

Standard Terms and Conditions of Purchase for Goods and Services ("Conditions")

1. Definitions: In these Conditions the following expressions will have the following meanings unless inconsistent with the context

The Authority means Cheshire Fire Authority (including its successors and/or assignees or its duly authorised officers). **Authorised Officer** means any officer of Cheshire Fire Authority authorised by the Secretary **Secretary** means the Fire Authority Secretary or Solicitor for the time being to the Authority. **The Contractor** means the person, firm or company to whom the Contract is awarded and to whom the Order is addressed. **'Goods'** means such articles, materials or commodities as described in the Order placed by the Authority with the Contractor for the supply of goods. **Services** means any services which or Cheshire Fire Authority receives from the Contractor (including any part of them) under a contract. **Order** means any authorised order of Cheshire Fire Authority (incorporating these Conditions) for Goods and/or Services. **Purchase Order Amendment** means ANY Purchase Order amendment form or series of Purchase Order amendments forms, each having precedence over any earlier Purchase Order amendment form.

Where these Terms and Conditions refer to communication being "in writing" electronic communication is to be used wherever possible

2. Contract Conditions: If there are any inconsistencies between the documents forming this Contract then these Conditions shall prevail. References to statutes shall include statutory modification, re enactment, extension, consolidation or replacement thereof, any corresponding provision in repealed enactments and any other regulation, instrument or other subordinate legislation made under the relevant statute or statutory instrument

3. Governing Law: These Conditions are governed by English law and both parties shall submit to the jurisdiction of the English Court

4. Headings: It should be noted that the headings in these Conditions are for information only and do not form part of or affect the construction of the Contract

5. Acceptance: Unless a formal Contract is prepared and executed, these Standard Conditions of Contract together with the Order shall constitute a binding Contract. Any Conditions of Contract of the Contractor shall not form part of the Contract.

6. Period of Contract: The Contract shall be in force for the whole of the period as defined in the Order

7. Variations: Neither the Authority nor the Contractor shall be bound by any variation, addition to, or waiver of these Conditions except as agreed by both parties in writing and signed on their behalf by their respective duly authorised representative such agreement not to be unreasonably withheld. Any proposed variation shall be put in writing giving the other party 2 weeks notice and the other party shall respond in writing within a further 2 weeks.

8. Delivery: During the period of the Contract the Contractor shall on executing an order properly pack and secure the goods in such a manner as to reach their destination in good condition under normal conditions of transport and thereafter deliver the same or cause them to be delivered free from delivery, carriage and other charges at the place or places as may be directed and in such quantities and at such times as may be specified in the Order by the Authority or its duly authorised officer.

9. Passing of Title: Title to Goods which are the subject of an official order shall pass to the Authority on delivery, unless otherwise stated in the Order. The Contractor shall bear all risk or loss or damage to the Goods until delivered and shall insure accordingly

10. Return of Containers: If any containers in which goods are delivered are to be returned to the Contractor, the Contractor will be required at his own expense, within 14 days of delivery, to arrange for the collection or return to him of such containers, and no charge is to be made in respect of such containers.

11. Quality, Design and Construction: The goods and/or services shall conform as to quality and description within the particulars stated in the Order; if the purpose for which they are required is

indicated in the Order either expressly or by implication, be fit for that purpose

Be equal in all respects to the samples, patterns, drawings or specification provided or given by either party. Be capable of any standard of performance specified in the Order. Be of sound materials and workmanship. Where an appropriate British Standard Specification issued by the British Standards Institution or EEC equivalent is in force at the date of signature of this Contract, all Goods and /or Services supplied shall be at least in accordance with that standard or any other standard as may be in force.

The Contractor warrants that the design, construction and quality of Goods and /or Services to be supplied under the Contract comply in all respects with all relevant requirements of any Statute, Statutory rule or order, or other instrument having the force of law which is in force at the time when the same are supplied.

Any breach of this Condition 11 shall give cause to the Authority to reject the Goods in accordance with the provisions of Condition 13.

