

Youth Justice Board

Purchase Order Form – General Terms and Conditions

1. Interpretation

1.1 In this Contract:-

- a) "Authority" means the Youth Justice Board for England and Wales acting through the authorized purchaser named in the Purchase Order
"Authority Data" means data in any form or media which are; supplied to the Contractor by the Authority; or which the Contractor is required to generate, process, store or transmit pursuant to the contract; or any personal data for which the Authority is the Data Controller
"Approval" and "Approved" refer to the written consent of the Authority's Representative.
"Authority's Premises" means land or buildings owned or occupied by the Authority.
"Authority's Representative" means the individual authorised to act on behalf of the Authority.
"Confidential Information" means all personal data and any information, however it is conveyed, that relates to the business affairs, developments, trade secrets, know-how, personnel, and suppliers of the Authority, including all Intellectual Property Rights, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably to be considered to be confidential.
"Contract" means these General Terms and Conditions and the Services Purchase Order Form overleaf (including any continuation sheets).
"Contract Price" means the sum or sums, exclusive of Value Added Tax, payable by the Authority to the Contractor.
"Contractor" means the Person named as the Contractor in the Services Order Form.
"Contractor's Representative" means the individual authorised to act on behalf of the Contractor.
"Information Law" means law which imposes a duty on the Authority to reveal information it holds;
"Intellectual Property Rights" means patents, trade marks, service marks, design rights (whether registrable or not), applications for any of the above rights, copyright, trade or business names or other similar rights or obligations whether registrable or not in the UK or elsewhere.
"Key Staff" means Staff identified as such in the Services Order Form.
"Parties" means the Authority and the Contractor.
"Person" includes a corporation or unincorporated association.
"Services" means the services specified in the Services Order Form.
"Staff" means all Persons used by the Contractor to perform the Services.
"YJB" means Youth Justice Board for England and Wales.
- b) references to statutes include amendments or re-enactments.
- c) where the context allows, the masculine includes the feminine and neuter, the singular includes the plural and vice versa.

2. Entire Agreement

- 2.1 The Contract constitutes the entire agreement between the Parties relating to the subject matter of the Contract. The Contract supersedes all prior negotiations, representations and understandings, whether written or oral,

except that this Condition shall not exclude liability in respect of fraudulent misrepresentation.

2.2 In the event of ambiguity or contradiction, the terms and conditions of the Purchase Order shall be given precedence in the following order:

- (a) Special Conditions
- (b) Other matters contained in the Purchase Order Form
- (c) General Terms and Conditions.

3. Contract Duration

- 3.1 The Contract duration shall be as set out in the Services Order Form, provided always that the Contract shall continue in full effect until such time as the Contractor has completed the performance of the Services in accordance with the Contract and the Authority has paid all sums due under the Contract, unless it is terminated in accordance with these Conditions or otherwise lawfully terminated.

4. Services

- 4.1 The Contractor shall perform the Services in accordance with the Contract. The Contractor shall be deemed to have satisfied himself as regards the nature and extent of the Services to be provided.
- 4.2 The Contractor shall perform the Services with all due care, skill and diligence and in accordance with good industry practice. Timely provision of the Services is of the essence.
- 4.3 On the instruction of the Authority's Representative, the Contractor shall at his own expense re-execute any part of the Services which have not been provided in accordance with the Contract and shall do so within such reasonable time as the Authority may specify.
- 4.4 Nothing in the Contract shall be construed as creating a partnership, a contract of employment or a relationship of principal and agent between the Authority and the Contractor.

5. Payment and Value Added Tax

- 5.1 In consideration of the performance of the Services by the Contractor in accordance with the Contract, the Authority shall pay the Contract Price, in the amount or at the rate of payment specified in the Services Order Form.
- 5.2 The Contractor shall submit an original and a copy invoice to the Authority at monthly intervals in arrears, unless otherwise agreed. Each invoice shall contain all appropriate references, a detailed breakdown of the Services and the appropriate Contract Price and shall be supported by such other documentation as may be required by the Authority's Representative.
- 5.3 Payment shall be made to the Contractor within 30 days of receipt by the Authority of the Contractor's valid original invoice.
- 5.4 The Authority shall pay the Contractor the Value Added Tax chargeable on the Services provided in accordance with the Contract.

