

Force IT Solutions Limited

and

The Subscribing Force

Agreement

relating to the provision and support of the Police Visual Handbook

THIS AGREEMENT is made the **BETWEEN Force IT Solutions Limited** whose registered office is situated at 2 Ambassador Drive, Liverpool, Merseyside, L26 6LT (Company number 03300110) (hereinafter called "the Company") and the Subscribing Force (hereinafter called "the Force") with respect to the Police Visual Handbook (hereinafter called "the Product"):

1. Grant

- 1.1 The Force appoints the Company to provide the Product and to support the same in accordance with this agreement.
- 1.2 The Company hereby grants to the Force a non-exclusive, non-transferable licence to store the Product and use the same in accordance with the provisions of Clause 9 below.
- 1.3 The term of this agreement shall be one year and shall continue thereafter from year to year until terminated by the Force in accordance with clause 10 hereof.

2. The Product

- 2.1 On behalf of the Force, the Company shall provide a digest of the selected criminal laws, by-laws and regulations of the United Kingdom in force from time to time and any instruments, Home Office directives and codes of practice, doctrines, practice and guidance notes issued by or on behalf of the National Police Chiefs' Council Officers and the College of Policing, other decisions and/or recommendations made in relation to the police service (the "Relevant Laws and Guidance").
- 2.2 Any alteration or amendment to the content of the Product required as a result of any change in the Relevant Laws and Guidance from time to time shall be forthwith incorporated in the Product and that the Product shall be amended accordingly

3. Installation

The Company will inform the Force when any software update is available. Responsibility to install it will rest with the Force.

4. Delivery of the Product

- 4.1 The Force shall nominate appropriate personnel and shall within 30 days advise the Company of their contact details, which shall also apply to any subsequent change of personnel, in order to:
 - 4.1.1 act as a principal point of contact and in conjunction with the Company promote the awareness of the Product within the Force,
 - 4.1.2 receive and install software updates; and
 - 4.1.3 act as a point of contact for subscription renewal.
- 4.2 The Company shall (subject to interface and compatibility) have the right to change the format or specification of the Product upon giving the Force reasonable notice when possible (other than in cases of emergency).

5. Conformity

The cost of ensuring conformity with the Relevant Laws and Guidance shall be deemed to be included in the applicable contract price (i.e. the subscription hereinafter mentioned).

6. Indemnity and Insurance

- 6.1 The Company shall indemnify the Force and keep the Force fully and effectively indemnified on demand 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 breach of this Agreement by the Company, its employees, agents or sub-licensors or by any defect in the design or workmanship of the Licensed Software
- 6.2 The Company shall maintain at its own cost:
 - 6.2.1 Employer's Liability Insurance in accordance with any legal requirements for the time being in force for a sum not less than £5,000,000 in respect of any one event or per occurrence or series of occurrences arising from any one event. Such insurance shall cover all employees of the Company engaged in the performance of the Company's obligations under the Contract and shall contain an indemnity to principals clause.
 - 6.2.2 Public Liability Insurance in accordance with any legal requirements for the time being in force for a sum not less than £5,000,000 in respect of any one event or per occurrence or series of occurrences arising from any one event. Such insurance shall contain an indemnity to principal's clause.
 - 6.2.3 Professional Indemnity insurance for a sum not less than £2,000,000 in respect of any one event or per occurrence or series of occurrences arising from any one event Such insurance shall contain an indemnity to principals clause and shall be maintained by the Company for a period of one year following the termination of this agreement.
 - 6.2.4 Product liability insurance to cover its liability under the contract in respect of the goods/licensed software with a minimum level of indemnity of £2,000,000 per claim or series of claims; AND
if required by the Force, to provide written confirmation from the Company's insurance broker that the Company has in force such policy or policies of insurance referred to in this Clause together with such evidence from the insurance broker of payment of the premium by the Company, as soon as reasonably practicable following any request from the Force.

7. Support

- 7.1 The Subscription shall include support and the Company will correct anything which is incorrect or misleading and of a serious nature within 2 working days or anything which is incorrect or misleading and of a minor nature within 5 working days.
- 7.2 The Company will endeavour to instigate user forums in order to seek the views of expert and specialist users in regard to the contents of the Product.

