

# Instructions to Tenderers

Example

## **INFORMATION AND INSTRUCTIONS TO TENDERERS**

### **1 The Services required**

The Council has decided to invite tenders for the provision of CCTV control monitoring operators for CCTV Surveillance Systems in Burton upon Trent Staffordshire. The description of the Services is set out in the Specification.

### **2 The Council's District**

Details of the Council's district including its area and population are appended together with the address of the principal offices of the Council, the name and title and address of the officer who is defined as the Supervising Officer for the Contract.

### **3 The basis of the Tenders**

Tenders are being invited on an open basis on the basis that:

- 3.1 The existing undertaking will transfer and the employees engaged on the Services will transfer to the successful Tenderer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended).
- 3.2 The Contract Period will be for 3 years from April 1<sup>st</sup> 2009 and the rates as quoted in the Tender documents shall remain fixed for one year from the commencement of the Contract and thereafter be revised on each anniversary in accordance with Clause 17 of the Conditions of Contract.
- 3.3 The Council will not be responsible for or pay the expenses or losses which may be incurred by any Tenderer in the preparation of his Tender. Tenderers will be deemed to have included in their Tender all costs to be incurred in complying with the Tender Documents and no additional payments will be made for the Tenderers failing to do so.

### **4 Employment of existing staff**

- 4.1 The successful Contractor will be required to interview and consider for employment any of the existing staff engaged on the Services who want to be employed by it.
- 4.2 It would be helpful if the successful Tenderer were to give details of the terms of employment that it would be prepared to offer to existing staff (subject to interview and selection by him), who elect to leave their current employment and join the successful Tenderer [(Form E)].
- 4.3 It is the Council's view that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) apply to the Services. Tenderers should acquaint themselves with the effect of the Regulations and will be presumed to have full knowledge of the consequences of the application of the Regulations. The Council expects Tenderers to provide pension arrangements broadly comparable with the Local Government Pension Scheme.

## **5 Trade Association**

Tenderers shall state if they are members of a bona fide Trade Association.

## **6 Clarification of meaning of contract**

- 6.1 Tenderers should seek to clarify any points of doubt or difficulty with the Council before submitting a Tender. For this purpose contact should be made with the Supervising Officer. Should there be any matters of principle or remaining doubt or difficulty which Tenderers consider are not adequately covered in the Tender documents then these matters should be submitted in writing.
- 6.2 The details set out by the Council in the Tender documents are given in good faith and believed to be correct. The Council however does not warrant the accuracy of those details and the Tenderer should make his own appropriate searches enquiries and inspections.

## **7 Period of validity**

- 7.1 Tenderers are required to keep Tenders valid for acceptance for a period of 90 days from the final date for receipt of Tenders.

## **8 Commencement Date**

- 8.1 The successful Contractor will be required to commence operations on **April 1<sup>st</sup> 2009** or such other date as may be agreed.

## **9 Handover from previous contractor**

- 9.1 In order to facilitate a smooth handover from the previous contractor in the CCTV Control Room, the Tenderer may be required to provide staff to work in the Control Room for a maximum of two weeks prior to the Commencement Date set out above. The Tenderer shall state in the Form of Tender the cost of this service expressed as a weekly rate.

## **10 Performance Guarantee**

- 10.1 The successful Tenderer will be required to provide a performance guarantee in the form appearing at Appendix 3 to the Conditions of Contract prior to commencement of the contract.

## **11 Tendering procedure**

- 11.1 Tenders for the carrying out of the Services under the contract must be made on the Tender Form (Form A) which must be signed by the Tenderer and submitted with the following, all of which must be properly completed:
- 11.1.1 A certificate that the Tender is bona fide (Form B)
  - 11.1.2 An analysis of resources in the Tender (Form C)
  - 11.1.3 An illustration of the way in which the Tenderer proposes to carry out the Contract, including the management, supervisory and administrative structure (Form D)
  - 11.1.4 Details of Staff qualifications and expertise (Form E)
  - 11.1.5 Details of the terms of employment to be offered to existing staff (Form F)

- 11.1.6 Details of the Tenderer's environmental policies on the use of environmentally friendly supplies and working practices (Form G)
  - 11.1.7 Health and Safety Policy (Form H)
  - 11.1.8 An example of the duty roster which the Tenderer proposes to use (Form I)
  - 11.1.9 A comprehensive training statement (Form J).
- 11.2 All the documents must be placed in a plain envelope with the yellow return label supplied by the Council attached and the envelope must be sealed. The envelope shall in no circumstances bear any name or mark indicating the name of the sender.
- 11.3 Tenders must be delivered in the manner described to:  
Head of Legal and Democratic Services  
East Staffordshire Borough Council  
Town Hall  
Burton upon Trent  
Staffordshire  
DE14 2EB
- 11.4 **No Tender will be considered if it reaches the Council after 12 noon, Monday 2<sup>nd</sup> February 2009.**
- 11.5 Tenderers are advised to visit the area to ascertain all relevant conditions and means of access and thoroughly to acquaint themselves with the extent and nature of the proposed Services and will be deemed to have done so before submitting a Tender.
- 11.6 Tenderers should treat details of their Tenders and any subsequent Contract as private and confidential. All information supplied by the Council in connection with this invitation to Tender shall be treated as confidential by prospective Tenderers except that such information may be disclosed so far as is necessary for the purpose of obtaining sureties, guarantees and quotations necessary for the preparation and submission of the Tender.
- 11.7 The Council will publish the amounts of all the Tenders and the name of the successful Tenderer.

## **12 Evaluation of Tenders**

- 12.1 In evaluating Tenders received the Council apply the rules of most economically advantageous tender and will take account of the following factors:
- 12.1.1 Compliance with the Tender Specification
  - 12.1.2 Relevant experience
  - 12.1.3 Price
  - 12.1.4 Ability to support staff, especially with training requirements
  - 12.1.5 Ability to meet deadlines

12.1.6 References from previous customers

12.2 The Council regards value for money as more important than lowest price.

12.3 Tenderers may be required to make a presentation of their proposals as part of the tendering procedure.

**13 Acceptance**

13.1 The Council is not bound to accept the lowest or any tender and reserves the right to accept any tender either in whole or in part or parts. However, the Council's preferred option is to award a single contract for the whole of the Services.

Example

**APPENDIX TO INVITATION TO TENDER**  
**DESCRIPTION OF COUNCIL'S DISTRICT**

|                              |  |
|------------------------------|--|
| Name of Council:             | East Staffordshire Borough Council   |
| Address for correspondence:  | Town Hall, Burton upon Trent, Staffordshire<br>DE14 2EB  |
| Telephone number:            | (01283) 508664   |
| Name of Supervising Officer: | Miss Catriona Hamilton   |
| General description of area: | <p>The Borough of East Staffordshire is located in the West Midlands.</p> <p>Burton upon Trent is the principal settlement of East Staffordshire and is very close to the Staffordshire/Derbyshire county boundary. It enjoys a location which is particularly advantageous to the local economy but which also provides a pleasant living environment, allows excellent access to attractive countryside and opportunities for leisure pursuits. The A38 provides a north/south link with Derby and Birmingham and the M42 is fifteen minutes drive away.</p> <p>Uttoxeter is the other main settlement of East Staffordshire and functions as a market town towards the northern and more rural part of the district. It lies next to the A50 (recently upgraded) which links Derby with the Potteries and provides a direct link from the M6 to the M1.</p> |
| Size in hectares:            | The Borough covers some 38,990 hectares, and stretches from Burton, which is the largest town in the National Forest, in the Trent valley to the edge of the Peak District in the north, taking in the Forest of Needwood area and parts of the Dove and Churnet valleys.  |
| Population:                  | East Staffordshire is a shire district with a population of 103,015, of which 65,430 (63.5%) live in the Burton upon Trent area and 11,700 (11.3%) in Uttoxeter. The remaining 25,885 live in the villages and smaller hamlets that make up the rest of the area.  |

Example

# **Tender Documents**

Example

## TENDER DOCUMENTS

### List of Tendering Forms

|  |        |
|--|--------|
| Form of Tender   | Form A |
| Certificate  | Form B |
| Analysis of Resources  | Form C |
| Organisation and Method of Working   | Form D |
| Details of staff qualifications and expertise                                | Form E |
| Details of the terms of employment to be offered to Council's existing staff | Form F |
| Comprehensive training statement   | Form G |
| Health and Safety Policy   | Form H |
| Operational Schedules (including Example Duty Roster)                        | Form I |
| Environmental Policies   | Form J |
| Quality Plan and Customer Care   | Form K |

### FORM A

To:

East Staffordshire Borough Council  
Town Hall  
Burton upon Trent  
Staffordshire  
DE14 2EB

Dear Sir,

### TENDER FOR CCTV CONTROL MONITORING OPERATORS FOR CCTV SURVEILLANCE SYSTEMS

1. Having examined the Conditions of Contract and the Specification for the performance of the above Services we offer to carry out the Services in accordance with those documents over the agreed period for the Tender Sum specified below, or such other sums as may be ascertained in accordance with the Tender documents.

