in the Implementation Plan or as otherwise agreed by the parties in writing. The Contractor shall where possible attend the carrying out of the SATs and shall provide all reasonable assistance to the Authority or its representatives.

## In the event that UATs are not required pursuant to the Implementation Plan:

### if a SAT is required in respect of only one Deliverable, and such SAT is successfully passed the Authority shall accept that Deliverable by signing the Final Acceptance Certificate; or

### if SATs are required in respect of more than one Deliverable, in respect of each SAT which is successfully passed the Authority shall accept the Deliverable or part thereof by signing an Interim Acceptance Certificate, and in respect of the final SAT which is successfully passed, the Authority shall issue a Final Acceptance Certificate.

## In the event that UATs are required pursuant to the Implementation Plan:

### if a SAT is required in respect of only one Deliverable, and such SAT is successfully passed the Authority shall accept that Deliverable by signing an Interim Acceptance Certificate; or

### if SATs are required in respect of more than one Deliverable, in respect of each SAT which is successfully passed the Authority shall accept the Deliverable or part thereof by signing an Interim Acceptance Certificate.

## Whether the SATs have been successfully passed shall be subject to the discretion of the Authority.

## If the SATs are not successfully passed then the Contractor shall endeavour to rectify all errors identified and the SATs shall be repeated in accordance with paragraphs 3.2 to 3.5 above within the time specified in the Implementation Plan or such date(s) as are agreed between the parties in writing.

## If the repeated SATs are not successfully passed by the date(s) specified in the Implementation Plan or such date(s) as are agreed between the parties in writing, then the Authority may by written notice to the Contractor, elect at its sole discretion:

### to set (without prejudice to its other rights and remedies) a further date or dates for the further repetition or repetitions of the SATs in accordance with paragraphs 3.2 to 3.5 above (save that all costs which the Authority may incur as a result as such repetition shall be reimbursed by the Contractor); or

### to accept the relevant part of the Deliverables subject to an abatement of the Price, such abatement to be such amount as, taking into account the circumstances, is reasonable. In the event of such abatement the Specification shall be altered to reflect the fact that the SATs have not been successfully passed; or

### charge the Contractor liquidated damages in accordance with the Schedule entitled “Pricing”; or

### to reject all or any part of the Deliverables and to terminate this Contract; and require the Contractor to refund to the Authority all moneys paid by the Authority to the Contractor pursuant to this Contract.

## Neither the acceptance of the relevant part of the Deliverables by the signature of an Interim Acceptance Certificate pursuant to paragraph 3.4 nor the exercise of its rights under paragraph 3.8.2 shall prejudice the rights of the Authority under this Contract or at law.

## Before submitting the relevant part of the Deliverables for the SATs the Contractor shall license or procure the grant of a licence to the Authority for any part of the Deliverables relating thereto in which Intellectual Property Rights are owned by a third party or which are to be licensed pursuant to this Contract and this license shall be provided to the Authority before signature of the Interim Acceptance Certificate.

## 3.11 The Authority may perform random batch testing in the same manner as SAT throughout the contract life cycle to ensure the quality and performance of the Ammunition remains consistent with the ammunition that was selected during the tender and accepted at SAT.

UAT – NOT USED.

15. IMPLEMENTATION PLAN SCHEDULE

**To be completed at contract award.**

This Schedule will only be required where an implementation plan is required in connection with the deliverables which are to be purchased under the Contract.

**16. KEY SUB-CONTRACTORS SCHEDULE**

**TO BE COMPLETED AT CONTRACT AWARD**

The Contractor shall declare all Subcontractor and suppliers that performs business essential and/or critical to the role in the provision of the Goods within this agreement.

Table below should be completed by the Contractor at contract award.

|  |  |  |  |
| --- | --- | --- | --- |
| Sub-Contractors Name | Address | Contact details | Responsibilities involving this Contract |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

**17. PERFORMANCE CRITERIA SCHEDULE**

Key Principles

1.1 Throughout the Contract Period, the Contractor shall supply Services that meet or exceed the standards set out in the Key Performance Indicators (KPI’s) described in the section below headed "Key Performance Indicators" and take corrective action in the event of failure to meet those standards.