8. Subscription

- 8.1 The Force shall pay an annual subscription as set out in the payment schedule.
- 8.2 The Company reserves the right to charge interest (monthly) on overdue invoices (30 days net) at the rate of 2 per cent over HSBC Bank PLC base rate from the due date until the total invoice sum has been paid.
- 8.3 The Company shall be entitled at any time and from time to time (subject as mentioned below) after the expiry of the period of one year after the commencement date of this agreement increase the subscription by giving to the Force not less than 90 days' prior written notice provided that any such increase shall not exceed a rate of 2 per cent over the percentage increase in the Retail Prices Index published by the Office for National Statistics for the period from the commencement date of this agreement (in the case of the first such increase) or the date on which the immediately preceding increase came into effect pursuant to this sub-clause (in the case of the second or subsequent increase) up to the date of such notice provided further that no increase may be made pursuant to this sub-clause until a period of at least one year has elapsed since the date on which the immediately preceding increase came into effect pursuant to this sub-clause.
- 8.4 The subscription shall entitle the officers and staff of the Force to access the Product within Force via the Company's Android and Windows Enterprise Apps and website, and away from the Force via the Company's Android, iOS and Windows Personal Apps and website.
- 8.5 The Company will at the request of the Force include additional material provided that it is of general use to other Forces (what constitutes of general use to other Forces will be determined by the Company).
- 8.6 The Company will provide a Force specific version of the Product and/or a policy management service which integrates the Product at a cost or costs to be agreed between the parties.
- 8.7 The Force will be responsible for the payment of the charges of any third party service provider it may use to deliver the product.
- 8.8 The Company reserves the right to charge any third party service provider the Force may use:
 - 8.8.1 to host and deliver the product;
 - 8.8.2 to adapt the product to facilitate sub-clause 8.8.1.

9. Use

- 9.1 Subject to the Force being a current subscriber to the Product, the Company hereby permits the Force to use and copy the material contained within the Product during the contract term for any non-commercial purpose related to their function as a constabulary, provided an acknowledgement of the source is printed on each page of extracted material, or part thereof, and on the label when the extract is contained within a media product.
- 9.2 Except as permitted by way of Clause 8.4, the Force shall not permit users to download the Product for manipulation or storage at the Forces location nor to facilitate access other than by the use of Force equipment.
- 9.3 The Force shall not change the Product in any manner so as to affect the copyright of the Company in the Product.
- 9.4 The Force shall at all times hold the Product on a secure server and in accordance with any instructions or guidelines issued by the Company.

10. Termination

- 10.1 The Force will notify the Company in writing a minimum of 90 days prior to the subscription renewal date of any intention to terminate subscription to the Product. If a termination notice is not received in accordance with the provisions of this Clause, the Force will be deemed to have renewed their subscription for the following 12 months and will be liable to pay the Company the appropriate rate for the full period.
- 10.2 In the event of termination, all copies of the Product or part thereof, including any and all back-up or archive copies of the same that the Force has, including any material derived from the Product under clause 9 above must be permanently destroyed, if in a printed or hard media format, or erased, if in a digital or soft media format, within 5 working days of the subscription being terminated, (unless the Force comes to a further agreement with the Company); and furnish the Company with a certificate signed by a duly authorised employee of the Force certifying that the same has been done.
- 10.3 In the event that the Force fails to comply with the provisions of sub-clause 10.2, the Company shall be entitled to send appropriately qualified personnel to the Force's location for the purpose of supervising the destruction/erasure of the product/material derived from the product and the Force hereby duly authorises such personnel's entry to its premises at an agreed time and date after reasonable notice to do so.

11. Warranty

- 11.1 The Company uses all reasonable commercial endeavours to ensure the accuracy of the Product but makes no warranties express or implied regarding the accuracy or completeness of the Product or its fitness for any purpose and expressly excludes any liability in respect thereof.
- 11.2 The Company does not warrant that the mode of delivery of the Product shall be free from all known viruses and the Force is solely responsible for virus scanning the Product prior to installation.