5.5 The Authority may reduce payment in respect of any Services which the Contractor has failed to provide or has provided inadequately, without prejudice to any other rights or remedies of the Authority.

5.6 The Contractor shall pay any sum due to a subcontractor within 30 days of receiving a valid invoice from the subcontractor.

6. Recovery of Sums Due to Authority

6.1 Whenever under the Contract any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay in respect of any breach of this Contract), the Authority may unilaterally deduct that sum from any sum then due or which at any later time becomes due to the Contractor under this Contract or under any other contract with the Crown. Any overpayment by the Authority to the Contractor shall be a sum recoverable.

7. Staff and Access to Authority's Premises

7.1 The Contractor shall provide at all times the number of Staff required to fulfil his obligations under the Contract. All Staff shall possess the qualifications and competence appropriate to the tasks for which they are employed in the provision of the Services.

7.2 Unless given prior Approval, the Contractor shall make the Key Staff available for the entire period needed to fulfil their part in the provision of the Services while they continue to be employed by the Contractor.

7.3 Where the Services are performed on the Authority's Premises the Contractor shall have use of those premises without charge as a licensee and shall vacate them on completion or termination of the Contract.

7.4 Whilst on the Authority's Premises, Staff shall comply with such rules, regulations and other requirements, including security measures, as may be in force in respect of Persons attending those premises.

7.5 If, in the opinion of the Authority, any member of Staff has committed an act of misconduct on the Authority's Premises, or the Authority does not consider it to be in the public interest for a particular member of Staff to be admitted to the Authority's Premises, the Authority may require the Contractor to ensure that the member of Staff is no longer deployed in the provision of Services on the Authority's Premises.

7.6 For the purposes of Condition 7.5, misconduct includes conduct which in any manner contravenes good order, discipline or security or adversely affects routine at the Authority's Premises. The Contractor is referred to the Prison Rules 1999 Part III; the Prison (Amendment) Rules 2005; the Young Offender Institute Rules 2000 Part III; the Young Offender Institute (Amendment) Rules 2008 copies of which are available to the Contractor.

8. Authority Data

8.1 The Contractor shall use the Authority Data only as necessary for the performance of its obligations under this Contract unless otherwise authorised in writing by the Authority.

9. Protection of Personal Data

- 9.1 Pursuant to the Data Protection Act 1998 the Parties agree that the Authority is the Data Controller and that the Contractor is the Data Processor for the purposes of this Contract, and that the terms Personal Data, and Process shall have the meaning as given in that Act
- 9.2 The Contractor shall:
- 9.2.1 Process the Personal Data only in accordance with instructions from the Authority in order to meet its contractual and legal obligations;
- 9.2.2 implement appropriate technical and organisational measures to protect the Personal Data;
- 9.2.3 take reasonable steps to ensure the reliability of any Contractor's Personnel including applicable vetting and security checks and ensure that all Contractor's Personnel are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause;
- 9.2.4 not Process Personal Data outside the European Economic Area without the prior written consent of the Authority and, where the Authority consents to a transfer, to comply with the applicable statutory requirements and any reasonable instructions notified to it by the Authority.
- 9.3 The Contractor shall comply at all times with the applicable data protection legislation and shall not perform its obligations under this Contract in such a way as to cause the Authority to breach any of its obligations under that legislation.

10. Freedom of Information

- 10.1 The Contractor acknowledges that the Authority is subject to the requirements of Information Law and shall assist and co-operate with the Authority to enable the Authority to comply with its disclosure obligations.