1.2 The Contractor shall provide monthly reports (in accordance with the section below headed "Reporting Obligations") summarising the performance achieved by the Contractor against the KPIs.

1.3 Where the Contractor fails to meet the required performance standard against a KPI, the Contractor shall accrue "Performance Points" in the manner described in the section headed "Key Performance Indicators" below.

1.4 Where the number of Performance Points accrued in a particular period exceeds certain levels, as set out in the following sections of this Schedule, the consequences may include:-

1.4.1 the application of service credits by way of an adjustment to the Contract Price

1.4.2 the preparation and implementation of a "Service Rectification Plan";

1.4.3 the exercise of step-in rights by the Authority; and/or

1.4.4 the exercise of termination rights by the Authority.

1.5 The remedies set out in this Schedule for failure to meet the KPIs are not intended to be the Authority's exclusive remedy for any such failure and shall be without prejudice to any other right or remedy to which the Authority may be entitled, whether under other express provisions of the Contract, under the general law or otherwise.

Key Performance Indicators

* 1. Each of the following KPIs shall be measured on a monthly basis and accordingly relate to the standard of performance that is required, in respect of the relevant tasks or activities, over any one calendar month:-

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Title of KPI** | **LOT Relevant to** | **Required Standard of Performance** | **Basis on which Performance Points accrue** |
| 1a | Delivery Timelines  | All Lots | Contractor will fulfil all of orders (within estimated demand) within 14 calendar days of receipt of the purchase order. | 2 points per day (calendar) for each day of delay to receive Goods post the 14th calendar Day from the Authority’s initial request. |
| 1b | Delivery –remote locations TBC |  | TBC if required at Contract award. |  |
| 2 | Batch Failure Replacement | All Lots | A proportionate replacement batch must be provided within 14 calendar days (for UK Manufactures') and 28 calendar days (for Non UK Manufacturers) from notification by Authority of failure. | 5 points per day (calendar) for each day of delay to receive Goods post the 14 or 28th (whichever is relevant) calendar Day from the Authority’s initial request. |
| 3 | Collections of Failed Batch  | All Lots | The failed batch of ammunition must be collected with 14 calendar days from notification by the Authority  | 1 points per day (calendar) for each day of delay to receive Goods post the 14th calendar Day from the Authority’s initial request. |
| 4 | Complaints  | All Lots | Failure to acknowledge a query within 24 hours of the Authority raising the query A response or progress update to be received within 5 Working Days post the date of a complaint being raised by the Authority. | 1 points per each (up to / part) day (calendar) post the initial 24th hour after the query was raised.3 points per each (up to / part) day (calendar) of delay to provide a substantive response post the 5th Working Day after the query was raised. |
| 5 | Certificates of Conformity | All Lots | If any deliveries does not contain a Certificate of Conformance, the Contractor shall provide an electronic copy with 5 Calendar days from notification delivery date. |  1 points per day (calendar) for each day of delay to receive document after the 5th calendar Day. |
| 6 | Quality Plan | All Lots | The Quality Plan must be finalised with the Authority within 28 days post contract award.  | 10 points per day (calendar) for each day of delay to receive plan after the 28th calendar Day from the deadline. |
| 7 | Updates on Regulatory, security, license and quality  |   | The Authority shall be informed of any key changes (that will affect this contract) licensing, security, quality and regulator obligations for UK providers of Ammunition within 28 days from when the Contractors is aware of this and its potential impacts. | NONE |

**Reporting Obligations**

1.7 The Contractor shall ensure that it has appropriate systems and procedures in place in order to capture and report on compliance with KPIs as required by this Schedule.