12. Inspection and Analysis: The Authority shall at all reasonable times have access to the premises or works of the Contractor and shall be afforded facilities for inspecting the testing of any Goods at the works of the Contractor before delivery.

The Authority may analyse or test or cause to be analysed or tested any Goods delivered by the Contractor, and if such Goods are found not to be equal to or vary from the specification, the Authority may reject the whole or any part thereof and recover the cost of the analysis from the Contractor in accordance with Condition 13 hereof.

If so required by the Authority the Contractor shall submit samples of the Goods for the Authority's approval before the bulk of the relevant Contract is delivered or before the bulk of the Services are performed (as the case may be). Such samples should be marked for identification by the Contractor and will be retained by the Authority until the Services are completed or the Goods have been delivered.

The Authority shall be entitled to inspect and test the Goods during manufacture, processing or storage or check the progress of the Services.

If as a result of any inspection or test (pursuant to Condition 12) the Authority's representative is of the reasonable opinion that the Goods and/or Services do not comply with the Contract or are unlikely on completion of manufacture or processing so to comply the Authority may inform the Contractor accordingly and the Contractor shall promptly take such steps as may be necessary to ensure such compliance.

13. Rejection: Without prejudice to any other of its rights the Authority may by notice in writing to the Contractor reject any or all of the Goods if the Contractor fails to comply with any of its/his obligations under the Contract. The Authority shall when giving notice of rejection specify the reason therefore and the Contractor shall remove such Goods at its risk and expense. In such case the Contractor shall:

at the Authority's option replace such rejected Goods with Goods which are in all respects in accordance with the Contract or credit the Authority with the invoice price thereof and reimburse the Authority all freight and handling costs reasonably incurred by the Authority and/or for which it may be liable in respect of such Goods; or reimburse the Authority all freight and handling costs reasonably incurred by the Authority in the implementation of a stock recovery, recall or market withdrawal of the Goods in any part of the world.

14. Accounts: Accounts for Goods and/or Services shall be rendered for payment quoting the order number of the Authority. Invoices received without order numbers will be returned to the supplier. All discounts quoted by the Contractor shall be confirmed in writing by the Contractor and shall be allowed on such accounts.

15. Price and Payment: The Authority will on receipt of an Invoice containing an official order number, make payment to the Contractor within 30 days, in the event of a dispute payment will be made within 30 days of the resolution of the dispute.

16. Power to Purchase in Default: In the case of failure by the Contractor to deliver goods demanded within a period for delivery specified in the Order, or in the case of goods being rejected by the Authority under Condition 13 hereof the Authority shall have absolute power to purchase other goods and any excess reasonable costs so incurred shall be recoverable by the Authority from the Contractor. The discretion of the Authority or its duly authorised officer in the exercise of such power as aforesaid shall be final and binding on the Contractor.

17. Quantities: The quantities set out in the Order are given as a guide to suppliers and are unless determined estimated requirements. Nevertheless the Authority does not bind itself to purchase such quantities but reserves the right to order only such quantities as it may require from time to time during the period of the Contract.

18. Official Order: All goods must be the subject of an Order issued by the Authority. The Order must be on an official Fire Authority Order Form. The Authority shall not be responsible for any Goods which are delivered by the Contractor which are not the subject of an Order. Such Goods must be collected within 14 days of notification by the Authority by the Contractor at the Contractor's expense. The Authority shall have the right to send the Contractor a Purchase Order Amendment adding to, deleting or modifying the Goods and/ or Service. If the Purchase Order Amendment causes a change to the price or the delivery date then the Contractor shall promptly notify the Authority of such change calculating the new price and delivery date at the same level of cost and profitability as the original price. The Contractor will allow the Authority a minimum of 10 working days to consider any new price and/or delivery date. The Purchase Order Amendment shall only take effect if the Authority accepts in writing any new price and/or delivery date failing which the performance of the Contract will immediately resume as though the said Purchase Order Amendment had not been issued except, where appropriate, the Authority may still exercise its right of cancellation in accordance with Condition 22.