**Tender Sum:**

£                      pounds and                      pence per annum (exclusive of VAT)  
(any increase to be in accordance with the Conditions of Contract)

**Weekly Handover Tender Sum:**

£                      pounds and                      pence per week (exclusive of VAT)

**Additional Hourly Rate Tender Sum:**

£                      pounds and                      pence per hour (exclusive of VAT)

(any increase to be in accordance with the Conditions of Contract)

2. This Tender is neither qualified nor conditional.
3. Unless and until a formal agreement is prepared and executed, the Tender documents together with your written acceptance, shall constitute a binding Contract between the Council and us.
4. We undertake that this Tender shall remain open to be accepted by you and shall not be withdrawn for a period of 90 days from the final date for receipt of Tenders.
5. We understand you are not bound to accept the lowest or any tender you may receive and you will not pay any expenses incurred by us in connection with the preparation and submission of this Tender.

Yours faithfully,

Signature .....                      Date  
..... 2008

Position in Firm or company .....

Name and address of Firm or company

.....  
.....  
.....

**FORM B**

**CERTIFICATE**

In recognition of the principle that the essence of competitive tendering is that the client shall receive bona fide competitive tenders from all those tendering

WE CERTIFY THAT:

- 1 The Tender ('the Tender') submitted with this certificate is a bona fide tender intended to be competitive.
- 2 We have not fixed or adjusted the amount of the Tender under or in accordance with any agreement or arrangement with any other person.
- 3 We have not done and we undertake that we will not do at any time before the hour specified for the return of the tenders any of the following acts:
  - 3.1 communicating to a person other than the person calling for tenders the amount or the approximate amount of the tender (except where the disclosure, in confidence, of the approximate amount of the tender was essential to obtain insurance premium quotations required for the preparation of the tender);
  - 3.2 entering into any agreement with any other person that it shall refrain from tendering or as to the amount of any tenders to be submitted;
  - 3.3 offering or paying or giving or agreeing to give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other tenders or proposed tenders any act or thing of the sort described above.

In this certificate:

- 4.1 'Person' includes any person or any body or association corporate or incorporate.
- 4.2 'Any agreement or arrangement' includes any transaction of the sort described above, formal or informal and whether legally binding or not.

Signature ..... Date  
..... 2009

Position in Firm or company .....

Name and address of Firm or company

.....  
.....  
.....

## FORM C

### ANALYSIS OF RESOURCES

- 1 Total number of employees to be allocated to the Contract (*specify*)
  
- 2 Total number of hours of work to be allocated to the Contract per week (*specify*)
  
- 3 Addresses from which Contract is to be managed (nearest local office) (*specify*)

Example

## FORM D

### ORGANISATION AND METHOD OF WORKING

The Tenderer is required to set out below his proposed management, supervisory and administrative structure and give details of the way in which it proposes to organise his workforce to carry out the Services.

1. The Tenderer is asked to demonstrate how they intend to minimise potentially environmentally detrimental impacts that could arise from operating the contract.
2. The Tenderer is asked to demonstrate how they intend to deal with emergency situations including those arising after hours, including giving a guaranteed level of cover.
3. The Tenderer is to demonstrate their commitment to supporting delivery of the highest quality of service to the public in a spirit of partnership with the Council and in accordance with Best Value and the principles of continuous improvement. An allowance should be made for an initial meeting or meetings with all employees to set out the customer oriented and continuous improvement based nature of the new contract and for occasional subsequent initiatives such as the circulation of questionnaires for completion by all employees to further these aims. The statement should consider addressing the following as a minimum:
  - A code of conduct for employees in dealing with the public and in forwarding problems identified by the public / employees to the client.
  - Procedures to secure the involvement of all employees in continuous improvements to the performance of the contract and to demonstrate / feedback this improvement to the client.
4. Similarly the Tenderer should be aware of the following key objectives of the Corporate Plan for East Staffordshire and is again encouraged to indicate any additionality they feel could be achieved by their approach to delivering the contract, to assist the Council in delivering these key objectives:
  - A cleaner, safer, healthier and happy environment in which our population live and work
  - Encourage and develop local prosperity
  - To become an increasingly well run Council influenced by local people

**FORM E**

**DETAILS OF STAFF QUALIFICATIONS AND EXPERTISE**

Please list:

Position Held

Qualification/s & experience

Example

**FORM F**

DETAILS OF THE TERMS OF EMPLOYMENT TO BE OFFERED TO STAFF

*(give details)*

Example

## **FORM G**

### **COMPREHENSIVE TRAINING STATEMENT**

The Tenderer is required to submit a comprehensive training statement setting out details of the training programme for operators and its content including the length of the training programme, how and where it will be undertaken, who will undertake the training, together with full details of the content of the training programme. The training statement shall also include details of the Tenderer's proposals for periodic re-training.

Example

## FORM H

### HEALTH AND SAFETY ARRANGEMENTS

- 1 The Tenderer is required to submit a copy of his Health and Safety Policy Statement in relation to the Services. In preparing its Health and Safety Policy Statement the Tenderer must have regard to the Council's Statement of Safety Policy and Manuals of Safety Codes of Practice in so far as they relate to the Services and shall ensure that his Safety Policy Statement does not in any respect afford less protection for his employees and the general public than the Council's own Safety Policy Statements. The Tenderer must at all times satisfy the requirements of the Health and Safety at Work 1974 and Regulations and EC Directives relating to health and safety.
- 2 The Tenderer is also required to submit a Hazard and Risk Assessment.
- 3 The Tenderer must submit a statement of the procedures to be adopted for implementation of the Health and Safety Policy.

**FORM I**

OPERATIONAL SCHEDULES (INCLUDING TYPICAL DUTY ROSTER)

*(give details)*

Example

**FORM J**

**ENVIRONMENTAL POLICIES**

*(give details)*

Example

## FORM K

### QUALITY PLAN AND CUSTOMER CARE

The Tenderer is required to submit a Quality Plan and statement of Customer Care including:

- Quality Management System
- Security of Information
- Data Protection Procedures
- Response to complaints
- Customer orientation

Example

# Conditions of Contract

Example

## CONDITIONS OF CONTRACT

### Definitions

The following terms shall have the following meanings:

- 1.1 "Assignment Instructions": the instructions given by the Council to the Contractor which set out the duties and procedures which will be undertaken by the Contractor in both routine and special circumstances;
- 1.2 "Base Index Figure": the Final Index Figure applicable to the date 28 days prior to the date of the Contract, or as adjusted where necessary in accordance with Sub-Clause 17.3;
- 1.3 "CCTV System": the Council's system for monitoring in excess of 60 CCTV cameras covering the Town Centre of Burton upon Trent, Uttoxeter, Hospital, Car Parks, Housing and traffic management and Rocester and such other locations as the Council may deem necessary from time to time;
- 1.4 "Code of Practice": the document identified as a Code of Practice incorporating the procedures and practices to be adopted in relation to the operation and management of the CCTV System;
- 1.5 "Commencement Date": April 1<sup>st</sup>, 2009;
- 1.6 "Conditions": these Conditions of Contract;
- 1.7 "Contract": the agreement between the Council and the Contractor as set out in the Contract Documents;
- 1.8 "Contract Documents": these Conditions of Contract the Specification and the Tender Documents;
- 1.9 "Contract Manager": the Contract Manager appointed by the Contractor under Clause 7;
- 1.10 "Contract Period": from the Commencement Date until the Expiry Date;
- 1.11 "Contract Price": the sum of [£ ] per annum (which includes all fees expenses materials transport travel and accommodation costs whatsoever);
- 1.12 "Contract Standard": such standard of performance of the Services as complies in all respects with the Contract Documents or where no such standard is expressed therein means such standard as shall be set by the Supervising Officer;
- 1.13 "Contractor": the person, firm or company whose Tender has been accepted by the Council for the performance of the Services, and includes the Contractor's agents, employees, representatives and permitted successors;
- 1.14 "Control Room": the control room for monitoring the CCTV System currently situated in the Town Centre, Burton upon Trent, Staffordshire or such other premises within Burton upon Trent as the Council may provide for this purpose from time to time;
- 1.15 "Council": East Staffordshire Borough Council and includes its officers, agents, representatives and successors;
- 1.16 "Current Index Figure" the appropriate Final Index Figure applicable to the date twenty-eight days prior to each Review Date;
- 1.17 "Default Notice": notice complying with the terms of Clause 19.5;
- 1.18 "Expiry Date": March 31<sup>st</sup> 2012

- 1.19** “Final Index Figure”: the Index Figure relating to the Retail Price Index for All Items as published by HMSO in their Monthly Bulletin of Indices from time to time which is not qualified therein;
- 1.20** “Index Period”: the period of 12 months commencing 28 days prior to the Commencement Date or a Review Date as the case may be and ending 28 days prior to the first or next Review Date;
- 1.21** “Method Statement”: the statements of policy and procedure submitted by the Contractor with the Tender Documents as amended (if at all) by agreement in writing between the Contractor and the Council prior to the date hereof;
- 1.22** “Performance Bond”: a bond from a Bank or Insurance Company in the form annexed at Appendix 3
- 1.23** “Police Control Room”: the area within police accommodation which receives reports of incidents and occurrences and is responsible for the management and deployment of resources;
- 1.24** “Review”: the review of the Contract Price to be undertaken on each Review Date;
- 1.25** “Review Date”: the anniversary of the Commencement Date during the Contract Period;
- 1.26** “Services”: the services specified in the Specification and the Tender Documents to be provided by the Contractor in accordance with the terms of the Contract;
- 1.27** “Specification”: the specification attached hereto as Appendix 1 and any authorised modification or addition thereto;
- 1.28** “Supervising Officer”: the Community Safety Officer of the Council or such other person as the Council may appoint for this purpose from time to time;
- 1.29** “Tender”: the formal written offer by the Contractor to undertake the performance of the Services which has been accepted by the Council;
- 1.30** “Tender Documents”: the Instructions to Tenderers and Form of Tender as issued by the Council and completed and returned by the Contractor, together with the other documents referred to therein;
- 1.31** “Week”: any period of 7 consecutive days starting at 0001 hours on a Monday and finishing at 2400 hours on the following Sunday and may include any part of such period where the words or context expressly so provide.