- 11.3 The Company warrants that there are and will be no disabling programs or devices neither in the Product nor in its mode of delivery.
- 11.4 The Force shall be responsible for ensuring that a disaster recovery plan is in place and suitable for their needs and shall not be entitled to rely in any way whatsoever on the Company's disaster recovery plan.

12. Assignment & Sub-Letting

The Contract shall not be assigned by the Company, nor sub-let as a whole. The Company shall not sub-let any part of the Contract without the Force's written consent, which shall not be unreasonably withheld. The consent of the Force shall not however be required for the sub-contracting of materials or minor items or for any item for which the sub-Supplier is named in the Contract. The Company shall be responsible for all work done and Goods supplied by sub-Suppliers as if the work had been done or the Goods supplied by the Company.

13. Freedom of Information, Data Protection & Confidentiality

- 13.1 The Company's attention is hereby drawn to the Data Protection Act 2018 (DPA) and the Freedom of Information Act 2000 (FOIA).
- 13.2 Both parties warrant that they will duly observe all their obligations under the DPA, which arise in connection with this Contract.
- 13.3 The Company shall at its own expense provide reasonable assistance to the Force to enable the Force to comply with any request for information from any individual or the Information Commissioner under the DPA or FOIA.
- 13.4 The Company shall keep confidential all information belonging to or provided by the Force in connection with this contract and shall not further use or disclose it to any third party without the express consent of the Force or except to the extent permitted by law.

14. Equality

- 14.1 The Company shall adopt a policy or policies to comply with employer's statutory obligations under the Equality Act 2006 and the Equality Act 2010, and, accordingly, will not discriminate directly or indirectly against any person because of their age, colour, race, gender, disability, sexual orientation, nationality or national or ethnic origin in decisions to recruit, train, promote, discipline or dismiss employees.
- 14.2 The Company, and any sub-supplier employed by the Company, shall observe as far as possible, and at least in accordance with the Force's published criteria, the Equality and Human Rights Commission's Code of Practice on Employment and any subsequent amendments to it.
- 14.3 The Company shall perform the contract in such a way as to enable the Force to comply with its general and specific duties under the Equality Act 2010 and the Equality Act 2010 (Specific Duties) Regulations 2011.
- 14.4 In the event of any finding in any jurisdiction of unlawful racial or other discrimination being made by any court or employment tribunal against the Company, or any Sub-Supplier employed by the Company, during the contract period, or of an adverse finding in any formal investigation by the

Equality and Human Rights Commission over the same period, the Company shall inform the Force of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.

- 14.5 The Company shall, on request, provide the Force with details of any steps taken under Clause 14.4 above.
- 14.6 The Company shall provide such information as the Force may reasonably request for the purpose of assessing the Company's compliance with the above five conditions, including, if requested, examples of any instructions, recruitment advertisements or other literature, and details of monitoring applicants and employees.
- 14.7 The Company shall take all reasonable steps to secure the observance of the provisions of clause 14.1 by sub-suppliers employed in the execution of this Contract.

15. Bribery and Corruption

If the Company shall have offered, given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining of or execution of the Purchase Order or any other agreement with the Force or for showing or forbearing to show favour or disfavour to any person in relation to the Purchase Order or any other agreement with the Force or the like acts done by any person employed by the Company or acting on his behalf (whether with or without the knowledge of the Company) or in relation to the Purchase Order any other agreement with the Force, the Company or any other person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010, or given any fee or reward the receipt of which would be an offence under section 117 of the Local Government Act 1972, the Force shall be entitled to terminate the Purchase Order and Contract and to recover from the Company the amount of any loss resulting from such termination.

16. Insolvency and Bankruptcy

If the Company becomes insolvent or bankrupt or (being a company) makes an arrangement with its creditors or has an administrative receiver or administrator appointed or commences to be wound up (other than for the purposes of amalgamation or reconstruction) the Force may, without prejudice to any of its rights, terminate the Contract forthwith by notice to the Company or to any person in whom the Contract may have become vested.

17. Arbitration

Any reference of a dispute to Arbitration shall be done in accordance with the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force to a single arbitrator to be agreed between the parties

18. Recovery of Sums Due

If any sum of money shall be due from the Company, the same may be deducted from any sum then due or which at any time thereafter may become due to the Company under this Contract or any agreement with the Force.