11. Intellectual Property Rights

- 11.1 The Contractor hereby assigns to the Authority all Intellectual Property Rights owned by the Contractor in any material which is generated by the Contractor and delivered to the Authority in the performance of the Services and shall waive all moral rights relating to such material. The Contractor shall not reproduce, publish or supply any such material to any Person other than the Authority without prior Approval. In performing the Services the Contractor shall obtain Approval before utilising any other material which is or may be subject to any Intellectual Property Rights.
- 11.2 Subject to Condition 11.3, the Contractor shall indemnify the Authority against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities arising from or incurred by the use by the Contractor, or the use by the Authority following delivery by the Contractor, of any material which involves any infringement of the Intellectual Property Rights of any third party.
- 11.3 The provisions of Condition 11.2 shall not apply in respect of any material which the Authority has supplied to the Contractor or has specified for use by the Contractor or for delivery to the Authority.

- 11.4 The Authority shall indemnify the Contractor against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities arising from or incurred by the use, by the Contractor, of any material referred to in Condition 11.3 which involves any infringement of the Intellectual Property Rights of any third party.
- 11.5 Where any claim is made by a third party in respect of any material referred to in Condition 11.2 or 11.4, the Party which is required to provide an indemnity shall have the right to conduct the defence to the claim and to any proceedings brought by the third party.
- 11.6 The obligations imposed by this Condition shall continue to apply after the expiry or termination of the Contract.

12. Security

- 12.1 The Contractor shall take all measures necessary to comply with the provisions of any enactment relating to security which may be applicable to the Contractor in the performance of the Services, including the Official Secrets Acts 1911 to 1989. The Contractor shall take all reasonable measures to ensure that Staff have notice that all such provisions will apply to them during and after the expiry or termination of the Contract.

13. Confidentiality

- 13.1 The Parties acknowledge that, except for any information which is declared by the Authority to fall within one or more of the exceptions in the Confidential Contract Information Exceptions Schedule the content of this Contract is not Confidential Information. Notwithstanding any other term of this Contract, the Contractor hereby gives consent for the Authority to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public. Prior to publication the Authority may, at its sole discretion, in whole or in part, redact information for one or more of the following grounds:

- (a) national security;
- (b) personal data;
- (c) information protected by intellectual property law;
- (d) information which it is not in the public interest to disclose (under a Freedom of Information Act 2000 analysis)
- (e) third party confidential information;
- (f) IT security; or
- (g) prevention of fraud.

- 13.2 Subject to 13.1, each Party

- (a) shall treat as confidential all information obtained from the other Party under or in connection with the Contract;
- (b) shall not disclose any of that information to any third party without the prior written consent of the other Party, except to such Persons and to such extent as may be necessary for the performance of the Contract;
- (c) shall not use any of that information other than for the purposes of the Contract.

- 13.3 The Contractor shall take all necessary precautions to ensure that all information obtained from the Authority (a) is given only to the minimum number of Staff and then only to the extent necessary for each member of Staff's activities in the provision of the Services; and (b) is treated as confidential and not disclosed (without prior Approval) or used by any Staff other than for the purposes of the Contract.
- 13.4 Conditions 13.2, 13.5, 13.6, 13.7 shall not apply to information which is or becomes public knowledge (other than by breach of this clause).
- 13.5 Nothing in this Condition shall prevent the Authority disclosing any information obtained from the Contractor to any other department, office or agency of the Crown, provided that in doing so the Authority discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence.
- 13.6 The Contractor shall not, without prior Approval, use any confidential information obtained from the Authority for the solicitation of business from the Authority or any other part of the Crown.
- 13.7 The Contractor shall not make any public statement relating to the existence or performance of the Contract without prior Approval.
- 13.8 The obligations imposed by this Condition shall continue to apply after the expiry or termination of the Contract.

14. Right of Audit

- 14.1 The Contractor shall keep secure and maintain until two years after the final payment of all sums due under the Contract, or such longer period as may be agreed, full and accurate records of the Services, all expenditure reimbursed by, and all payments made by, the Authority. The Contractor shall grant the Authority, or its authorised agents, such access to those records as they may reasonably require in order to check his compliance with the Contract.

