



**CLEVELAND  
POLICE**  
*Putting People First*

**AGREEMENT FOR WEB BASED  
GEOGRAPHICAL INFORMATION SYSTEM**

**Ref: - CPC-0000978**

**CLEVELAND POLICE  
POLICE HEADQUARTERS  
PO BOX 70  
LADGATE LANE  
MIDDLESBROUGH  
TS8 9EH**

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**THE AGREEMENT**

**Date** **2008**

The Authority Cleveland Police Authority, Police Headquarters, PO Box 70,  
Ladgate Lane, Middlesbrough, TS8 9EH

The Contractor Astun Technology Limited, Cadogan House, 4-6 High Street,  
Epsom. Surrey, KT19 8AD

**BACKGROUND**

1. The Authority has invited tenders for the Supply of Web Based Geographical Information System
2. The Contractor has submitted a tender, which has been accepted by the Authority for the Service.

**THE AGREEMENT**

1. The following documents are incorporated into this Agreement:
  - (i) The Completed responses to Section 2 of this tender document.
  - (ii) The Tender accepted by the Authority (including all the documents referred to in the Tender.)
  - (iii) The Contract Conditions.
  - (iv) The Specification.
2. The documents in paragraph 1 above are termed 'the Contract Documents'.
3. In consideration of the amounts to be paid for the Service by the Authority in accordance with the Contract Documents the Contractor agrees with the Authority to provide the Service to the Authority's satisfaction in accordance with the Contract Documents.

Signed by duly authorised signatories of the Authority and the Contractor respectively.

.....  
for the Authority

.....  
for the Contractor

**SECTION TWO**

**CONTRACT CONDITIONS**

## SECTION TWO

### CONTRACT CONDITIONS

#### RECITAL:

The Contractor has agreed to deliver to the Authority and install on the Authority's computer certain computer programs to grant to the Authority a non-exclusive licence to use such programs and their associated documentation and to provide support and maintenance upon the terms and conditions hereinafter contained.

NOW IT IS HEREBY AGREED as follows:

#### 1. Definitions

In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

**'the Licence'** means the licence granted by the Contractor pursuant to **clause 8(1)**;

**'the Solution'** means the systems, applications, computer programs and hardware of the Contractor specified in the Specification;

**'the Specification'** means the specification of the Solution describing the facilities and functions thereof, a copy of which is annexed hereto;

**'the Program Documentation'** means the operating manuals, user instructions, technical literature and all other related materials in eye-readable form supplied to the Authority by the Contractor for aiding the use and application of the Solution;

**'the Media'** means the media on which the Solution and the Program Documentation are recorded or printed as provided to the Authority by the Contractor;

**'the Solution Materials'** means the Software, hardware, the Program Documentation and the Media;

**'Use the Solution'** means to read all or any part of the Solution from magnetic or other storage media into the Authority's equipment for the storage and running of the Solution;

**'Use the Solution Materials'** means to Use the Solution, to read and possess the Program Documentation in conjunction with the use of the Solution and to possess the Media;

**'the Licence Fee'** means the fee for the Licence and the services to be provided under this Agreement as specified in the Specification;

**'the Delivery Date'** means the delivery date specified in the Specification or such extended date as may be granted pursuant to **clause 25**;

**'the Location'** means the Authority's premises where the Authority's equipment is installed as specified in the Specification;

**'the Acceptance Date'** means the date on which the Solution is accepted (or deemed to be accepted) by the Authority pursuant to **clause 6**;

**'Release'** means any improved version of the Solution made available to the Authority by the Contractor pursuant to **clause 10(2)**;

**'the Current Release'** means the Release from time to time accepted by the Authority under this Agreement or if no Release has been accepted the Solution;

**'the Program Documentation'** means the operating manuals, user instructions, technical literature and all other related materials in printer form supplied by the Contractor to the Authority for aiding the use and application of the Current Release;

**'the Maintenance Services'** means the maintenance services to be provided by the Contractor;

**'the Maintenance Charge'** means the periodic charge for the Maintenance Services specified in the Specification as increased from time to time pursuant to **clause 3**;

**'the Commencement Date'** means the date on which this Agreement shall become effective as specified in the Specification;

**'the Initial Period'** means the initial period of this Agreement as specified in the Specification or 3 months from the Acceptance Date

The masculine includes the feminine and the neuter.

The singular includes the plural and vice versa.

A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof.

Headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement.

## 2. PRODUCTS AND SERVICES TO BE PROVIDED

The Contractor hereby agrees to:

- 2.1 grant to the Authority a perpetual, irrevocable, non-exclusive and non-transferable licence to Use the Solution Materials on the Authority's equipment;
- 2.2 deliver the Solution to the Authority and to install the same on the Authority's equipment;
- 2.3 provide training and operating manuals to the Authority;
- 2.4 provide the Maintenance Services for the Authority;
- 2.5 provide the other services hereinafter described upon the terms and conditions hereinafter contained.