## **2 Appointment**

- 2.1 The Council appoints the Contractor to provide the Services during the Contract Period in return for the Contract Price.

## **3 Services to be provided by the Contractor**

- 3.1 The Contractor shall provide the Services to the Council to the standard set out in the Specification to the entire satisfaction of the Council.

## **4 Conditions affecting performance**

- 4.1** The Contractor shall notify the nominated and appropriate maintenance contractor immediately where any conditions or mechanical or electronic malfunction adversely affect the performance of the Services and the Contractor shall ensure that the Supervising Officer is notified within a period of 2 hours of such conditions or malfunction arising.
- 4.2** The Contractor shall inform the Supervising Officer of any act or omission on the part of the Council or any other thing outside the Council's control which prevents or hinders the Contractor from complying with this Contract, and shall confirm such information in writing. The provision of such information shall not in any way release the Contractor from any of its obligations under this Contract.

## **5 Quality Control**

- 5.1** The Contractor shall institute and maintain a properly documented system of quality control to ensure that the Contract Standard is at all times properly maintained. The system shall be operated by the Contract Manager and shall not rely on completion of documentation by the Supervising Officer, who shall nevertheless be consulted by the Contractor. The system shall be open to inspection by the Supervising Officer and such inspection combined with observation shall be capable of indicating to the Supervising Officer whether or not the Contract Standard is being met. The quality control system shall supplement any monitoring that may be instituted by the Council and shall not be a substitute for it. A copy of the system shall be provided to the Supervising Officer.
- 5.2** The Contractor shall notify the Supervising Officer in advance of any supervisory visits. The Contractor's employees should not be warned of such visits. The Contractor will maintain records of such visits as part of its quality control system.

## **6 Emergency Work**

- 6.1** The Contractor shall ensure that the Contract Manager is available for contact by telephone at all times of the day or night during the Contract Period, and shall also ensure that the Contract Manager is authorised to act under Clause 7.

## **7 Contract Manager**

- 7.1** The Contractor shall appoint a Contract Manager empowered to act on its behalf for all purposes connected with the Contract, and any notice, information, instruction or other communication given by or made to the Contract Manager shall be deemed to have been given by or made to the Contractor.

- 7.2** The Contractor shall forthwith give notice in writing to the Supervising Officer of the name, address and telephone numbers of any person appointed as Contract Manager, and of any person ceasing to be so appointed.
- 7.3** The Contractor shall forthwith give notice in writing to the Supervising Officer of the name, address and telephone numbers of any person authorised to act for any period as the authorised representative of the Contract Manager, and of when any such person ceases to be so authorised.
- 7.4** The Contractor shall ensure that the Contract Manager is available to meet the Supervising Officer at all reasonable times during which the Services are performed for the purpose of discussing or inspecting the Services or their performance or any other matter within the Contract.
- 7.5** The Contract Manager will attend fortnightly Joint Operations Group meetings and other such meetings at the request of the Supervising Officer. The Contract Manager will report on the performance of the CCTV System and other related issues.

## **8 Contractor's Employees**

- 8.1** The Contractor shall, at all times during the Contract Period, employ sufficient persons to ensure that the Services are performed to the Contract Standard, and in particular, shall ensure that all such persons are at all times properly and sufficiently qualified, competent, careful, skilled, honest, experienced, instructed, trained and supervised both generally and in particular as to:-
- 8.1.1** all tasks which such persons have to perform;
  - 8.1.2** all relevant provisions of the Contract;
  - 8.1.3** all relevant policies, rules, procedures and standards of the Council;
  - 8.1.4** all relevant rules, procedures and statutory requirements concerning Health and Safety at work, including the Council's and the Contractor's safety policies
  - 8.1.5** all fire risks and fire precautions;
  - 8.1.6** the need to maintain the Contract Standard at all times in the performance of the Services;
  - 8.1.7** all Codes of Practice relating to the provision of the Services.
- 8.2** The Contractor shall at all times during the Contract Period comply with the provisions of the Private Security Industry Act 2001 (as amended)

and associated Regulations and Orders and the directions of the Security Industry Authority.

- 8.3** The Supervising Officer shall be entitled to serve notice in writing on the Contractor requiring the removal from the performance of the Services any person specified in such notice, including the Contract Manager, and the Contractor shall forthwith so remove such person and shall immediately provide a replacement as necessary for the performance of the Services.
- 8.4** Neither the Council nor the Supervising Officer shall be liable, whether to the Contractor or any other person, in respect of any loss, damage, or injury occasioned by such removal, and the Contractor shall fully indemnify the Council against such liability.
- 8.5** If, owing to the nature of the Services, employees of the Contractor are exempt from the provisions of Section 4(2) of the Rehabilitation of Offenders Act 1974, by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, the Contractor shall ensure that such employees provide information in accordance with the said Act and Order about convictions which would otherwise be spent under the provisions of the said Act. The Contractor shall disclose to the Supervising Officer the names and addresses and sufficient information to enable him to verify any convictions of employees engaged in or about the provision of the Services, and the Supervising Officer may require that such employees are removed from the provision of the Service under Clause 8.3.
- 8.6** In respect of all persons employed or seeking to be employed by the Contractor in and about the provision of the Services, the Contractor shall comply with each and every one of the provisions of law which prohibit discrimination in relation to employment on the grounds of sex, sexual orientation, race, nationality, ethnic origin, colour, creed, disability, mental status, age, trade union membership or political beliefs.
- 8.7** Save as aforesaid, the Contractor shall be entirely responsible for the employment and conditions of service of the Contractor's own employees.
- 8.8** The Council's Whistleblowing Policy shall apply to the Contract.

## **9 Control and Supervision of Contractor's Employees**

- 9.1** The Contractor shall make appropriate supervising arrangements to ensure that the Contractor's employees engaged in the provision of the Services are at all times adequately supervised and properly perform their duties to the Contract Standard and, in particular, shall ensure that a supervisor is available for contact by the Supervising Officer

between 9am and 6pm Monday to Friday inclusive except any such day that is a statutory holiday.

- 9.2** The Contractor shall ensure that its employees perform their duties in an orderly manner and in as quiet a manner as may reasonably be practicable having regard to the nature of the duties being performed by them.
- 9.3** The Contractor shall provide and shall ensure that its employees wear or carry at all times when engaged in the provision of the Services, the required Security Industry Authority license which includes identification, including photographic identification.
- 9.4** When requested to do so by any person having reasonable cause for such request, any employee of the Contractor shall disclose his identity and status as an employee of the Contractor and shall not attempt to avoid so doing.
- 9.5** The Contractor shall ensure that its employees at all times while engaged in the provision of the Services are properly and presentably dressed in appropriate uniforms or work wear (which shall be provided, maintained and replaced as necessary by the Contractor) to the satisfaction of the Council.
- 9.6** At the expiry of the Contract Period, or upon the termination of the Contract in accordance with Clause 27 whichever shall first occur, the Council shall be entitled to offer employment to any person employed by the Contractor in the provision or supervision of the Services, and in the event of that person accepting such offer, the Contractor shall forthwith release him, without payment or fee of any kind, from any contract of service.
- 9.7** The Contractor will make available to the Council, full details of the terms and conditions of employment, including salaries and pensions of all persons employed in connection with the provision of the Services.

## **10 Staff and Operational Records**

- 10.1** The Contractor shall maintain and keep up to date written records of all employees who have been, or who are about to be, engaged in or in connection with the provision of the Services. Such records shall show the name, address, age, and gender of each employee, the dates of starting and finishing employment and brief details of qualifications and experience. A copy of a license issued by the Security Industry Authority under The Private Security Industry Act 2001 (as amended) or associated Regulations and Orders shall be made available to the Council for every employee engaged by the Contractor. Such records shall also show employee attendance and shall differentiate between those engaged as operatives and those exercising supervision.