19. Disputes: If any difference shall arise between the Contractor and the Authority as to the interpretation or operation of these Conditions as to the rights, duties, obligations or liabilities of either party hereto which cannot be resolved between the parties the said difference shall be referred to a single arbitrator if the parties can agree or in default of agreement to two arbitrators one to be appointed by each party or their umpire and in either case in accordance with the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof.

20. Gifts or Rewards to Members or Officers: The Authority shall be entitled to cancel or terminate the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation or termination if the Contractor shall have offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Contract or any other Contract with the Authority or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Authority, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) or if in relation to any Contract with the Authority the Contract to or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Act 1889 to 1916 or shall have given any fee or regard the receipt of which is an offence under the sub-section (2) of section 117 of the Local Government Act 1972.

21. Assignment: The Contract or any part thereof shall not be assigned, delegated, licensed, part with or sublet all or any of its rights or obligations by the Contractor without the written consent of the Fire Authority which shall not be unreasonably withheld under the hand of its Secretary or his duly authorised representative. The Authority may assign the benefit of this Contract to any of its statutory successors. The parties agree that upon any assignment under this Condition there shall occur a reciprocal release of each Party's rights and obligations under this Contract save for liability in respect of antecedent breaches

22. Termination and Cancellation of Contract: The Authority shall be entitled to cancel any Order (or Purchase Order Amendment (if appropriate)) in whole or in part by giving to the Contractor notice of Cancellation at any time prior to delivery or performance of the Goods and/or Services in which event the Authority's sole liability shall be to pay to the Contractor fair and reasonable compensation for work-in-progress at the time of cancellation but for the avoidance of doubt such compensation shall not include loss of anticipated profits or any consequential loss. The Contract may be terminated with immediate effect by the Authority at any time by notice in writing to the Contractor in the event of any breach of any of the stipulations and conditions contained in this Contract or if the Contractor (or any partners in the Contractors business if the Contractor be a firm) shall become bankrupt or have a receiving order made against them or him or shall present their or his petition in bankruptcy or shall make any arrangements with or assignment in favour of their or his creditors or shall agree to carry out the Contract under a committee of inspection of their or his creditors or if the Contractor (being an incorporated Company) shall be the subject of any Order for the winding up whether compulsory or voluntary or if a resolution to wind up shall be passed by the shareholders or if a Receiver be appointed to the business of the Contractor. Provided that the rights of the Authority in respect of any antecedent breach by the Contractor of any terms of the Contract shall remain unaffected and provided also that the Contractor shall, if called upon by the Authority to do so, complete any orders which may have been given to him prior to the determination of the Contract on the terms provided by the Contract.

23. Warranty and Indemnity

Without prejudice to any other remedies of the Authority, the Contractor shall promptly (at The Authority's option) repair or replace all Goods which are or become defective during the period of twelve months from the date of delivery where such defect occurs under proper usage and is due to faulty design, the Contractor's erroneous instructions as to use or erroneous data or inadequate or faulty materials or workmanship, or any breach of by the Contractor of any provision of the Contract. Repairs and replacements shall themselves be subject to the foregoing obligations for a period of twelve months from the date of delivery, re-installation or passing of tests (if any) whichever is appropriate after repair or replacement. If any Services are found to have been performed defectively within twelve months of the date of their performance the Contractor shall forthwith upon notice thereof re-perform the same.