15. Indemnity and Insurance

- 15.1 The Contractor shall indemnify the Authority against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities brought against or incurred by the Authority and any other loss or damage sustained by the Authority in respect of:
- a) any death or personal injury, or loss of or damage to property, which is caused directly or indirectly by any act or omission of the Contractor, his Staff or subcontractors, except to the extent that the Contractor is able to demonstrate that such death or personal injury, or loss or damage, was not caused or contributed to by the negligence or default of the Contractor, his Staff or subcontractors, or by any circumstances within his or their control;
 - b) any breach of Condition 9 or of any statutory or other confidentiality obligation, where such breach arises from any act or omission of the Contractor, his Staff or subcontractors;
 - c) financial loss arising from any negligence by the Contractor, his Staff or subcontractors, in giving or omitting to give professional or other expert

advice to the Authority, where the Services include a requirement for the Contractor to provide such advice.

- 15.2 The Contractor's total liability under the Contract, in respect of all indemnities and breaches of the Contract, shall be limited to the sum of £1 million, except that there shall be no limitation of liability for death or personal injury.
- 15.3 The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing a minimum level of cover of £1 million for risks which may be incurred by the Contractor, arising out of the performance of the Contract, in respect of: (a) death or personal injury, or loss of or damage to property; (b) financial loss arising from any advice given or omitted to be given by the Contractor, where the Services include a requirement to provide professional or other expert advice.
- 15.4 The Contractor shall produce to the Authority's Representative, on request, copies of all insurance policies referred to in this Condition or other evidence confirming the existence and extent of cover under those policies, together with receipts or other evidence of payment of the latest premiums due under those policies. The terms of insurance shall not relieve the Contractor of any liabilities under the Contract.

16. Prevention of Corruption

- 16.1 The Contractor shall not do, and warrants that he has not done, any of the following (referred to as "prohibited acts"): (a) offer, give or agree to give to any servant of the Crown or the YJB any gift or consideration as an inducement or reward for doing or not doing any act in relation to the obtaining or performance of this Contract or any other contract with the Crown or the YJB; (b) enter into this Contract or any other contract with the Crown or the YJB in connection with which commission has been paid or has been agreed to be paid by him or on his behalf, unless before the Contract is made particulars of such commission and the terms of such agreement have been disclosed in writing to the Authority.
- 16.2 If the Contractor, his Staff or any subcontractors, or anyone acting on his or their behalf, does any of the prohibited acts or commits any offence under the Bribery Act 2010, whether with or without the knowledge of the Contractor, the Authority shall be entitled to terminate the Contract and recover from the Contractor the amount of any loss resulting from the termination and the amount or value of any such gift, consideration or commission.

17. Conflict of Interest

- 17.1 The Contractor shall take all measures necessary to ensure that no conflict of interest exists or arises relating to the Contractor or any Staff that could in any way adversely affect the performance of the Contract. The Contractor shall promptly notify the Authority in writing if he knows or becomes aware of any conflict of interest or any circumstances that could give rise to a conflict of interest.
- 17.2 If the Authority's Representative becomes aware of any conflict of interest or any circumstances that could give rise to a conflict of interest, the Authority shall have the right, after taking into account all representations made by the Contractor: (a) to allow such period as may be specified by the Authority, during which period the Contractor shall have the opportunity to take any measures

necessary to ensure that the conflict of interest, or the cause of the potential conflict of interest, is removed; or (b) to terminate the Contract in accordance with Condition 20 if, in the opinion of the Authority's Representative, there is a conflict of interest that cannot be removed.

- 17.3 Where the Authority has exercised the option under Condition 17.2(a) and the Contractor fails to demonstrate to the satisfaction of the Authority's Representative that the conflict of interest, or cause of the potential conflict, has been removed, the Authority shall have the right to terminate the Contract in accordance with Condition 24.