- 10.2** The Contractor shall maintain written records showing how the Services are performed on a day to day basis and how the labour and equipment are organised and managed to ensure the proper provision of the Services.
- 10.3** The records required by this Clause shall be open for inspection by the Supervising Officer at all reasonable times, and copies thereof shall be provided to the Supervising Officer free of charge on request.

## **11 Use of the Control Room**

- 11.1** The Contractor shall have access to the Control Room at all times.
- 11.2** The Contractor shall use the Control Room and the Council's equipment only in connection with the provision of the Services.
- 11.3** The permission hereby given to use the Control Room is personal to the Contractor and shall cease immediately this Contract ceases to be in force.
- 11.4** For the avoidance of doubt, the Control Room shall remain the property of the Council at all times and it is hereby declared that the permission to enter and use the Control Room is not the grant of a tenancy.
- 11.5** The Contractor shall keep the Control Room thoroughly clean, tidy and properly secured and shall permit any of the Council's employees nominated for such purpose by the Supervising Officer to inspect the Control Room with or without notice at any reasonable time.

## **12 Variation of Service**

- 12.1** Without prejudice to any other of the Conditions hereof, no omission from, addition to or variation of the Contract Documents shall be valid or of any effect unless it is agreed in writing and signed by the Supervising Officer, and by a duly authorised representative of the Contractor.
- 12.2** The Council may by notice with immediate effect in case of emergencies but otherwise upon giving to the Contractor not less than one month's notice (or in the case of an emergency or by waiver in writing less than one month's notice) of the proposed variation, add to, delete from or otherwise amend in any way whatsoever, the Services to be provided.
- 12.3** The sum payable for the provision of the Services for any period during which the variation referred to in clause 12.2 is effective shall be adjusted as a consequence of any such variation by such sum as is a fair and reasonable adjustment to the Contract Price as a consequence of such variation having regard to the daily rate for the

performance of the Services and where appropriate to other relevant Conditions. Such sum shall, if possible, be agreed between the Contractor and the Council or in the absence of such agreement shall be referred to arbitration pursuant to clause 43.

### **13 Operation and Use of Equipment**

- 13.1** The Contractor shall operate and use equipment provided by the Council in a proper manner and so as not to cause obstruction, danger, damage, nuisance or annoyance to any person or thing.
- 13.2** The Contractor shall ensure that equipment is kept clean and tidy, and in particular that its appearance does not adversely affect the provision of the Services or the good public image of the Council or the Contractor.
- 13.3** The Contractor shall ensure that equipment is not, without good cause, left unattended.

### **14 Income Tax**

- 14.1** The Contractor shall register with the appropriate authorities for the assessment and payment of income tax as may be required by them, and shall be fully responsible for the payment of all income tax, national insurance contributions or other levies of any kind relating to, or arising out of, the employment of any person by the Contractor in or in relation to the provision of the Services, and shall indemnify the Council against any liability for such matters.

### **15 Value Added Tax**

In addition to the sums specified in Clause 16, the Council shall pay to the Contractor such Value Added Tax as shall be properly chargeable by the Contractor for the provision of the Services provided that the Contractor shall have issued a valid VAT invoice in respect thereof.

### **16 Payments to Contractor**

- 16.1** Provided that the Contractor has provided the Services in accordance with the Contract, the Council shall pay to the Contractor the Contract Price in equal monthly instalments for each year of the Contract Period, subject to the additions and deductions hereinafter provided, in the manner hereinafter provided.
- 16.2** The Contractor shall submit to the Supervising Officer within fourteen days of the last day in each calendar month a statement, in a form approved by the Supervising Officer, showing:-

- 16.2.1** One twelfth of the Contract Price for each year of the Contract Period; and

**16.2.2** The amount of any agreed variation calculated in accordance with Clause 12.

**16.3** The Supervising Officer shall be entitled to amend any monthly statement by adding or deducting the appropriate amounts in respect of work not carried out, work which does not satisfy the Contract Standard, any authorised additional or omitted work, any deductions under Clause 19 in respect of Default Notices, and any deduction for work undertaken by the Council under Clause 19.2.

**16.4** Within fourteen days of receiving a monthly statement in accordance with 16.2 , the Supervising Officer shall certify in duplicate to the Contractor the amount which in his opinion is due to the Contractor, and within a further fourteen days thereafter the Council shall pay to the Contractor that amount.

## **17 Review of Rates**

**17.1** During the Contract Period, the Contract Price shall be increased or decreased on the appropriate Review Date by a fraction of which the numerator is the Current Index Figure minus the Base Index Figure and the denominator is the Base Index Figure.

**17.2** If at any Review Date no Final Index Figure has been published which is applicable at that date, then the appropriate published provisional figure shall be used to obtain an interim calculation under this Clause provided that such calculation shall be recalculated and adjusted accordingly when the Final Index Figure is published.

**17.3** If the official basis of computation of the said Final Index Figure shall be changed, then such change shall be binding on the Council and the Contractor and the Base Index Figure shall be adjusted to a figure calculated on the same basis as the new Final Index Figure. Where no official reconciliation is made, then the Base Index Figure shall be reconciled to a figure corresponding as nearly as possible to the previous method of calculation pending the publication of an official reconciliation. In the event of dispute on these matters, the decision of the Supervising Officer shall be final and binding.

## **18 Complaints**

**18.1** Where a complaint is made by the Supervising Officer about the performance of the Services, the Contractor shall forthwith investigate the same with all speed and expedition and use its best endeavours to satisfy the complainant. All records of such investigation will be made available to the Supervising Officer.

**18.2** Where, on investigation, a complaint is found to be justified, the Contractor shall take the necessary action to remedy the matter

complained of within eight hours of receiving the complaint and notify the Supervising Officer of the action taken.

## **19 Default in Provision of the Services**

- 19.1** Where the Contractor makes default in the provision of the Services or any part thereof, then the Council shall be entitled to damages for such default and the Contractor shall not be entitled to any payment for making good the default. Damages shall include the cost of providing the Services or any part thereof in default, together with administrative and additional supervision costs and all other costs relating thereto together with any loss of income to the Council which may be incurred as a result of the default.
- 19.2** If the Contractor omits or fails to provide any part of the Services in accordance with this Contract, he shall on being notified by the Supervising Officer forthwith remedy such omission or failure, and if the omission or failure shall not be remedied within 24 hours of the default being notified to the Contractor or such other period herein specified, the Council may take such action as is necessary to remedy such failure or omission and may recover the costs of so doing from the Contractor. Such costs shall be repayable on demand.
- 19.3** Irrespective of any deductions which may be applied, the Contractor shall still be under an obligation to complete all the Services including putting right all the complaints, omissions and oversights reported before any payment is due to him.
- 19.4** All sums payable by the Contractor to the Council under this Clause shall be paid as liquidated damages and not as a penalty.
- 19.5** In addition to any other remedy available to the Council, in any of the circumstances set out in Clause 19.6, the Supervising Officer shall be entitled to serve a Default Notice on the Contractor stating that the Contractor has defaulted in the proper provision of the Services, specifying the nature of the default and indicating the action to be taken by the Contractor to remedy such default and the time within which the Contractor is required to take such action. All Default Notices must be signed by the Supervising Officer.
- 19.6** The circumstances referred to in Clause 19.5 are as follows:-
- 19.6.1** where the Contractor has failed to staff the Control Room during any 8 hour shift period or part thereof;
  - 19.6.2** where the Contractor has failed to provide the Services or any part thereof to the Contract Standard; or
  - 19.6.3** where the Contractor has failed to comply with any of these Conditions or any part of them; or

- 19.6.4** where the Contractor has failed to comply with a proper instruction from the Supervising Officer in accordance with these Conditions; or
- 19.6.5** where the Contractor has failed to respond to a complaint as required by Clause 18 or the complaint is of a regular occurrence.
- 19.7** The Supervising Officer shall keep a written record of Default Notices which shall be available for inspection by the Contractor at reasonable times.
- 19.8** The Contractor will be required to notify the Supervising Officer within the time limit that he has resolved such a Default by a method approved by the Supervising Officer.
- 19.9** If at any time the Council or the Supervising Officer determine that the Contractor has failed to staff the Control Room during any eight hour shift period (“Whole Shift Failure”) then the Council shall be entitled to deduct from any monthly sum due to the Contractor such award of agreed damages as is set out in the Table of Deductions in Appendix 2.
- 19.10** If at any time the Supervising Officer determines that the Services are being carried out inadequately or otherwise not in accordance with the Contract Documents (a “Default”) then he can take the following action:-
- 19.10.1** issue to the Contractor a complaint notice, if the Default is capable of being remedied, and such a notice (“Complaint Notice”) shall:
- (a) set out in general terms the nature of the Default;
  - (b) be signed by the Supervising Officer;
  - (c) state on the face of it that it is a ‘Complaint Notice’;
  - (d) state the time period for compliance.
- 19.10.2** in the event of a complaint not being remedied, or if the complaint is of a regular occurrence, then a Default Notice will be issued.
- 19.11** The Council shall be entitled to deduct, from any monthly sum due to the Contractor pursuant to clauses 16 and 17 as the case may be the appropriate amount of damages set out in the Table of Deductions in Appendix 2.

