

DATED

2023/24

CCTV SERVICES AGREEMENT

between

CAERPHILLY COUNTY BOROUGH COUNCIL

and

BLAENAU GWENT COUNTY BOROUGH COUNCIL

CONTENTS

CLAUSE

1. Interpretation 3

2. Commencement and Duration5

3. Supplier's Responsibilities6

4. Customer's obligations6

5. Staff and TUPE7

6. Non-Solicitation8

7. Change Control8

8. Charges and Payment9

9. Intellectual Property Rights10

10. Data Protection.....11

11. Freedom of Information11

12. Limitation of liability11

13. Termination13

14. Obligations on Termination and Survival.....14

15. Force majeure.....15

16. Variation16

17. Waiver16

18. Rights and remedies16

19. Severance16

20. Entire agreement.....17

21. No partnership or agency17

22. Third party rights17

23. Notices17

24. Counterparts.....18

25. Governing law.....18

26. Jurisdiction.....19

SCHEDULE

Schedule 1 Services Details. Included

Schedule 2 Charges, costs and payment - not included

1. TUPE on entry

2. List of Employees

Schedule 3 Processing, Personal Data and Data Subjects - not included

1

Schedule 4 List of BC CCBC Public Open Space Cameras and locations. - *not included*

Schedule 5 Memorandum of Understanding between BGCBC (Customer), CCBC (Supplier) and Gwent Police. (separate appendices)

Schedule 6 -Contract management -*not included*

This agreement is dated

Parties

- (1) CAERPHILLY COUNTY BOROUGH COUNCIL whose registered office is at Penallta House, Tredomen Park, Ystrad Mynach, Hengoed, CF82 7PG (**Supplier**)
- (2) BLAENAU GWENT COUNTY BOROUGH COUNCIL whose registered office is at The General Offices, Steelworks Road, Ebbw Vale, NP23 6DN (**Customer**)

BACKGROUND

- (A) The Supplier is a local authority and operates a CCTV monitoring system for the towns in its county borough;
- (B) The Supplier and the Customer have agreed that the Supplier will provide CCTV monitoring and other services as detailed in Schedule 1 for various locations in the Customer's county borough as listed in Schedule 4; and
- (C) The Customer agrees to obtain and the Supplier agrees to provide the Services on the terms set out in this agreement.

Agreed terms

1. Interpretation

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions

Applicable Laws: all applicable laws, statutes, regulations and codes from time to time in force.

Business Day: a day, other than a Saturday, Sunday or public holiday in England and Wales, when banks in London are open for business.

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Change Order: has the meaning given in clause **7.1**.

Charges: the sums payable for the Services, as set out in Schedule 2.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** shall be construed accordingly.

Customer's Equipment: any equipment, including tools, systems, cabling or facilities, provided by the Customer, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Services including any such items specified in Schedule 1

Customer Materials: all documents, information, items and materials in any form, whether owned by the Customer or a third party, which are provided by the Customer to the Supplier in connection with the Services, including the items provided pursuant to clause 4.1(d).

Customer Personal Data: any personal data which the Supplier processes in connection with this agreement including in the delivery of the Services, in the capacity of a processor on behalf of the Customer.

Data Processor Agreement: the agreement entitled “Data Processor Agreement” in Schedule 3 entered into between the Parties on the same date as this Agreement.

Deliverables: any output of the Services to be provided by the Supplier to the Customer as specified in Schedule 1 and any other documents, products and materials provided by the Supplier to the Customer in relation to the Services (excluding the Supplier's Equipment).

Intellectual Property Rights: patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Services: the services as set out in Schedule 1, including services which are incidental or ancillary to such services.

Supplier's Equipment: any equipment, including tools, systems, cabling or facilities, provided by the Supplier to the Customer and used directly or indirectly in the supply of the Services including any such items specified in Schedule 1 but excluding any such items which are the subject of a separate agreement between the parties under which title passes to the Customer.

Supplier Personal Data: any personal data which the Supplier processes in connection with this agreement, in the capacity of a controller.

VAT: value added tax or any equivalent tax chargeable in the UK.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 A reference to legislation or a legislative provision shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- 1.10 A reference to **writing** or **written** includes email but not fax.
- 1.11 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.12 A reference to **this agreement** or to any other agreement or document referred to in this agreement is a reference of this agreement or such other agreement or document, in each case as varied from time to time.
- 1.13 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.14 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Commencement and Duration

- 2.1 This agreement shall commence on the date when it has been signed by all of the parties and shall continue until such time as it may be terminated by either party in accordance with clause 13 (Termination),
- 2.2 The Supplier shall provide the Services to the Customer in accordance with this agreement from /4/2023.