## 3. PAYMENT

- 3.1 The Authority agrees to pay the Contractor at the following rates and timescales:

|   |   |
|---|---|
| Software Costs:                                       | £17,013   |
| Installation & Set up Costs                           | £8,500  |
| Licence Charge  | £13,945   |
| Maintenance (Yr1)                                     | £3,068  |
| Remote Support & Escrow (Yr1)                         | £2,000  |
| <b>Total Cost for Solution (Yr1)</b>                  | <b>£27,513</b>                                      |
| Maintenance (Yr2-5)                                   | £3,068  |
| Remote Support & Escrow (Yr2-5)                       | £2,000  |
| <b>Total Annual Maintenance &amp; Support (Yr2-5)</b> | <b>£5,068</b>                                       |
| Daily Consultancy Cost                                | £900 inclusive of standard £150 travel and expenses |

- 3.2 Payment will normally be made no later than the 28<sup>th</sup> day following the date of the VAT invoice for each Service provided.

- 3.3 All payments shall be invoiced and paid pounds sterling (£). Should the Government adopt an alternative national currency during the period of the contract (e.g. the Euro), invoicing and payments may be transferred to such currency in compliance with appropriate legislation at that time.

#### **4 AUDIT**

- 4.2 The Contractor shall keep and maintain until two years after the Contract has been completed, records to the satisfaction of the Authority of all expenditures which are reimbursable by the Authority and of the hours worked and costs incurred in connection with any employees of the Contractor, paid for by the Authority, or the Authorities representatives, such as access to those records as may be required by the Authority in connection with the contract.

#### **5. CONTRACTORS PERSONNEL**

- 5.1 The Contractor must employ sufficient persons with sufficient experience, skills, abilities and qualifications to ensure that the Service is provided to the Contract Standard at all times including periods of absence through staff holidays, illness or otherwise.
- 5.2 Where the Authority agrees to the use of sub-contractors, the Contractor will ensure that they employ sufficient persons with sufficient experience, skills, abilities and qualifications to supervise them and ensure that they provide the services required to the performance levels required in this Contract.
- 5.3 The Contractor shall, at all times ensure that its employees are given sufficient training to ensure their familiarity with and competence in latest legal and technical developments needed in the performance of their duties under this Contract.
- 5.4 The Contractor will ensure that all staff and approved sub-contractors are aware of the terms and conditions of this Contract and their obligations under it.
- 5.5 If and when requested by the Authority, the Contractor shall provide a list of all names, addresses, dates of birth and national insurance numbers of all persons who may be involved in this contract, to enable security checks to be carried out.
- 5.6 Failure by the contractor to comply with 5.5 within 10 Business Days will entitle the Authority to refuse admission to its premises to any person whose details have not been notified to the Authority.

- 5.7 The Authority will inform the Contractor when security checks have been carried out. The Contractor shall inform the individuals that security checks have been carried out. Once taken up they will be destroyed.
- 5.8 The Authority reserves the right to refuse to admit to, or remove from, any premises occupied by or on behalf of it any person employed by the Contractor, or by its subcontractors, whose admission or presence would, in the reasonable opinion of the Authority, be undesirable. The reasonable exclusion of an individual shall not relieve the Contractor of his contractual obligations. However, the Authority will indemnify the Contractor for failure to carry out its obligations if such refusal is unreasonable.

## **6. HEALTH AND SAFETY**

- 6.1 The Contractor will agree to follow any specific health and safety regulations in force, which have been laid down by the Authority. In general it will conduct its operations in such a way as not to contravene any statutory obligations under the Health and Safety Acts ruling at the time.
- 6.2 The Contractor or its agents will agree to adhere to all local site regulations in operation of the Contract.

## **7. SUPPLY OF GOODS**

- 7.1 The Contractor shall supply to the Authority, or to whom the Authority may direct, and deliver at the place specified by the Authority all or any of the goods named in the Contract and those goods to be of the quality, price and quantity set out in the Contract and/or purchase order. No additional charges for carriage and packing shall be made.

## **8. COMPLIANCE WITH STANDARDS**

- 8.1 All goods shall be of the quality or kind mentioned in the Specification of the Contract.
- 8.2 Where the Contractor is unable to deliver the quality specified the Authority will have the right to obtain the goods from another source. If the costs of obtaining the goods from another source exceed those specified in the Contract the Contractor will be required to meet the difference.
- 8.3 The goods shall conform in all respects with the requirements of any statutes, orders, regulations or bye-laws from time to time in force.

8.4 The goods shall be fit and sufficient for the purpose for which such goods are ordinarily used and for any particular purpose made known to the Contractor by the Authority and the Authority relies on the skill and judgement of the Contractor in the supply of the Goods and the execution of the Contract.

## **9. PROPERTY AND RISK**

9.1 Property and risk in the goods shall without prejudice to any other rights or remedies of the Authority (including the Authority's rights and remedies under clause 5) pass to the Authority at the time of acceptance.