**19.12** The Council and Contractor hereby agree that the Table of Deductions in Appendix 2 represents fair and reasonable sums having regard to the utmost importance attached by the Council to maintaining and enhancing the Council's reputation and the costs likely to be incurred by the Council as a result of the Contractors default.

**19.13** In the event of the Contractor:

**19.13.1** failing to provide the Services as a whole on more than three shifts; or

**19.13.2** being awarded three or more 'Default Notices' in any consecutive seven day period or seven or more 'Default Notices' in any 28 day period;

then the Council may without prejudice to any other right or remedy terminate the whole of the Contract.

## **20 Smoking**

20.1 The Contractor shall prohibit its employees from smoking in the Control Room.

## **21 Method Statement**

21.1 The Contractor shall comply with and shall ensure that its employees comply with the Method Statement.

## **22 Observance of Statutory and Other Requirements**

**22.1** The Contractor shall be responsible for ascertaining and complying with the provisions of all Acts of Parliament, Regulations, Statutory Instruments, Orders or Bye-laws relating to the provision of the Services, and also all requirements of any local authority, public body or company, whose property rights or interests are or may be affected by the provision of the Services and shall indemnify the Council against any liability for the breach or non-observance of such matters.

**22.2** It is a requirement of the Contract that the Contractor shall be accredited to the Approved Contractors Scheme, administered by the Security Industry Authority.

**22.3** The Contractor shall provide the Services so as not to cause a nuisance, damage or annoyance and shall indemnify the Council against any liability in respect of such matters.

## **23 Confidentiality**

**23.1** The Contractor shall not, except with the prior written consent of the Council or as may be required by law, whether during the Contract Period or at any time thereafter, make use of for its own purposes, or disclose to any person, the Contract Documents or any documents

issued or prepared pursuant to the Contract, all of which shall be deemed to be confidential to the Council.

- 23.2** The Contractor shall not, and shall ensure that its employees do not, during the Contract Period, or any time thereafter, divulge to any third party any information which comes into its or their possession in the course of performing the Services or make use for their own purposes of such information.
- 23.3** The Contractor shall indemnify the Council against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach of non-observance of this Clause 23.
- 23.4** The text of any press release or other communication to be published by or in the media concerning the subject matter of this Contract by either party shall require the prior written approval of each party.
- 23.5** The Council is subject to the requirements of the Code of Practice on Access to Government Information (2nd edition) (and any re-enactments of the same) and the Freedom of Information Act 2000 (and any subordinate legislation, codes of practice and guidance notes issued in respect of the Freedom of Information Act 2000) ('FOIA') and the Environmental Information Regulations 2004 ('EIR').

Without prejudice to the foregoing provisions of this clause 23, in the event that the Contractor receives a Request for Information (as defined in the FOIA and EIR) in respect of any part of the Services, the Contractor shall notify the Council immediately, and shall consult with the Council as to the requirements to respond to such Request for Information. The parties shall assist and co-operate with one another to determine which parts of the information requested (if any) are required to be disclosed by law under the FOIA and/or EIR which parts of the information requested (if any) are exempt from the requirement to disclose under the FOIA and/or EIR. The Contractor shall co-operate with the Council to ensure that all Requests for Information are dealt with within the timescales set out in the FOIA or EIR as appropriate.

## **24 Bribery and Corruption**

- 24.1** The Council reserves the right to terminate the Contract and to recover from the Contractor the amount of any loss resulting from such 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 foreborne to do any action in relation to the obtaining or execution of the Contract or any other contract with the Council or for showing or forbearing 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 Council the Contractor or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972

## **25 Indemnity and Insurance**

- 25.1** Without prejudice to those specific obligations of the Contractor to indemnify the Council which are contained elsewhere in these Conditions, the Contractor shall in particular indemnify and keep indemnified, the Council and its officers against the injury to, or death of, any person, and the loss of, or damage to, any property, including property belonging to the Council arising directly or indirectly from the performance or purported provision or non-provision of the Services, except and to the extent that it can be proved to have arisen directly as a result of the act, default or negligence of the Council or its employees or agents, and, except as aforesaid, against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof.
- 25.2** Without thereby limiting its responsibilities under this Clause, the Contractor shall insure with an insurance company approved by the Council against the injury to, or death of, any person, and the loss of, or damage to, any property, arising directly or indirectly from the performance or purported provision or non-provision of the Services, and against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof.
- 25.3** The insurance required by this Clause 25 in respect of injury to, or death of, any person and arising under a contract of service with the Contractor, or arising out of an incident occurring during the course of such person's employment by the Contractor shall comply with the Employer's Liability (Compulsory Insurance) Act 1969.
- 25.4** For all claims against which this Clause 25 requires the Contractor to insure, the insurance cover shall be for at least the following sums:  
(a) the sum of £5,000,000 for public liability;  
(b) the sum of £10,000,000 for employers liability; and  
(c) the sum of £5,000,000 for professional liability  
in respect of any one claim, or such greater sum as the Contractor may choose, and the Contractor's insurance policy effecting such cover shall have the interest of the Council endorsed thereon, or shall otherwise expressly by its terms confer its benefit upon the Council.
- 25.5** The Contractor shall supply to the Council forthwith, and thereafter upon each renewal date, a certificate from its insurers confirming that

the Contractor's insurance policies comply with this Clause and the Contractor shall supply to the Council on request copies of all insurance policies, cover notes, premium receipts and other documents necessary to establish compliance with this Clause.

- 25.6** If the Contractor defaults on insuring or continuing to insure as required under this Clause 25 or in the opinion of the Supervising Officer, the insurance obtained by the Contractor in pursuance of this Clause 25 is inadequate in any way, then he shall be entitled to give the Contractor notice in writing requiring it to effect forthwith such insurance as will comply.
- 25.7** Upon receipt of such notice, the Contractor shall forthwith procure and effect such insurance as shall comply with this Clause 25, and in default, the Supervising Officer may cause such insurance to be effected, and the Council shall be entitled to recover from the Contractor such sum as the Supervising Officer shall certify as being the cost of effecting such insurance together with an administration charge of 10% of such cost by way of deduction from amounts payable by the Council to the Contractor under the Contract.

## **26 Termination and Forfeiture**

**26.1** If either:

**26.1.1** the Contractor shall do all or any of the following:

- (a) commit a breach of any of its obligations under the Contract (each such obligation being a condition of the Contract not a warranty); or
- (b) suspend payment to or convene or hold a meeting of creditors or commit an act of bankruptcy or being a company shall have a receiver appointed pursuant to the Insolvency Act 1986 or by the Court or any debenture holder or shall have an administrator appointed pursuant to the Insolvency Act 1986 or shall go into liquidation (other than for the purpose of amalgamation or reconstruction) or shall make any arrangements with its creditors or any arrangements for the benefit of such creditors or if distress or execution shall be levied or threatened upon any of its property or any judgement against it shall remain unsatisfied for more than 14 days; or

**26.1.2** there shall be any change in control of the Contractor or (where the Contractor is a subsidiary company) its ultimate holding company; or

**26.1.3** the Contractor shall cease to be licensed under the Private Security Industry Act 2001 or accredited to the Approved Contractors Scheme by the Security Industry Authority;

then in any such circumstances the Council may at its option and without prejudice to any of its remedies under the Contract and without prejudice to any rights of action which shall accrue or shall have already accrued to the Council do any or all of the following:

- (a) suspend payment of any monies due to the Contractor under the Contract;
- (b) retain any sums due to the Contractor howsoever arising from the Council;
- (c) without determining the whole of the Contract, determine such part or parts of the Contract affected by the circumstances bringing about the Council's action under this clause 26.1 by notice in writing having immediate effect (which shall cause a corresponding reduction to the Contract Price and shall be made as if such determination was a variation to the Contract);
- (d) terminate the Contract in its entirety by serving notice in writing having immediate effect.

**26.2** In the event of termination of the Contract under this Clause 26 or Clauses 19 or 24 the Council shall:

**26.2.1** be entitled to exercise a lien over any of the materials, clothing, plant, vehicles, equipment or other goods belonging to the Contractor for any sum due hereunder or otherwise from the Contractor to the Council;

**26.2.2** be entitled to employ and pay other persons to provide and complete the provision of the Services or any part thereof and to use all such Contractor's materials, clothing, equipment, plant or other goods for the purposes thereof;

**26.2.3** be entitled to deduct from any sum or sums which would have been due from the Council to the Contractor under this Contract or any other contract or be entitled to recover the same from the Contractor as a debt, any loss or damage to the Council resulting from or arising out of the termination of the Contractor's employment under the Contract. Such loss or damage shall include the reasonable cost to the Council of the time spent by its officers in terminating the Contractor's employment under the Contract and in making alternative arrangements for the provision of the Services or any part thereof. The Council shall be under no obligation to

employ the least expensive method of having the Services performed.