THE CONTRACTOR WILL INDEMNIFY, KEEP INDEMNIFIED AND HOLD HARMLESS THE AUTHORITY FROM AND AGAINST ALL COSTS (INCLUDING THE COST OF ENFORCEMENT), EXPENSES, LIABILITIES (INCLUDING ANY TAX LIABILITY) INJURIES, DIRECT, INDIRECT OR CONSEQUENTIAL LOSS (ALL THREE OF WHICH TERMS INCLUDE, WITHOUT LIMITATION, PURE ECONOMIC LOSS, LOSS OF PROFITS, LOSS OF BUSINESS, DEPLETION OF GOODWILL AND LIKE LOSS), DAMAGES CLAIMS, DEMANDS, PROCEEDINGS OR LEGAL COSTS (ON A FULL INDEMNITY BASIS) AND JUDGEMENTS WHICH THE AUTHORITY INCURS OR SUFFERS AS A CONSEQUENCE OF A DIRECT OR INDIRECT BREACH OR NEGLIGENT PERFORMANCE BY THE CONTRACTOR (ITS EMPLOYEES, AGENTS OR CONTRACTORS) OR FAILURE OR DELAY IN PERFORMANCE OF THE TERMS OF THE CONTRACT OR FOR ANY INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, REGISTERED DESIGN, DESIGN RIGHT, TRADE MARK, TRADE NAME OR OTHER INTELLECTUAL PROPERTY RIGHT FOR OR RELATING TO THE GOODS AND/OR SERVICES UNLESS SUCH INFRINGEMENT HAS OCCURRED DIRECTLY AS A RESULT OF ANY SPECIFICATION SUPPLIED BY THE AUTHORITY.

The Contractor sells in the course of a business and warrants that the Goods supplied will at the time of delivery correspond to the description given by the Contractor to the Authority.

All other warranties, conditions or terms relating to the Goods, whether express or implied by the Sale of Goods Act 1979, the Supply of Goods and Services Act 1982, or by other statute or common law or otherwise are included to the fullest extent.

24. Material and Property of the Authority: The Contractor shall be liable for any damage to or loss of any material or property of the Authority sent to the Contractor by the Authority for any purpose in connection with the Contract whilst the material or property is in the possession of the Contractor and the Contractor shall insure any such material or property against such damage or loss. The Contractor shall be permitted to use any plans or designs provided by the Authority and the Contractor shall only use these for the

purpose of fulfilling his contractual obligations. The Contractor shall not acquire any rights and shall not publish or disclose to third parties unless such disclosure has been authorised in writing by the Authority.

25. Confidentiality, Copyright, Data Protection and Freedom of Information: All information and data, including personal data, obtained and used in connection with this contract shall remain the property of the parties and shall be processed for the sole purpose of undertaking their obligations under this contract and for no other purpose

The Contractor shall ensure that its employees and/or agents do not divulge to any third party any information which comes into its or their possession in connection with this contract

The Contractor shall indemnify and keep indemnified the Authority against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Contractor of this Condition

The Authority may share information relating to the Contractor for data matching purposes in order to contribute to the prevention and detection of fraud in accordance with the requirements of the Audit Commission

Copyright of this contract remains with the Authority

The Contractor shall be registered under the Data Protection Act 1998 and all parties will duly observe all their obligations under the Act which arise in connection with this Contract

The Contractor acknowledges that the Authority is subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 and contributes to a Data sharing protocol with other agencies and Councils in Cheshire and shall assist and cooperate with the Authority when required to do so to enable it to comply with these information disclosure requirements

26. Health and Safety and Other Requirements: The Contractor shall comply with all relevant prevailing and future statutory obligations including (but not limited to) the Health and Safety at Work Act etc 1974; the Consumer Protection Act 1987, The Trades Descriptions Act 1968, the Consumer Protection from Unfair Trading Regulations 2008, The Data Protection Act 1998, the Race Relations Act 1976, the Disability Discrimination Act 1995; The Environmental Protection Act 1990; The Environmental Damage Regulations 2007 and all relevant Regulations and Codes of Practice under these Acts and associated legislation

The Contractor shall ensure as far as is practicable the provision and maintenance of a safe place of work including safe access and egress, a safe working environment with adequate welfare facilities, safe handling, storage maintenance and transport of work articles and substances and safe equipment and safe systems of work.