## **10. REMOVAL OF REJECTED GOODS OR MATERIALS**

10.1 Goods or materials rejected by the Authority shall be removed by and at the expense of the Contractor within a reasonable time after notice has been given to them. If not removed when agreed the Authority may remove the goods and charge the Contractor with all expenses incurred in such removal.

## **11. DELIVERY AND INSTALLATION**

11.1 The Solution is to be delivered and installed at reasonable times and on the day and the place specified in the Contract and/or purchase order. Delivery shall be free of charge to the Authority and at the Contractor's risk. Delivery of the Solution to a carrier shall not be deemed to be delivery of the Solution to the Authority. The Contractor shall be responsible for the provision of any necessary labour for the off loading of goods on delivery.

## **12. RISK**

12.1 Risk in the Media shall pass to the Authority on delivery. If any part of the Media shall thereafter be lost, destroyed or damaged the Contractor shall promptly replace the same (embodying the relevant part of the Solution or Program Documentation) subject to the Authority paying the cost of such replacement. The Contractor shall not make any further or additional charge for such replacement.

### **13. TESTING AND ACCEPTANCE**

- 13.1 The Authority shall supply to the Contractor immediately after installation of the Solution test data which in the reasonable opinion of the Authority is suitable to test whether the Solution are in accordance with the Specification together with the results expected to be achieved by processing such test data using the Solution. The Contractor shall not be entitled to object to such test data or expected results unless the Contractor can demonstrate to the Authority that they are not suitable for testing the Solution as aforesaid, in which event the Authority shall make any reasonable amendments to such test data and expected results as the Contractor may request. Subject to the receipt of such test data and expected results, the Contractor shall process such data, in the presence of the Authority or its authorised representative, on the Authority's equipment using the Solution by way of acceptance testing within seven days after such receipt at a time mutually convenient to both parties.
- 13.2 The Authority shall accept the Solution immediately after the Contractor has demonstrated that the Solution has correctly processed the test data by achieving the expected results. The Authority shall, if required by the Contractor, sign an acceptance certificate in the form annexed hereto acknowledging such acceptance.
- 13.3 If the Authority shall not supply any test data as aforesaid or shall fail to make itself available to attend acceptance tests within the said period of seven days then the Authority shall be deemed to have accepted the Solution.
- 13.4 The Solution shall not be deemed to have incorrectly processed such test data by reason of any failure to provide any facility or function not specified in the Specification.

### **14. WARRANTY**

- 14.1 The Contractor warrants that the Solution will after acceptance by the Authority provide the facilities and functions set out in the Specification when properly used on the Authority's equipment and that the Program Documentation will provide adequate instructions to enable the Authority to make proper use of such facilities and functions.

- 14.2 If the Contractor receives written notice from the Authority after the Acceptance Date of any breach of the said warranty then the Contractor shall at its own expense and within a reasonable time after receiving such notice remedy the defect or error in question provided that the Contractor shall have no liability or obligations under the said warranty unless it has received written notice of the defect or error in question no later than the expiry of 12 months after the Acceptance Date.
- 14.3 The said warranty shall be subject to the Authority complying with its obligations hereunder and to there having been made no alterations to the Solution by any person other than the Contractor. When notifying a defect or error the Authority shall (so far as it is able) provide the Contractor with a documented example of such defect or error.
- 14.4 The Contractor shall have no liability or obligations under the said warranty other than to remedy breaches thereof by the provision of materials and services within a reasonable time to the Authority. If the Contractor shall fail to comply with such obligations its liability for such failure shall be limited to a sum equal to the Licence Fee. The foregoing states the entire liability of the Contractor, whether in contract or tort, for the defects and errors in the Solution Materials which are notified to the Contractor after the Acceptance Date.
- 14.5 The Authority acknowledges that it is the responsibility of the Authority to ensure that the facilities and functions described in the Specification meet its requirements. The Contractor shall not be liable for any failure of the Solution to provide any facility or function not specified in the Specification.
- 14.6 The Authority acknowledges that Solution in general is not error free and agrees that the existence of such errors shall not constitute a breach of this Licence.
- 14.7 Except as expressly provided in this Agreement no warranty, condition, undertaking or term, express or implied, statutory or otherwise, as to the condition, quality, performance, merchantability or fitness for purpose of the Solution Materials is given or assumed by the Contractor and all such warranties, conditions, undertakings and terms are hereby excluded.

## 15. LICENSE

- 15.1 The Contractor hereby grants to the Authority a non-exclusive licence to Use the Solution Materials to the terms and conditions of this Contract.
- 15.2 The Authority shall Use the Solution Materials for processing its own data for its own internal business purposes only. The Authority shall not permit any third party to use the Solution Materials nor use the Solution Materials on behalf of or for the benefit of any third party (in any way whatsoever).
- 15.3 The use of the Solution Materials is restricted to use on the Authority's equipment and in conjunction with the Authority's equipment save that:
- 15.4 If the Solution Materials cannot be used with the Authority's equipment because it is inoperable for any reason then the Licence shall be temporarily extended without additional charge to use with any other equipment until such failure has been remedied provided that such equipment is under the direct control of the Authority. The Authority shall promptly notify the Contractor of such temporary use and of the commencement and cessation thereof;
- 15.5 The Authority may with the prior written consent of the Contractor (such consent not to be unreasonably withheld) Use the Solution Materials on and in conjunction with any replacement equipment (to be specified by type and serial number) if the Use of the Solution Materials on and in conjunction with the Authority's equipment is permanently discontinued. Upon such consent being given the replacement equipment shall become the Authority's equipment for the purposes of the Licence.