18. Health and Safety

- 18.1 The Contractor shall promptly notify the Authority of any health and safety hazards which may arise in performing the Services. The Authority shall promptly notify the Contractor of any health and safety hazards of which the Authority is aware which may exist or arise at the Authority's Premises and which may affect the Contractor in performing the Services. The Contractor shall comply with all health and safety measures implemented on the Authority's Premises.
- 18.2 The Contractor shall take all measures necessary to comply with the Health and Safety at Work etc. Act 1974 and any other Acts, orders, regulations and Codes of Practice relating to health and safety which apply to the Contractor in performing the Services.

19. Unlawful Discrimination

- 19.1 The Contractor shall not unlawfully discriminate in its employment practices

20. Transfer and Subcontracting

- 20.1 The Contractor shall not assign, subcontract or in any other way dispose of the Contract or any part of it without prior Approval. The Contractor shall be responsible for the acts and omissions of his subcontractors as though they were his own.

21. Service of Notices

- 21.1 Any notice or other communication which is required to be given by either Party to the other under these Standard Conditions shall be given by letter, or by facsimile transmission or electronic mail confirmed by letter. Such letters shall be delivered by hand or sent prepaid by first class post to the address of the other Party.

22. Variation

- 22.1 The Authority shall have the right to vary the Services unilaterally at any time by written instruction to the Contractor, subject to the variation being related in nature to the Services being provided, and no such variation shall vitiate the Contract. The price for any variation, unless otherwise agreed, shall be calculated, in order of precedence, using the amount or rate of payment specified in the Services Order Form, or pro rata to, or based upon that amount or rate.

23. Termination on Insolvency

- 23.1 The Authority may terminate the Contract by written notice having immediate effect if, where the Contractor is an individual or a firm, the Contractor or any partner in the firm is declared bankrupt or is subject to a debt relief order or a debt relief restriction order; or where the Contractor is a company, the company passes a resolution or the Court makes an order that the company be wound up otherwise than for the purpose of solvent reconstruction or amalgamation.

24. Termination on Default

- 24.1 The Authority may terminate the Contract by written notice to the Contractor with immediate effect if the Contractor is in default of any obligation under the Contract and (a) the Contractor has not remedied the default to the satisfaction of the Authority within 30 days, or such other period as may be specified by the Authority, after service of written notice specifying the default and requiring it to be remedied; or (b) the default is not capable of remedy; or (c) the default is a fundamental breach of the Contract.
- 24.2 Termination of the Contract under Conditions 23.1 or 24.1 shall not affect any right of action or remedy that shall have accrued or shall thereafter accrue to either Party and shall not affect the continuing operation of Conditions 8 and 9.
- 24.3 If the Authority terminates the Contract under Condition 23.1 or 24.1, and then makes other arrangements for the provision of the Services, the Authority shall be entitled to recover from the Contractor the additional cost of making those other arrangements and any other additional expenditure incurred by the Authority. No further payments shall be payable to the Contractor until the Authority has established the final cost and expenditure in making those other arrangements.

25. Break

- 25.1 The Authority shall have the right to terminate the Contract, or the provision of any part of the Services, at any time by giving 3 months' written notice to the Contractor. The Authority may extend the period of notice at any time before it expires, subject to agreement on the level of Services to be provided during the extension. The Authority shall reimburse the Contractor for any loss, not including loss of profit, actually and reasonably incurred as a result of such termination, provided that (a) the Contractor takes immediate and reasonable steps, consistent with his obligation to provide the Services during the period of notice, to reduce any such loss; and (b) the Authority shall not be liable to pay any sum in reimbursement which, when added to any sums paid or due under the Contract, exceeds the total sum that would have been payable if the Contract had not been terminated.

26. Law and Jurisdiction

- 26.1 This Contract shall be governed by English Law and shall be subject to the jurisdiction of the Courts of England and Wales.

CONFIDENTIAL CONTRACT INFORMATION EXCEPTIONS SCHEDULE

Pursuant to clause 13.1, the Authority declares that the following categories of contract information are exceptions to the contract information to be published and the information falling within these categories is to be considered Confidential Information:

- (a)**
- (b)**
- (c)**

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