27. Equality Issues: The Contractor will conform (in so far as is permitted by law and in so far as has been communicated) to all legislation relating to equality and diversity and of the Authority's Policies and Codes of Practice in relation to it's carrying out of it's obligations under this Contract

For the avoidance of doubt this means that the Contractor must give appropriate consideration to race, nationality, cultural or ethnic background, marital status, age, gender, religion, sexual orientation and disability when performing its obligations under this Contract

28. Intellectual Property: Where the Goods are designed, created or otherwise developed by or for the Contractor pursuant to the Contract, then all intellectual property rights therein or relating thereto throughout the world (including without limitation, patents, copyrights, design rights, registered designs, trade marks, service marks and know-how and the rights to apply for any of the foregoing) ("the Intellectual Property Rights") shall belong to the Authority absolutely. The Contractor hereby assigns the Intellectual Property Rights to the Authority with the intent that upon the making or creation thereof the Intellectual Property Rights shall automatically vest in the Authority.

The Contractor shall at the Authority's request (and notwithstanding the termination of the Contract) sign and execute and procure the signature and execution of all such documents and do all such acts as the Authority may reasonably require to vest the legal title in, apply for, obtain and maintain in force in the Authority's sole name (unless it otherwise directs) any Intellectual Property Rights; to resist any objection or opposition to obtaining, and any petitions or applications for revocation of, any of the

Intellectual Property Rights; and to bring any proceedings for infringement of any of the Intellectual Property Rights.

The Seller irrevocably undertakes that neither it nor any other person will assert against the Authority or any third party any moral rights in or relating to the Intellectual Property Rights and warrants that all such moral rights are irrevocably waived and extinguished. For the purpose of this Condition 28 "moral rights" shall have the meaning ascribed thereto by the Copyright, Designs and Patents 1988 Act and all rights similar or corresponding thereto subsisting in any other country of the world from time to time.

29. Notices: Any notice to the Contractor shall be deemed to be sufficiently served if given to the Contractor or his duly authorised agent or left or sent by post addressed to him at his usual or last known place of abode or - business or in the case of an incorporated Company at the registered office of the Company.

30. Time of Essence: In these conditions or any addition thereto or variation thereof made in accordance herewith where a period of time is referred to time shall be deemed to be of the essence in all such cases.

31. Third Party: The provision of the Contract (Rights of Third Parties) Act 1999. are expressly excluded from this Contract.

32. Set Off: Neither the Contractor nor the Authority will have the right of set off.

33. Force Majeure: Any failure or delay by the Contractor in performing its obligations under this Contract which results from any failure or delay by an agent, sub contractor or supplier shall only be regarded as due to Force Majeure where that agent, sub contractor or supplier is itself impeded in complying with an obligation to the Contractor by Force Majeure

Neither Party shall be liable to the other Party by reason of any failure or delay in performing its obligations under this Contract which is due to Force Majeure where there is no practical means available to the Party concerned to avoid such failure or delay

If either Party becomes aware of any circumstances of Force Majeure which give rise to any such failure or delay which appear to do so that Party shall promptly give notice of those circumstances as soon as practicable after becoming aware of them and shall inform the other Party of the period for which it estimates that the failure or delay will continue

Notwithstanding the above each Party shall use its reasonable endeavours to perform its obligations for the duration of the Force Majeure event. However if such event prevents either Party from performing all of its obligations under the contract for a period in excess of 3 months either Party may terminate the Contract by notice in writing with immediate effect

34. Waiver: The failure by the Authority to take any particular action against the Contractor in relation to a breach of this Contract by the Contractor does not mean that it accepts or condones the breach and shall not limit its future action in reliance on that or any other breach.

35. Publicity: The Authority's name shall not be used by the Contractor in the endorsement of any project or in any other way or for any purpose without the Authority's written consent

36. Severability: If any provision of this Contract is or becomes illegal void or invalid, that shall not affect the legality and validity of the other provisions

37. Partnership Statement: Nothing in the Contract is intended to create a legal partnership or legal relations of any kind between the Parties (including but not limited to the Partnership Act 1890). No Party shall have authorisation to make representations to act in the name of, or act on behalf of or otherwise bind that Party