3. Supplier's Responsibilities

- 3.1 The Supplier shall use reasonable endeavours to supply the Services in accordance with this agreement in all material respects.
- 3.2 The Supplier shall appoint a manager for the Services. That person shall have authority to contractually bind the Supplier on all matters relating to the Services (including by signing Change Orders). The Supplier may replace that person from time to time where reasonably necessary in the interests of the Supplier's business. Upon the appointment of a manager under this clause 3.2 the Supplier shall without delay provide to the Customer the contact details of that manager, including telephone number and e-mail address.

4. Customer's obligations

- 4.1 The Customer shall:
- (a) co-operate with the Supplier in all matters relating to the Services;
 - (b) appoint a manager for the Services, namely its Head of Democratic Services, Governance & Partnerships. That person shall have the authority to contractually bind the Customer on matters relating to the Services (including by signing Change Orders);
 - (c) provide, for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, office accommodation, equipment, data and other facilities as reasonably required by the Supplier including any such access as is specified in Schedule 1;
 - (d) provide to the Supplier in a timely manner all documents, information, items and materials in any form (whether owned by the Customer or third party) required under Schedule 1 or otherwise reasonably required by the Supplier in connection with the Services and ensure that they are accurate and complete;
 - (e) ensure that all the Customer's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant United Kingdom standards or requirements; and
 - (f) obtain and maintain all necessary licences and consents, or where applicable pay any costs incurred by the Supplier in so doing, and comply with all relevant legislation as required to enable the Supplier to provide the Services including in relation to the installation of the Supplier's Equipment, the use of the Customer's Equipment insofar as such licences, consents and legislation relate to the Customer's business, premises, staff and equipment, in all cases before the date on which the Services are to start.
- 4.2 If the Supplier's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, the

Supplier shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer.

5. Staff and TUPE

5.1 The Customer acknowledges that the Supplier shall, from time to time, employ persons for the purposes of providing the Services.

5.2 Employees employed pursuant to clause 5.1 shall:

- (a) be recruited in accordance with such recruitment policies and procedures of the Supplier as shall subsist from time to time; and
- (b) be subject to such terms and conditions as pertain to employees of the Supplier in comparable roles;

Provided that nothing in this clause 5.2 shall prevent the Supplier from engaging such employees on fixed-term contracts of a length that the Supplier in its sole discretion shall deem to be appropriate.

5.3 The Supplier shall use reasonable endeavours to ensure that the number of employees engaged pursuant to clause 5.1 is consistent with the staffing level indicated in Schedule 2, provided that nothing in this clause 5.3 shall prevent the Supplier from:

- (a) recruiting additional employees; and/or
- (b) assigning members of its own staff

on a temporary basis for the purpose of delivering the Services in addition to those staff referred to in clause 5.1 above if, in the sole discretion of the Supplier, such are required as a result of unforeseen circumstances and the costs of such appointment or redeployment shall form part of the Charges.

5.4 Where it becomes reasonably apparent to the Supplier that the staffing levels identified in Schedule 2 are persistently either excessive or insufficient for the purpose of delivering the Services, the Supplier shall notify the Customer of such change in requirement at the earliest opportunity outlining the extent of any temporary arrangements and anticipated charges.

5.5 Upon the Supplier making a notification to the Customer in accordance with clause 5.4 above, the Supplier and the Customer shall cooperate with each other in order to agree upon a Change Order for such amendments to Schedule 2 as are necessary.

5.6 The Customer shall indemnify the Supplier fully and hold it harmless at all times from and against all actions, proceedings, claims, expenses, awards, costs and all

other liabilities howsoever in any way connected with or arising from claims by its employees or former employees employed by the Supplier pursuant to clause 5.1 above and affected by, or claiming to be affected by, TUPE.

6. Non-Solicitation

Except in respect of any transfer of employees of the Supplier to the Customer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (*SI 2006/246*), the Customer shall not, without the prior written consent of the Supplier, at any time from the date of this agreement to the expiry of 12 months after the termination of this agreement, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the Supplier in the provision of the Services.

7. Change Control

7.1 Either party may propose changes to the scope or execution of the Services but no proposed changes shall come into effect until a **Change Order** has been signed by both parties. A Change Order shall be a document setting out the proposed changes and the effect that those changes will have on:

- (a) the Services;
- (b) the Supplier's existing charges;
- (c) the timetable of the Services; and
- (d) any of the terms of this agreement.