19. Waiver

19.1 The failure of either party to insist upon strict performance of any provision of this Contract, or the failure of either party to exercise any right or remedy to which it is entitled thereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations established by the Contract.

19.2 A waiver of any default shall not constitute a waiver of any subsequent default.

No waiver of any of the provisions of this Contract shall be effective unless it is expressly stated to be a waiver and communicated to the other party in writing.

20. Intellectual Property Rights Infringement

The Company shall indemnify the Force from and against all costs, claims, proceedings or demands in respect of any infringement of patent, registered design, trade mark, copyright or other intellectual property rights arising out of the sale or use of any Goods supplied under this Contract provided always that the Company shall not be required to indemnify the Force against such infringements where the Goods are supplied to the particular design or specification of the Force.

21. Direct and Consequential Damages

21.1 If either party fails to perform its obligations under the Contract then that party shall be liable to the other for the damages arising directly and naturally in the ordinary course of events from the breach of Contract concerned.

21.2 Neither party shall be liable to the other for any indirect or consequential loss or damage, including but not limited to, loss of profits, loss of business, loss of revenue, loss of goodwill, or loss of anticipated savings, which the other may suffer arising out of any breach by a party of its obligations under the contract and whether the same is due to the negligence of that party or not.

22. Recovery of Sums Due

If any sum of money shall be due from the Company, the same may be deducted from any sum then due or which at any time thereafter may become due to the Company under this Contract or any agreement with the Force.

23. Headings

The headings of the terms and conditions herein contained are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of any of the terms and conditions of this Agreement.

24. Severance

If any provision of this Contract is declared by any judicial or other competent authority to be void voidable illegal or otherwise unenforceable the remaining provisions of this agreement shall remain in full force and effect unless the Force in the Force's discretion decides that the effect of such declaration is to defeat the original intention of the parties in which event the Force shall be entitled to terminate this Agreement by 30 days' notice in writing to the Company.

25. Force Majeure

- 25.1 If either party is prevented from or delayed in the performance of its obligations under the Contract by an event arising after the formation of the Contract which was unforeseeable, insurmountable and independent of the will of the party concerned, that party may notify the other of the existence of an event of force majeure and the contractual obligations of the parties shall be suspended.
- 25.2 If the event of force majeure continues for a period less than 90 days then on the ending of the force majeure event the contractual obligations of the parties shall be reinstated with such reasonable modifications to take account of the force majeure event as may be agreed between the parties, or in default of agreement, as may be determined by the Force in accordance with sub-clauses 25.4.1 and 25.4.2 below.
- 25.3 If Force Majeure shall continue for a period of more than 90 days, then the Contract can be considered as terminated by mutual consent.
- 25.4 If the Contract is so terminated:
 - 25.4.1 then the Force shall pay to the Company such reasonable sum as may be agreed between the parties in respect only of expenditure actually incurred and commitments entered into by the Company in the performance of the Contract up to the date of the Force Majeure notice or in default of agreement as may be determined by the Force who shall indemnify the Company against any commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Company by reason of the determination of the Contract;
 - 25.4.2 the Force shall not be liable to pay under the provisions of sub clause 25.4.1 any sum which, when taken together with any sums paid or due or becoming due to the Company under the Contract, shall exceed such total sum as would be payable under the Contract in respect of those Goods or Services the subject of the Force Majeure.

26. Law

The Contract shall be subject to and construed and interpreted in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the courts of England.

27. Entire Agreement

Each party acknowledges that this Contract contains the entire agreement between the parties and that it has not relied upon any oral or written representation made to it by the other or its employees, servants or agents and has made its own independent investigations into all matters relevant to it. This Contract supersedes any prior agreement between the parties 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.

28. Notices

All notices to be given under this Contract shall be in writing and shall either be delivered personally or sent by first class post or electronic mail or facsimile transmission. Each notice shall be addressed to the address of the party concerned set out in this agreement or to such other address as that party shall have previously notified to the sender.

29. Third Party Rights

Nothing within this Contract shall confer upon any third party the right or benefit to pursue any term of this agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.