- 26.3** When the total cost, loss and/or damage resulting from or arising out of the termination of the Contractor's employment under the Contract have been calculated and deducted so far as practicable from any sum or sums which would otherwise have been due to the Contractor under the Contract, any balance shown as due to the Council shall be recoverable as a debt with interest, or alternatively, the Council shall pay to the Contractor any balance shown as due to the Contractor.
- 26.4** The rights of the Council under this Clause 26 are in addition and without prejudice to any other right the Council may have to claim the amount of any loss or damage suffered by the Council on account of the acts or omissions of the Contractor.

## **27 Performance Bond**

- 27.1** On the execution of the Contract, the Contractor shall at its own expense, provide, and thereafter maintain in force until released in writing by the Council, a Performance Bond from a Bank or Insurance Company approved by the Council for the amount specified in Clause 27.2, which shall guarantee the due performance of the Contractor's obligations under this Contract for the whole of the Contract Period.
- 27.2** The sum referred to in Clause 27.1 shall be a sum equal to ten per cent of the Contract Price for the first year of the Contract Period and for the succeeding years of the Contract Period shall be a sum equal to ten per cent of the estimate of the Contract Price plus any adjustments to the value as defined elsewhere in these Conditions.
- 27.3** The Contractor shall provide the Council on demand and in any event at least annually with a statement from the Bank or Insurance Company providing the bond evidencing that the Performance Bond remains in force.

## **28 Agency**

- 28.1** The Contractor is not, and shall not hold itself out to be, the servant or agent of the Council.
- 28.2** The Contractor is not, and shall not hold itself out to be, authorised to enter into any contract on behalf of the Council, or commit or bind the Council in any other way to the performance, variation, release or discharge of any obligation.
- 28.3** The Contractor shall not have, and shall not hold itself out as having, the power to make, vary, discharge or waive any Bye-law, Order or Regulation of any kind.

**28.4** The employees of the Contractor are not, and shall not hold themselves out to be, and shall not be held out by the Contractor to be, the servants or agents of the Council for any purpose whatsoever.

## **29 Waiver**

**29.1** The failure of the Council or the Supervising Officer, whether deliberately or inadvertently, to enforce the Conditions, or to require performance by the Contractor of any of the Conditions, shall not be construed as a waiver of any such Conditions and shall not affect the validity or enforceability of the Contract or any part thereof.

## **30 Assignment and Sub-letting**

**30.1** The Contractor shall not assign or sub-let, or purport to assign or sub-let, the Contract or any part thereof.

## **31 Notices**

**31.1** Any notice to be served upon the Council shall be sent by prepaid recorded delivery post or delivered by hand and shall be addressed to the, Community Safety Officer, East Staffordshire Borough Council, Town Hall, Burton upon Trent DE14 2EB or such other address as may be notified to the Contractor by the Council for this purpose from time to time and shall be deemed to have been received by the addressee within 72 hours of posting if posted or immediately if delivered by hand.

**31.2** Any notice served upon the Contractor shall be sent by prepaid recorded delivery post or delivered by hand to the Contractor at its registered office or principal place of business or delivered by hand to the Contract Manager and shall be deemed to have been received by the addressee within 72 hours of posting if posted or immediately if delivered by hand.

## **32 Applicable Law**

**32.1** This Contract shall be construed, applied and interpreted in all respects in accordance with the laws of England as in force from time to time.

## **33 Suspension of Obligations Under this Agreement**

**33.1** Neither party shall be in breach of the Contract if there is any total or partial failure of performance by it of its duties and obligations under the Contract occasioned by any act of God, fire, act of government or state, war, civil commotion, insurrection, embargo, prevention from or hindrance in obtaining any raw materials, energy or other supplies, labour disputes of whatever nature and any other reason beyond the control of either party. If either party is unable to perform its duties and obligations under the Contract as a direct result of the effect of one of those reasons that party shall give written notice to the other of the

inability stating the reason in question. The operation of the Contract shall be suspended during the period (and only during the period) in which the reason continues.

Forthwith upon the reason ceasing to exist the party relying upon it shall give written notice to the other of this fact. If the reason continues for a period of more than (90) days and substantially affects the basis of the Contract the party not claiming relief under this clause shall have the right to terminate the Contract upon giving 30 days written notice of such termination to the other party.

### **34 Severance**

- 34.1 If any provision of the Contract shall become or shall be declared by any court of competent jurisdiction to be invalid and unenforceable in any way such invalidity or unenforceability shall in no way impair or affect any other Condition or Conditions all of which shall remain in full force and effect.

### **35 Whole agreement**

- 35.1 Each party acknowledges that the Contract Documents contain the whole agreement between the parties and that it has not relied upon any oral or written representation made to it by the other party or its employees or agents and has made its own independent investigations into all matters relevant to it.

### **36 Supersedes prior agreements**

- 36.1 The agreement set out in the Contract Documents supersedes any prior agreement between the parties in respect of the subject matter of this agreement whether written or oral and any such prior agreements are cancelled as at the Commencement Date but without prejudice to any rights which have already accrued to either of the parties.

### **37 Discretion**

- 37.1 Any decision exercise of discretion judgment or opinion or approval of any matter mentioned in the Contract Documents or arising from it shall be binding on a party only if in writing and shall be at its sole discretion unless otherwise expressly provided in the Contract .

### **38 Change of address**

- 38.1 Each of the parties shall give notice to the other of the change of any address or telephone facsimile or similar number at the earliest possible opportunity but in any event within 48 hours of such change becoming effective.

## **39 Headings**

- 39.1 Headings contained in this agreement are for reference purposes only and should not be incorporated into this agreement and shall not be deemed to be any indication of the meaning of the clauses to which they relate.

## **40 Joint and several**

- 40.1 All agreements on the part of the Contractor which shall be joint and several if the Contractor comprises more than one person and the neuter singular gender throughout this agreement shall include all genders and the plural and the successor in title to the parties.

## **41 Rights cumulative**

- 41.1 All rights granted to either party shall be cumulative and no exercise by either of the parties of any right under this agreement shall restrict or prejudice the exercise of any other right granted by this agreement or otherwise available to it.

## **42 Costs**

- 42.1 Each of the parties shall pay any costs and expenses incurred by it in connection with the preparation of the Contract Documents .

## **43 Arbitration**

- 43.1 All disputes or differences which shall at any time arise between the parties whether during the Contract Period or afterwards touching or concerning the Contract or its construction or effect or the rights duties and liabilities of the parties under or by virtue of it or otherwise or any matter in any way connected with or arising out of the subject matter of the Contract shall be referred to a single arbitrator to be agreed upon by the parties or in default of agreement to be nominated by the President for the time being of the Law Society in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment of it for the time being in force.

# **Appendix 1 Specification**

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## **SPECIFICATION FOR CONTROL ROOM STAFF**

### **1 Specification**

#### **1.1 General**

The Contractor shall be expected to undertake all the actions necessary to perform the Services in accordance with the Contract Documents and in particular in accordance with this Specification, the Council's Code of Practice and Assignment Instructions. The Contractor will ensure the compliance of his staff in all respects.

The operating handbook for the CCTV System ('the Operating Handbook') issued by the supplier and installer of the CCTV System in respect of items of equipment will be made available to the Contractor and the Contractor will be required to ensure that any provisions or requirements of the Operating Handbook in terms of equipment operation are fully observed by his staff.

- 1.2 The Tender Documents shall be deemed to form part of this Specification.
- 1.3 In the event of there being any inconsistency between this Specification and the Tender Documents, this Specification shall take preference.

### **2 Brief Description of Service**

- 2.1 The service to be provided by the Contractor shall include but not be limited to:-
  - 2.1.1 The management and supervision of his Control Room staff and all the operations and activities undertaken by such staff within the Control Room, in accordance with the Contract Documents and in particular the Tender Documents of this Specification.
  - 2.1.2 The operation, management and supervision of the Control Room 24 hours per day every day of the year.
  - 2.1.3 The provision of vetted and trained staff to the requirements outlined later in this Specification and being suitably experienced to undertake the management and supervision of the Control Room. With the introduction of licensing under the Private Security Industry Act 2001 all Contractor's staff engaged in the operation and management of the said scheme will be required to be licensed.
  - 2.1.4 The provision of sufficient, adequately vetted, approved, suitably qualified, skilled and trained uniformed staff to operate the Control Room, for the hours specified in paragraph 3 of the Specification.

All staff, including part time personnel, will as outlined above be licensed under the provisions of the Private Security Industry Act 2001.