The Use of the Solution Materials on and in conjunction with such temporary or replacement equipment shall be at the sole risk and responsibility of the Authority who shall indemnify the Contractor against any loss or damage sustained or incurred by the Contractor as a result. Without prejudice to the generality of the foregoing the Contractor shall not (unless otherwise agreed in writing by the Contractor) have any liability under **clauses 8** and **12** hereof in connection with such use.

- 15.6 The Authority shall not without the prior written consent of the Contractor Use the Solution Materials in any location except the Location.
- 15.7 The Licence shall not be deemed to extend to any programs or materials of the Contractor other than the Solution Materials unless specifically agreed to in writing by the Contractor.
- 15.8 The Authority hereby acknowledges that it is licensed to Use the Solution Materials only in accordance with the express terms of this Agreement and not further or otherwise.

## **16. DURATION OF LICENSE SUPPORT AND MAINTENANCE**

- 16.1 The Licence shall commence on the Acceptance Date and shall continue until terminated in accordance with any of the provisions of **clause 23** or any other clause of this Agreement.
- 16.2 The Support and Maintenance shall commence on the date of acceptance and shall continue for the Initial Period and shall remain in force thereafter unless or until determined by any one of the parties giving to the others not less than one month's notice in writing expiring on the last day of the Initial Period or at any time thereafter which shall be subject to earlier termination as provided elsewhere in this Agreement.

## **17. MAINTENANCE SERVICES**

During the continuance of this Agreement the Contractor shall provide the Authority with the following maintenance services:

- (1) Error Correction
  - (a) If the Authority shall discover that the Current Release fails to perform in accordance with the Program Documentation then the Authority shall within 14 days after such discovery notify the Contractor in writing of the defect or error in question and provide the Contractor (so far as the Authority is able) with a documented example of such defect or error.
  - (b) The Contractor shall thereupon use its reasonable endeavours to correct promptly such defect or error. Forthwith upon such correction being completed the Contractor shall deliver to the Authority the corrected version of the object code of the Current Release in machine readable form together with the appropriate amendments (if any) to the Program Documentation specifying the nature of the correction and providing instructions for the

proper use of the corrected version of the Current Release. The Contractor shall provide the Authority with all assistance reasonably required by the Authority to enable the Authority to implement the use of the corrected version of the Current Release.

- (c) The foregoing error correction service shall not include service in respect of:
  - (i) defects or errors resulting from any modifications of the Current Release made by any person other than the Contractor;
  - (ii) any version of the Solution other than the Current Release or the immediate Current Release;
  - (iii) incorrect use of the Current Release or operator error;
  - (iv) any fault in the Authority's equipment or in any programs used in conjunction with the Current Release;
  
  - (v) defects or errors caused by the use of the Current Release on or with Authority's equipment (other than the Authority's equipment) or programs not supplied by or approved in writing by the Contractor provided that for this purpose any programs designated for use with the Current Release in the Specification shall be deemed to have the written approval of the Contractor;
- (d) The Contractor shall make an additional charge in accordance with its standard scale of charges for the time being in force for any services provided by the Contractor;
  - (i) at the request of the Authority but which do not qualify under the aforesaid error correction service by virtue of any of the exclusions referred to in paragraph (c) above; or
  - (ii) at the request of the Authority but which the Contractor finds are not necessary.

For the avoidance of doubt nothing in this paragraph shall impose any obligation on the Contractor to provide services in respect of any of the exclusions referred to in paragraph (c).

(2) Releases

- (a) The Contractor shall promptly notify the Authority of any improved version of the Solution which the Contractor shall from time to time make.
- (b) Upon receipt of such notification the Contractor shall deliver to the Authority as soon as reasonably practicable (having regard to the number of other users requiring the new Release) the object code of the new Release in machine-readable form together with the Program Documentation.
- (c) If required by the Authority the Contractor shall provide training for the Authority's staff in the use of the new Release at the Contractor's standard scale of charges for the time being in force as soon as reasonably practicable after the delivery of the New Release.
- (d) The new Release shall thereby become the Current Release and the provisions of this Agreement shall apply accordingly.

(3) Advice

The Contractor will provide the Authority with such technical advice by telephone telex facsimile transmission or mail as shall be necessary to resolve the Authority's difficulties and queries in using the Current Release.

(4) Changes in Law

The Contractor will from time to time make such modifications to the Current Release as shall ensure that the Current Release conforms to any change of legislation or new legal requirements which affect the application of any function or facility described in the Program Documentation.