1.8 Within 10 (ten) Working Days after the end of each calendar month, the Contractor shall deliver to the Authority a management report detailing performance in respect of each KPI ("Monthly Service Report") during that month. Each such report shall be in the format reasonably agreed by the Authority, shall identify any failures to meet a particular KPI during the relevant month and shall include relevant "Explanatory Statements" in relation to any such failures describing why, in the reasonable opinion of the Contractor, the failure occurred and the steps that the Contractor proposes to take to avoid any recurrence of that failure.

1.9 In order to verify the accuracy of any Monthly Service Report:-

1.9.1 the Contractor shall promptly provide the Authority with such additional information and/or supporting documentation as the Authority may reasonably request from time to time;

1.9.2 if requested to do so, the Contractor shall permit representatives of the Authority to have access to the Contractor's premises for the purposes of inspecting records and other information held by the Contractor in relation to the Services.

1.10 The Authority may provide representations and/or comments on any Explanatory Statement. The Contractor shall take reasonable account of all such comments and/or representations and, subject to this, shall fully implement any actions set out in the relevant Explanatory Statement.

**Service Credits**

1.11 Each Performance Point accrued shall have a value of **£1** per point. Where more than **15** Performance Points are accrued in any one month, the value of that excess (i.e. the total number of points, over **15,** accrued in that month multiplied by £1 shall be deducted from the Contract Price payable to the Contractor for that month and itemised as a service credit (the "Service Credit") on the relevant monthly invoice submitted by the Contractor.

1.12 The Contractor acknowledges and agrees that the Service Credits are a reasonable method of price adjustment to reflect the value of poorly performed Services.

Service Rectification Plan

1.13 Where:-

1.13.1 the number of Performance Points accrued in a month exceeds **50**; or

1.13.2 the number of Performance Points accrued over any three (3) consecutive months exceeds **150** in aggregate

the Contractor shall prepare a formal written rectification plan (“Service Rectification Plan”) to satisfy the Authority that the Contractor is taking, or will imminently take, all necessary steps to improve future performance and minimise the risk of repeated poor performance.

1.14 The Service Rectification Plan shall at a minimum contain the following information:-

1.14.1 identification of the scale of the problem and the steps that the Contractor proposes to take, or is taking, to rectify or improve its performance including all failures to perform the Services in accordance with the KPIs; and

1.14.2 a statement as to how success in implementing the Service Rectification Plan will be measured; and

1.14.3 a statement as to the timescales within which the Service Rectification Plan will be implemented; and

1.14.4 such other information as may be reasonably required.

1.15 The Service Rectification Plan shall be signed by [appropriate senior executive] and submitted to the Authority for Approval by no later than 5pm on the fifth (5th) Working Day following but excluding the day of submission of the Monthly ServiceStatement in which the Performance Points are accrued to reach the thresholds set out in paragraph 1.13 above.

1.16 The Authority shall give its Approval or (if not approved) any comments on the Service Rectification Plan as soon as reasonably practicable and in any event within ten (10) Working Days from and including the date of its submission. Failure to respond shall be deemed approval. Where the Authority decides not to approve the Service Rectification Plan, the Contractor shall make such amendments to the Service Rectification Plan as may reasonably be required by the Authority and shall re-submit the Service Rectification Plan for Approval within five (5) Working Days from and including the date upon which the Authority notifies its request.

1.17 If the Contractor fails fully to implement the Service Rectification Plan in accordance with its terms (including timescales) then without prejudice to any other right or remedy, the Authority may treat such failure as a material breach of the Contract that is incapable of remedy and that accordingly provides grounds under clause 8.2 of the Contract for the Authority to terminate the Contract with immediate effect on giving notice to the Contractor.

Authority Step-in Rights

1.18 Not USED

Authority Termination Rights

1.19 Where:-

1.19.1 the number of Performance Points accrued in a month exceeds **150;** or

1.19.2 the total number of Performance Points accrued over any three (3) consecutive months exceeds **300** in aggregate,

the Authority shall be entitled to treat such under performance as a material breach of the Contract that is incapable of remedy and that accordingly provides grounds under clause 8.2 of the Contract for the Authority to terminate the Contract with immediate effect on giving notice to the Contractor.