- 2.1.5 The provision of sufficient, adequately vetted, approved, suitably qualified, skilled and trained uniformed staff to provide back-up and cover for holidays, sickness and absence for whatever reason. Once again all staff will be licensed under the provisions of the Private Security Industry Act 2001 for this sector.
- 2.1.6 The operation of the CCTV System and continuous surveillance of all the monitors within the Control Room in accordance with the Specification, any Code of Practice and Operating Procedures Manual that may be approved and issued by the Council (including Assignment Instructions). This will include the Operating Handbook issued by the CCTV installer.
- 2.1.7 The maintenance of all the logs and record sheets as required by this Specification, British Standard 7958:2005 or as subsequently described in the Code of Practice, Operating Procedures Manual and Staffordshire CCTV Users Group Policy, Procedures and Strategy document.
- 2.1.8 Reporting incidents to the Police Control Room or other emergency services and authorised agencies.
- 2.1.9 The operation of the appropriate analogue/digital Recorders in accordance with the requirements of this Specification or the Code of Practice, Operating Procedures Manual, Staffordshire CCTV User Group Policy, Procedures and Strategy document.
- 2.1.10 Checking the CCTV System daily and reporting any malfunction to the Supervising Officer. If these occur out of normal office hours, notification will be on the next available working day and within normal office hours.
- 2.1.11 The management and control of the security of and access to the Control Room.
- 2.1.12 The management and control of the integrity, security and confidentiality of all the information and recorded material associated with the provision of the Services.
- 2.1.13 The management of analogue/digital recorders and all other equipment in accordance with this Specification.
- 2.2 The Supervising Officer will be appointed by the Council. They will have responsibility for the overall management and supervision of the Services and the Contractor will be directly responsible to such person.

- 2.3 The scheme will be in excess of 60 cameras covering the Town Centre of Burton upon Trent, Uttoxeter, Hospital, Car Parks, Housing and traffic management, Rocester and Burton upon Trent railway station.
- 2.4 The majority of cameras will provide high resolution, colour pictures and be capable of panning, tilting and zooming under the direct control of the operator, other than that monitoring the Control Room which will be of the static variety.
- 2.5 The CCTV System and Control Room have been designed to permit further signals to be received in the Control Room at the discretion of the Council.

### **3 Staff**

#### **3.1 Recruitment**

The recruitment of operating staff will be in accordance with the guidelines outlined within the Police Scientific Development Branch Publication No 8/98, in that there must be an effective selection process, job description, person specification and method of assessment.

The Supervising Officer must be given the opportunity to attend the selection process and interviews by the Contractor.

#### **3.2 Staffing**

The Contractor is required to submit prices for staffing within the Control Room with sufficient resources to provide and maintain attendants at all times for 24 hours per day, every day of the year, for the Contract Period.

The shifts should be based on eight hour shifts, with a requirement for two fully trained, licensed and vetted operating staff to be on duty every day between the hours of 08.00 and 18.00, and on Thursday, Friday and Saturday between 19.00 hours and 03.00 hours the following day.

#### **3.3 Uniform**

All the staff provided by the Contractor shall wear uniforms at all times when undertaking the provision of the Services. Details and an example of the type of uniform to be used by the Contractor in the provision of the Services shall be submitted to and approved in writing by the Supervising Officer prior to the Commencement Date.

#### **3.4 Resources**

The Contractor shall provide sufficient numbers of appropriately vetted, approved, suitably qualified, skilled, licensed and trained staff to

undertake the provision of the Services in accordance with the Contract Documents to the level of staffing referred to in paragraph 3.2 or in any subsequent notice of modification of the Services issued by the Supervising Officer under the Contract. The staffing resources provided shall be sufficient to cover for absence through sickness, holidays or any other reason whatsoever.

The Contractor shall provide sufficient management and supervisory resources to ensure adequate management and supervision of the Control Room and full compliance with the Contract Documents and in particular the Specification.

The required level of staffing shall be available for the full period of 24 hours per day, every day of the year.

The normal tour of duty of an Operator shall consist of 8 hours plus a handover period to the relief operator consisting of 15 minutes. The Contractor shall **not** (other than in an emergency) employ staff within the Control Room for any shift exceeding 8 hours together with a 15 minute handover period in any consecutive period of 24 hours.

The Contractor shall **not** employ staff on rates of pay or other terms and conditions which are insufficient to attract and/or retain personnel of a calibre necessary to undertake the performance of the Services in a satisfactory and professional manner.

The Contractor shall use his best endeavours to ensure continuity of the Contractor's staff engaging in the performance of the Services. Any changes in personnel must immediately be notified to the Supervising Officer.

### 3.5 Eye tests

The Contractor shall ensure that all staff and supervisors attend a qualified optometrist for the testing of their eyesight, and the provision of any remedial treatment if so required. The Contractor will notify the Supervising Officer if any member of staff or supervisor suffers from colour blindness.

### 3.6 Screening of Staff

In addition to other required vetting, security screening is also to be carried out in accordance with the criteria within British Standard 7858. The Contractor will be required to provide evidence that the vetting procedures have been complied with prior to the start of the Contract. This process is to be continued for every new member of staff prior to their employment within the Control Room.

### 3.7 Removal or replacement of staff

The Supervising Officer shall have the right to require the immediate removal and replacement of any members of the Contractor's staff engaged in the performance of the Services if in the Supervising Officer's opinion that member of the Contractor's staff is unsuitable for the performance of the Services or they are not carrying out their duties in a satisfactory manner.

### 3.8 Staff appraisal

The Contractor shall regularly review and assess the performance of his staff in undertaking the provision of the Services.

### 3.9 Staff proximity to Control Room

All staff employed by the Contractor in the provision of the Services within the Control Room on a regular basis should wherever possible live within a 20 mile radius thereof.

### 3.10 Notification of operator duties

The Contractor shall provide the Supervising Officer with a written duty roster for each week. The roster shall be submitted to the Supervising Officer by noon on the Wednesday in the week preceding the week to which the roster applies. The duty roster shall run from 00.01 on Monday to 12 midnight on Sunday or such other period as may be agreed between the Supervising Officer and the Contract Manager.

## 4 Training

### 4.1 In addition to the requirements of the Private Security Industry Act 2001, there should be a formal training plan that includes the following:

- 4.1.1 working conditions/terms of employment (including information on Health and Safety Regulations and Fire and Evacuation Procedures)
- 4.1.2 the use of all appropriate equipment
- 4.1.3 training in Police systems, procedures and operations
- 4.1.4 training in telephone and radio skills
- 4.1.5 the operation of all appropriate systems (including knowledge of all sites to be monitored)
- 4.1.6 the management of recorded material, including the requirements for handling and storage of material needed for evidential purposes
- 4.1.7 all relevant legal issues, including Data Protection Act 1998, Human Rights Act 1998, Regulation of Investigatory Powers Act 2000, and other appropriate legislation
- 4.1.8 privacy and disclosure issues

- 4.1.9 training in the local Code of Practice, Operating Procedures Manual and Staffordshire CCTV User Group Policy and Procedures Document
- 4.1.10 (should staff be required to operate computerised systems) training in basic Windows based operating systems
- 4.1.11 the disciplinary policy.

4.2 The training plan should also provide the following:

- 4.2.1 the means to evaluate the effectiveness of the training given
- 4.2.2 the delivery of further training where identified as being necessary
- 4.2.3 a scheme of ongoing continuous development
- 4.2.4 the maintenance of accessible records of all training given.

A minimum period of training in the above should be undertaken which is appropriate to ensure at least the minimum competence to carry out the specified duties. All training of staff must be completed prior to the Commencement Date.

All of the above documentation must be made available to the Supervising Officer on request.

4.3 The Council is committed to the training of their staff to enable them to carry out their duties satisfactorily. Particular emphasis will be placed on the adequacy of training in the selection of the successful Contractor.

## **5 Operation of the CCTV System**

5.1 The Contractor shall provide all the necessary staff as may be required in any subsequent notice of modification issued under the Contract and shall manage and operate the CCTV System and the Control Room in accordance with the Contract Documents.

5.2 In undertaking the duties described in the Contract Documents the Contractor shall operate the CCTV System and the Control Room fully in accordance with the Operating Handbook issued by the supplier and installer of the CCTV equipment and the Contractor shall continuously monitor all CCTV screens in the monitor wall with the intention of detecting incidents.

5.3 On detection of an incident the Contractor shall ensure that his staff shall:

- 5.3.1 closely monitor the incident on the appropriate CCTV monitor, simultaneously recording the incident in "real-time" on the appropriate video recorders, or other recording media.