The Contractor shall promptly notify the Authority in writing of all such changes and new requirements and shall implement the modifications to the Current Release (and all consequential amendments to the Program Documentation which may be necessary to enable proper use of such modifications) as soon as reasonably practicable thereafter.

## 18. SUPPORT

Support provided shall include:

- (a) **Hotline Support.** For an urgent problem, the Authority can telephone or fax the Contractor's Hotline which is available [to be agreed on award of the contract] An urgent problem is degradation or failure of

the System, defective Solution distribution media or Solution performance inconsistent with documentation.

Problems which do not delay or inhibit system operation will be handled by written reports.

Authority must submit sufficient material and information to enable the Contractor's support staff to duplicate the problem.

The Contractor's support staff will attempt to solve a problem immediately, or as soon thereafter as possible. When appropriate, the Contractor will endeavour to give an estimate of how long a problem may take to resolve. The Contractor will keep the Authority informed of the progress of problem resolution.

- (b) **On-site support** will be provided by the Contractor if specified in the specification and where appropriate in the event telephone support does not resolve a Solution problem.
- (c) **Modem support.** The Contractor shall, where specified in the specification, supply on loan a modem for on-line problem resolution.
- (d) **Out-of-hours** support shall, where specified in the specification, be provided by the Contractor.
- (e) Correction of critical errors or assistance to overcome specific Solution problems. The Contractor may, in its sole discretion, correct errors by 'patch' or by new version.
- (f) Information on availability of new versions of Solution
- (g) Consultancy advice on Solution development, enhancements and modifications, together with estimates for the same.

## 19. AUTHORITYS OBLIGATIONS

During the continuance of this Agreement the Authority shall:

- (1) use only the Current Release;
- (2) ensure that the Current Release and the Authority's equipment are used in a proper manner by competent trained employees only or by persons under their supervision;
- (3) keep full security copies of the Current Release and of the Authority's databases and computer records in accordance with best computing practice;
- (4) not to alter or modify the Current Release or the Program Documentation in any way whatever nor permit the Current Release to be combined with any other programs to form a combined work;

- (5) not request, permit or authorise anyone other than the Contractor to provide any maintenance services in respect of the Current Release or the Program Documentation;
- (6) co-operate fully with the Contractor's personnel in the diagnosis of any error or defect in the Current Release or the Program Documentation;
- (7) make available to the Contractor free of charge all information facilities and services reasonably required by the Contractor to enable the Contractor to perform the Maintenance Services including without limitation computer runs, core dumps, data preparation, office accommodation, typing and photocopying;
- (8) provide such telecommunication facilities as are reasonably required by the Contractor for testing and diagnostic purposes at the Authority's expense;
- (9) ensure in the interests of health and safety that the Contractor's personnel while on the Authority's premises for the purposes of this Agreement are at all times accompanied by a member of the Authority's staff familiar with the Authority's premises and safety procedures.

## **20. PROPRIETOR RIGHTS**

- 20.1 The Solution Materials and the copyright and other intellectual property rights of whatever nature in the Solution Materials are and shall remain the property of the Contractor and the Contractor reserves the right to grant licences to use the Solution Materials to any other party or parties.
- 20.2 The Authority shall notify the Contractor immediately if the Authority becomes aware of any unauthorised use of the whole or any part of the Solution Materials by any person.
- 20.3 The Authority will permit the Contractor to check the use of the Solution Materials by the Authority at any reasonable times and for that purpose the Contractor shall be entitled to enter any of the Authority's premises with prior consent, consent will not be unreasonably withheld.
- 20.4 The Current Release (and all corrected versions thereof and all other Releases) and the Program Documentation and all parts thereof and the copyright and all other intellectual property rights of whatever nature therein are and shall remain the property of the Contractor.

20.5 The provisions of the Licence shall apply to the Current Release and the Program Documentation as such provisions are expressed to apply to the Solution Materials referred to in the Licence mutatis mutandis and the parties hereby undertake to be bound by and comply with the terms of the Licence accordingly.

## **21. INTELLECTUAL PROPERTY RIGHTS INDEMNITY**

21.1 The Contractor shall indemnify the Authority against all claims, damages, costs and expenses claimed or incurred by reason of the infringement of letters of patent, designs or copyright by the Authority's use or possession.

## **22. CONFIDENTIALITY**

22.1 The Contractor will not divulge or communicate to any person, firm or company any confidential information however acquired which refers to the Authority without first obtaining the written consent of the Authority. The Contractor shall ensure that all its employees and sub-contractors are bound by the provisions of this clause.

22.2 The Contractor shall not, without prior written consent of the Authority, advertise or publicly announce that it is undertaking work for the Authority.

22.3 The Contractor shall comply with the Official Secrets Acts 1911 and 1989 in connection with the performance of this Contract and shall take all reasonable steps to ensure compliance by its employees, agents, consultants and sub-contractors. In particular, and without prejudice to the generality of the foregoing, the Contractor shall take all reasonable steps to ensure that all persons engaged on any work in connection with this Contract have notice that these statutory provisions apply to them and will continue so to apply after the expiry or termination of this Contract.

22.4 From 01 January 2005, all information relating to the provision and performance of contracts with Cleveland Police Authority falls under the terms of the Freedom of Information Act 2000 and as such may be disclosed to third parties upon request in accordance with the terms of the Act.

22.5 Contractors should ensure they are aware of the full implications of the Act, which is fully retrospective. The full terms of the Act, along with specific guidance for public Authorities on the implications for third party contracts, can be found in the Lord Chancellor's web-site ([www.lcd.gov.uk](http://www.lcd.gov.uk)).

- 22.6 The Authority hereby acknowledges that all information disclosed by the Contractor arising out of or in connection with this Tender and/or this Contract is considered by the Contractor to be either information provided in confidence in accordance with the exemption set out in section 41 of the Freedom of Information Act 2000 ("FOI Act") or information that is in the commercial interests of the Contractor pursuant to the exemption set out in section 43 of the FOI Act. As soon as it is practicable to do so, the Authority shall inform the Contractor of the full details of any request for the disclosure of any information of the Contractor under the FOI Act.
- 22.7 Unless prohibited to do so by any court or statutory authority, the Authority shall give the Contractor the opportunity to make representations prior to its disclosure to any third party, which in the opinion of the Contractor exposes the Contractor to commercial risk.

### **23. COPYING**

- 23.1 Subject to the Copyright (Computer Program) Regulations 1992 the Authority may make only so many copies of the Solution as are reasonably necessary for operational security and use. Such copies and the media on which they are stored shall be the property of the Contractor and the Authority shall ensure that all such copies bear the Contractor's proprietary notice. The Licence shall apply to all such copies as it applies to the Solution.
- 23.2 No copies may be made of the Program Documentation without the prior written consent of the Contractor.

### **24. SECURITY AND CONTROL**

The Authority shall during the continuance of the Licence:

- 24.1 Effect and maintain adequate security measures to safeguard the Solution Materials from access or use by any unauthorised person.
- 24.2 Retain the Solution Materials and all copies thereof under the Authority's effective control.
- 24.3 Maintain a full and accurate record of the Authority's copying and disclosure of the Solution Materials and shall produce such record to the Contractor on request from time to time.

## **25. ALTERATIONS**

- 25.1 The Authority hereby undertakes not to alter or modify the whole or any part of the Solution Materials in any way whatever nor to permit the whole or any part of the Solution to be combined with or become incorporated in any other programs without prior written consent from the Contractor.

## **26. DATA PROTECTION**

- 26.1 Both parties warrant that they will duly observe all their obligations under the Data Protection Act 1984, the Data Protection Act 1998 and any subordinate legislation relating thereto which arise in connection with the contract.

## **27. OPERATING MANUALS**

- 27.1 The Contractor shall provide the Authority with a set of operating manuals containing sufficient information to enable proper use of all the facilities and functions set out in the Specification. If the Authority requires further copies of such operating manuals then these may be obtained under licence from the Contractor in accordance with its standard scale of charges from time to time in force.

## **28. TRAINING**

- 28.1 The Contractor undertakes to provide training in the use of the Solution for the staff of the Authority as set out in the Specification.
- 28.2 Any additional training required by the Authority shall be provided by the Contractor in accordance with its standard scale of charges from time to time in force.

## **29. TERMINATION**

- 29.1 The Authority may terminate the Licence at any time by giving at least 30 days' prior written notice to the Contractor.

### **30. BREACH OF CONTRACT**

30.1 If the Contractor: -

- (a) has offered any gift or consideration of any kind as an inducement or disincentive for doing anything in respect of this contract or any other contract with the Authority; or
- (b) has committed an offence under the Prevention of Corruption Acts 1889 to 1916; or
- (c) becomes bankrupt; or
- (d) has a receiving order made against it; or
- (e) presents its petition in bankruptcy; or
- (f) is subject to a winding up order; or
- (g) has a receiver appointed; or
- (h) is in persistent and/or material breach of contract (by failure to achieve the Contract Standards or otherwise); then-

the Authority will terminate the Contract immediately and recover all losses resulting from such termination.

30.2 Forthwith upon the termination of the Licence the Authority shall return to the Contractor the Solution Materials and all copies of the whole or any part thereof or, if requested by the Contractor, shall destroy the same (in the case of the Solution by erasing them from the magnetic media on which they are stored) and certify in writing to the Contractor that they have been destroyed.

30.3 Any termination of the Licence or this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party, nor shall it effect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

## **31. ESCROW**

31.1 The Contractor, at its own expense, will lodge a copy of the product source code with the National Computer Centre Ltd (NNC) to hold in escrow, with specific instructions to release a copy to users of the application in the event of the Contractor being unable to fulfil its contractual commitments.