- 5.3.2 immediately notify the Police at the Police Control Room or other emergency service as required.
- 5.3.3 at their discretion, take still photographs of the incident where appropriate using the video printer (these must not be produced as a matter of routine and will be subject to auditing procedures).
- 5.3.4 record details of the incident in the "Incident Log Book".
- 5.4 In addition to the duties described in Paragraph 5.3 the Contractor shall ensure that his Control Room staff shall:
- 5.4.1 Maintain a "Visitors Log Book" in a form approved by the Supervising Officer.
- 5.4.2 Maintain an "Incident Log record" in the form approved by the Supervising Officer.
- 5.4.3 Maintain a "Daily Log Book" in the form approved by the Supervising Officer.
- 5.4.4 Maintain a "Tape/Digital Register" in the form approved by the Supervising Officer.
- 5.4.5 Maintain an "Equipment Fault Register" in the form approved by the Supervising Officer.
- 5.4.6 Maintain a "Still Print Log" in the form approved by the Supervising Officer.
- 5.4.7 Maintain "Daily Patrol Sheets" in the form approved by the Supervising Officer.
- 5.4.8 Control the security of and access to the Control Room at all times to the satisfaction of the Supervising Officer.
- 5.4.9 Undertake all the operations and duties as may from time to time be described in the Code of Practice and Assignment Instructions issued by the Council.
- 5.4.10 Continuously monitor radio systems operated or supplied by the Council. These radio systems will include amongst others:
- Police radio links
  - Retailers radio links
  - Licensed premises radio link
  - Car parking attendants.
- 5.4.11 Respond to requests for assistance, monitor incidents whether within or outside camera range and deal with them in an appropriate manner as agreed with the Supervising Officer.

5.4.12 Review images following an incident in accordance with the procedures set out in the Council's Code of Practice, Procedural documents and relevant legislation.

5.4.13 Immediately notify the Contractor's Operating Manager when documentation and other items are required. He will then inform the Supervising Officer of East Staffordshire Borough Council.

5.4.14 Carry out any other reasonable duties as may, from time to time, be requested by the Supervising Officer.

The above documentation will remain the property of the Council and will be made available by the Contractor to the Council and its officers on request.

- 5.5 The Contractor shall use all the necessary forms (either paper or computerised) provided by the Council and keep all the records in a format to be agreed in advance by the Supervising Officer.
- 5.6 The Contractor will supply to the Council a monthly report in a form approved by the Supervising Officer. This report will be submitted within seven days of the relevant month end and will include relevant data as to the operation of the CCTV System and related matters.
- 5.7 The Contractor shall ensure that an emergency lighting test is carried out on a monthly basis by means of a switch which is located in the control room. This is to be undertaken by a nominated individual instructed by the Contractor. The Contractor shall ensure that a record is maintained in the Control room on each occasion the procedure is carried out.
- 5.8 The Contractor shall be required to ensure that the terms contained in this Specification, the Contract Documents generally and the requirements of the Code of Practice are continuously and rigorously observed by the Contractor and anyone engaged by him in the provision of the Services.
- 5.9 The Contractor shall complete a quarterly audit of any outstanding police issues, including the provision of images to police and other authorised agencies and report the findings to the Supervising Office within seven days. This is to be undertaken by a nominated individual instructed by the Contractor. The Contractor shall ensure that a record is maintained in the Control Room on each occasion the procedure is carried out.

## **6 Evaluation/Audits**

- 6.1 An independent body will, on the Council's instructions monitor the scheme and carry out regular checks on the scheme's operation. This

will include annual reviews of the scheme's operation and working practices and, where appropriate, make recommendations for improvements.

- 6.2 As the scheme operates within the public domain, the audits will form part of the annual evaluation of the CCTV System, which will assess how the scheme is managed and operated and other matters including the achievement of objectives and procedures. The Contractor will be expected to facilitate this process by releasing information to the auditor as requested by the Supervising Officer.
- 6.3 On instructions from the Supervising Officer the auditor will be allowed access to the Control Room at all times during the audit/evaluation process.

## **7 Management and responsibilities**

### **7.1 The Council**

The Council shall be responsible for policy, effective management and public relations of the CCTV System. It shall produce a written policy and be responsible for its implementation. This shall be carried out in consultation with users of the CCTV System and provide for the release of information relating to the operation of the CCTV System. The Council is responsible for dealing with complaints, and monitoring that a fair system of staff selection and recruitment is adopted for staff employed in the control and monitoring environment and shall have the right to attend all interviews for such staff for such purpose. The role of the Council also includes all statutory responsibilities including the role of "data controller" as prescribed by the Data Protection Act 1998 Section 1 Subsection 1(1).

The Council, through the Supervising Officer, will retain overall responsibility for the CCTV System and ensure formal monitoring of compliance with the Contract.

### **7.2 The Operating Manager**

The Contractor shall appoint a manager or designated member of staff who shall undertake regular reviews of the documented procedures to ensure that the provisions of this Specification are being complied with.

The manager cannot change policy without the formal approval of the Supervising Officer.

The manager is the person who has direct control of the scheme and as such he/she will have authority for the following:

7.2.1 Staff management

7.2.2 Observance of the policy and procedural practices

- 7.2.3 Release of data to prosecuting authorities who have legal right to copies
- 7.2.4 Control and security clearance of visitors
- 7.2.5 Security and storage data
- 7.2.6 Security clearance of persons who request to view data
- 7.2.7 Release of new and destruction of data (including quarterly report on all tapes retained for evidential and other purposes)
- 7.2.8 Liaison with police and other agencies (including to attend the fortnightly intelligence liaison meeting)
- 7.2.9 Maintenance of the quality of recording and monitoring equipment
- 7.2.10 Health and Safety requirements

The manager should retain responsibility for the implementation of procedures to ensure that the CCTV System operates according to the purposes for which it was installed and in accordance with the objectives identified for the CCTV System.

The manager has responsibilities for the day to day liaison with all partners in and users of the CCTV System. This will include supervision of access to any data obtained by the CCTV System.

The manager has responsibility for the instigation of disciplinary procedures against operators in matters relating to non-compliance with this Specification, operational procedures and breaches of confidentiality or unauthorised release of data, which may also involve legal proceedings.

### 7.3 **The Supervisor**

The Contractor shall appoint a supervisor who shall have responsibility for ensuring that at all times the system is operated in accordance with the policy and all procedural instructions relating to the CCTV System, and for bringing the immediate attention of the operating manager to any matter affecting the operation of the system, including any breach or suspected breach of the policy, procedural instructions, security of data or confidentially.

The supervisor should ensure that at all times operators carry out their duties in an efficient and responsible manner, in accordance with the objectives of the scheme. This will include regular checks and audit trails to ensure that the documentation systems in place are working effectively. These systems include:

- 7.3.1 The digital/video tape log
- 7.3.2 The operators log
- 7.3.3 The incident log
- 7.3.4 The Still Print log
- 7.3.5 Witness statements
- 7.3.6 Faults and maintenance log
- 7.3.7 The security of data

#### 7.3.8 Authorisation of visitors

The supervisor should ensure operators carry out their duties in accordance with good practice and that they comply with Health and Safety requirements.

#### 7.4 **The Operators**

The Contractor shall appoint operators who will be responsible for complying with the Code of Practice, procedural manual and Staffordshire user group CCTV Policy, Procedures and Strategy document. They have a responsibility to respect the privacy of the individual, understand and comply with the objectives of the scheme. They are required to be proficient in the control and the use of the CCTV camera equipment, recording and playback facilities, tape erasure, and maintenance of all logs. The information recorded must be accurate, adequate and relevant and does not exceed that necessary to fulfil the purpose of the scheme. They should bring to the attention of the supervisor immediately any equipment defect that may occur.

#### 7.5 **Accountability**

The operating manager shall be accountable to the Council and will provide periodic progress reports on the scheme as detailed. The manager/supervisor will resolve technical and operational matters.

Person(s) misusing the system will be subject to disciplinary and/or legal proceedings in accordance with the Contractor's employment policy.

# **Appendix 2**

## **Table of**

### **Deductions**

Example

# **Appendix 3**

# **Performance**

# **Guarantee**

Example

## SPECIMEN PERFORMANCE BOND

### **BY THIS BOND**

Whose registered office is situate at

(hereinafter called 'the Contractor')

and

whose registered office is situate at

(hereinafter called 'the Surety') are jointly and severally  
bound to East Staffordshire Borough Council, Town Hall, Burton-upon-Trent,  
Staffordshire DE14 2EB

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of

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(hereinafter called 'The Council') in the sum of

.....pounds sterling (£.....) for the  
payment of which sum the Contractor and the Surety hereby jointly and  
severally bind themselves their successors and assigns.

**WHEREAS** by a Contract of even date herewith and made between the  
Council of the one part and the Contractor of the other part the Contractor has  
contracted with the Council to provide the Services described therein in  
accordance with the terms of the said Contract.

**NOW THE CONDITIONS** of this Bond are such that if the Contractor shall  
duly perform and observe all the terms, provisions, conditions and stipulations  
of the said Contract on the Contractor's part to be performed and observed  
according to the true purport intent and meaning thereof, or if on default by  
the Contractor, the Surety shall satisfy and discharge the damages sustained  
by the Council thereby up to the amount of this bond, then this obligation shall  
be null and void but otherwise shall be and remain in full force and effect, but  
no alteration in the terms of the said Contract made by agreement between  
the Council and the Contractor or in the extent or nature of the services to be  
performed there under and no allowance of time by the Council or the  
Supervising Officer under the said Contract nor any forbearance or  
forgiveness in or in respect of any matter or thing concerning the said contract  
on the part of the Council or of the Supervising Officer shall in any way  
release the Surety from any liability under this Bond.