## **32. DISPUTE RESOLUTION**

32.1 In the event of dispute of difference arising between the Authority and the Contractor relating to this contract both parties shall use all reasonable endeavours to resolve the dispute and to this end shall meet as soon as possible with a view to discussing and resolving the matter.

32.2 The complaints or mediation procedures of either party may be used to channel disputes as appropriate.

32.3 This clause will not operate to prejudice any rights of either party against the other whether through litigation or otherwise.

32.4 Any dispute not resolved shall be referred to arbitration. The arbitration shall be governed by the Arbitration Act 1996.

32.5 The party initiating the arbitration shall give notice to the other stating:

- i) the Dispute that is referred to arbitration,
- ii) details of the issues to be resolved' and
- iii) details of an arbitrator that they propose shall be appointed.

32.6 Where an arbitrator has given a decision in respect of the dispute it shall be final and binding on both parties.

## **33. ASSIGNMENT**

33.1 The Contractor shall not assign or sub-contract the contract or any part of it without the Authority's prior written consent. This consent shall not be unreasonably withheld.

## **34. MISTAKES IN INFORMATION**

34.1 The Authority and the Contractor are bound by any mistakes in the information given to the other and where it is not corrected and advised to the other party before it has been acted upon or irrevocably committed to then the party will be liable for any claims for incurred actual loss.

34.2 The Authority and the Contractor will make every attempt to bring mistakes to the attention of the other as soon as the mistake is discovered.

## **35. INDEMNITY AND INSURANCE**

35.1 The Contractor agrees to indemnify the Authority against all actions, claims and costs relating to injury (including death) or loss of or damage to property which arises out of the Contractor's failure to provide the Service to the Contract Standard except where attributable to the Authority's own negligence or that of its servants or agents.

35.2 The Contractor shall give immediate notice to the Authority in the event of any accident or damage likely to form the subject of any claim under the Authority's insurance and shall provide all information and assistance in respect thereof as the Authority shall require.

35.3 The Contractor shall maintain adequate insurance to cover the potential liability in 9.1.

35.4 The Contractor shall also take out and maintain in force with a reputable insurance company all appropriate insurance policies against loss and damages arising from the fault or negligence of the Contractor or any sub-contractors in the provision of the Service.

35.5 Upon the Authority's written request, the Contractor shall provide the Authority with a copy of the certificate of insurance.

35.6 The Contractor shall not be responsible for the maintenance, accuracy or good running of any version of the Solution except the Current Release and the one immediately prior to it.

35.7 The Authority shall indemnify the Contractor and keep the Contractor fully and effectively indemnified against any loss of or damage to any property or injury to or death of any person caused by any negligent act or omission or wilful misconduct of the Authority, its employees, agents or sub-contractors.

35.8 The Contractor shall not be liable for any loss or damage sustained or incurred by the Authority or any third party (including without limitation any loss of use of the Current Release or loss of or spoiling of the Authority's data) resulting from any defect or error in the Current Release or the Program Documentation except to the extent that such loss or damage arises from any unreasonable delay by the Contractor in providing the Maintenance Services.

## **36. WAIVER**

- 36.1 No failure, delay, relaxation or indulgence on the part of the Authority in exercising any power or right conferred upon it by the Contract or order shall operate as a waiver with such power or right nor shall any single or partial exercise have any such power or right preclude any other offered exercise thereof for the subsequent exercise of any power or right thereunder.

## **37. YEAR 2000 CONFORMITY**

- 37.1 The Contractor warrants that the computer Authority's equipment, products and data embedded goods or services supplied by them and used in the provision of the Service have Year 2000 conformity as defined in the British Standards Institute definition of Year 2000 conformity requirements. Also that the computer Authority's equipment and date logic embedded goods or services supplied by them have general integrity and data integrity as specified in Rules 1 and 2 of such definition. The Contractor undertakes to fully indemnify the Authority against all losses, costs and expense and damages and expenses (including legal fees on an indemnity basis) arising from any breach of this warranty.

## **38. HUMAN RIGHTS**

- 38.1 The Contractor will ensure that any work carried out on behalf of the Authority under this Agreement will be compliant with the Human Rights Act 1998.

## **39. THIRD PARTY RIGHTS**

- 39.1 A person who is not a party to the Contract shall not derive the right to enforce any of the terms of the Contract by virtue of the Contracts (Rights of Third Parties) Act 1999 (The Third Party Rights Act). Any right or remedy of a third party, which existed or is available apart from the Third Party Rights Act, is not affected.

## **40. DISCRIMINATION**

- 40.1 The Contractor shall not unlawfully discriminate within the meaning and scope of the Race Relations Act 1976, the Sex Discrimination Act 1975, the Disability Discrimination Act 1995, or any statutory modification or re-enactment thereof relating to discrimination in employment.

40.2 The Contractor shall take all reasonable steps to ensure the observance of the above by all employees, agents and consultants of the Contractor and all sub-contractors.

#### **41. SEVERABILITY**

41.1 The invalidity or enforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract that shall continue in force and effect except for any such invalid and un-enforceable provision.

#### **42. EXCLUSIVITY**

42.1 The Contract is not exclusive to the Contractor and the Authority reserves the right to enter in to any other Contract for the same type of services it considers necessary for the efficiency of its operation.

#### **43 COMPETITION CLAUSE**

43.1 Cleveland Police reserves the right to continually test the market in order to ensure that the contract prices are competitive within the marketplace. In the event of the Force obtaining a lower bona fide offer from another supplier for the same material, the Contractor will be given the opportunity of revising its terms accordingly. Should the Contractor be unable to match the new offer then Cleveland Police reserves the right to accept the new offer and procure the goods from the other supplier.

#### **44. BENCHMARKING**

44.1 At the commencement of the Contract the Authority and the Contractor will agree at what intervals benchmarking will take place to ensure value for money.

#### **45. IMPROVEMENT AND INNOVATION**

45.1 The Contractor agrees to work with the Authority in order to achieve continuous improvement and innovation to the Service provided.

#### **46. BEST VALUE**

46.1 The Authority and the Contractor will meet every six months in order to discuss the performance of the Contract and agree Best Value improvements.

## **47. PERFORMANCE MONITORING**

- 47.1 The Contractor is required to produce the results of their own Key Performance Indicators (KPI) relating to this contract on a quarterly basis. The KPI's will be reviewed and where necessary the subject of the indicators will be changed to meet the requirements of the Authority.

## **48. GENERAL**

- 48.1 This Agreement is governed by English law.
- 48.2 The Contractor shall not be liable for any default in the provision of the Service caused by any relevant factor beyond the Contractor's control (e.g. Act of God, strikes, Act of Government, Force Majeure, etc.).
- 48.3 Any notice to be served on the Contractor or the Authority shall be sent by recorded delivery to their respective addresses referred to in this Agreement.
- 48.4 This Agreement represents the complete agreement between the Authority and the Contractor and supersedes all other undertakings, statements and agreements relating to the Service.

## **49. TERM**

- 49.1 The Contract shall commence on the 1<sup>st</sup> January 2008 and continue for 1 year (subject to extension under 49.2 below).
- 49.2 One month before the end of the Contract term the Authority may notify the Contractor that the Contract Term shall be extended for a further year for a period of up to four years. The maximum term of this contract will be five years.
- 49.3 The Authority may terminate the Agreement by giving 1 month written notice.

## ACCEPTANCE CERTIFICATE

TO:

FROM:

DATE:

Dear Sirs

We refer to the Agreement between our respective Companies dated [ ] day of [ ][ ] ('the Agreement') relating to the installation and licensing of certain computer programs ('the Solution') and confirm the following:

1. We have today accepted the Solution.
2. We have inspected the Solution and confirm that the same conform to the description contained in the Agreement and that the same have been installed on the Authority's equipment (as defined in the Agreement) to our satisfaction.
3. The Solution have correctly processed the test data referred to in clause 6 of the Agreement. Copies of such data and the results of such tests are annexed hereto and signed by us for the purpose of identification.

SIGNED for and on behalf of [ ]

**SECTION FIVE**

**THE  
SPECIFICATION**

# **SECTION FIVE**

## **THE SPECIFICATION**

### **Introduction.**

Cleveland Police wish to implement a web based geographical information system (GIS). The application is to be used as a business support tool primarily for Officers within the Force's LAN/WAN infrastructure in order to display and interrogate spatially referenced data. The GIS software will utilise Ordnance Survey data and in-house relational databases systems. A proposal and quotation is required for the supply and installation of a web based geographical information system.

### **Current Environment**

Cleveland Police currently host a population of some 120 servers and 1500 desktop computers serving a user population of 2500 police officers and support staff. The user base consists primarily of Windows XP Pc's. The majority of network servers operate in a windows network domain.

### **Requirements**

Key features required of the GIS software:

- Delivery by a browser based application.
- Full compatibility with Microsoft Windows operating systems and Microsoft Office software.
- Full connectivity with ODBC compliant databases.
- Connectivity with common relational databases including SQL Server, Oracle and Access.
- Conform to Open GIS standards.
- Minimal user training requirements.
- Simple interfaces.
- Pan and zoom functionality.
- Provide full compatibility with a wide range of GIS data formats and in particular MapInfo Tab and Mr SID.

- Support raster and vector maps; especially those covered by the current Mapping Service Agreement – Mastermap, 10k/50k/250k raster, StreetView etc.
- Support various objects: symbols, images, texts, polylines, polygons etc.
- Support hyperlinks for all kinds of map objects.
- Facility to manage and control user access rights.
- Unlimited switchable map layers.
- Simple graphical and attribute querying tools.
- Tools for the graphical representation of data.
- Facility to interrogate data objects.
- Ability to export information/reports in generic formats.
- Location search facility: address, street, postcode, intersection etc.
- Hardcopy map generation on predefined templates with copyright acknowledgements.
- Scalability to enable future development.
- Customizable without the need for specialist skills.