7.2 If the Supplier wishes to make a change to the Services it shall provide a draft Change Order to the Customer at the earliest opportunity detailing the proposed changes and timing of proposed changes.

7.3 If the Customer wishes to make a change to the Services:

- (a) it shall notify the Supplier and provide as much detail as the Supplier reasonably requires of the proposed changes, including the timing of the proposed changes; and
- (b) the Supplier shall, as soon as reasonably practicable after receiving the information at clause 7.3(a), provide a draft Change Order to the Customer.

7.4 If the parties agree to a Change Order, they shall sign it and that Change Order shall amend this agreement; or

7.5 The Supplier may charge for the time it spends on preparing and negotiating Change Orders which implement fundamental changes beyond the scope of

existing agreements proposed by the Customer pursuant to clause 7.3 on the basis of time spent by officers of the Supplier in dealing with such preparation and negotiation.

8. Charges and Payment

- 8.1 In consideration of the provision of the Services by the Supplier, the Customer shall pay the Charges.
- 8.2 The Supplier may increase the Charges from time to time by notice to the Customer provided that such increase shall be restricted to that which is equal to any increased cost to the Supplier of providing the Services, including any increase in the cost of labour, services or materials.
- 8.3 The Supplier shall invoice the Customer for the Charges at 3-monthly intervals the month after each interval.
- 8.4 The Customer shall pay each invoice submitted to it by the Supplier within 28 days of receipt to a bank account nominated in writing by the Supplier from time to time.
- 8.5 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier any sum due under this agreement on the due date:
- (a) the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 8.5(a) will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%;
 - (b) the Supplier may suspend all or part of the Services until payment has been made in full.
- 8.6 All sums payable to the Supplier under this agreement:
- (a) are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and
 - (b) shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

9. Intellectual Property Rights

- 9.1 In relation to the Deliverables:
- (a) the Supplier and its licensors shall retain ownership of all Intellectual Property Rights in the Deliverables, excluding the Customer Materials;
 - (b) the Supplier grants the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of this

agreement to copy and modify the Deliverables (excluding the Customer Materials) for the purpose of receiving and using the Services and the Deliverables in its business; and

- (c) the Customer shall not sub-license, assign or otherwise transfer the rights granted in clause 9.1(b).

9.2 In relation to the Customer Materials, the Customer:

- (a) and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials; and
- (b) grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials for the term of this agreement for the purpose of providing the Services to the Customer.

9.3 The Customer:

- (a) warrants that the receipt and use of the Customer Materials in the performance of this agreement by the Supplier, its agents, subcontractors or consultants shall not infringe the rights, including any Intellectual Property Rights, of any third party; and
- (b) shall indemnify the Supplier in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim brought against the Supplier, its agents, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights, to the extent that the infringement or alleged infringement results from copying, arising out of, or in connection with, the receipt or use in the performance of this agreement of the Customer Materials.

9.4 If either party (the **Indemnifying Party**) is required to indemnify the other party (the **Indemnified Party**) under this clause 9, the Indemnified Party shall:

- (a) notify the Indemnifying Party in writing of any claim against it in respect of which it wishes to rely on the indemnity at 9.3(b) or clause 9.4(b) (as applicable) (**IPRs Claim**);
- (b) allow the Indemnifying Party, at its own cost, to conduct all negotiations and proceedings and to settle the IPR's Claim, always provided that the Indemnifying Party shall obtain the Indemnified Party's prior approval of any settlement terms, such approval not to be unreasonably withheld;
- (c) provide the Indemnifying Party with such reasonable assistance regarding the IPR's Claim as is required by the Indemnifying Party, subject to reimbursement by the Indemnifying Party of the Indemnified Party's costs so incurred; and
- (d) not, without prior consultation with the Indemnifying Party, make any admission relating to the IPR's Claim or attempt to settle it, provided that the Indemnifying Party

considers and defends any IPR's Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Indemnified Party into disrepute.

10. Data Protection

10.1 The parties agree to be bound by the terms of Schedule 3 (Data Protection)

11. Freedom of Information

11.1 The parties acknowledge their respective obligations under the Freedom of Information Act 2000 and the Environmental Protection Regulations 2004 and agree to cooperate with the other party to such extent as the other party may reasonably require in order to respond to a request for information under the foregoing legislation provided that where such assistance is or is likely to be required the party receiving the request for information shall inform the other party of the request as soon as is reasonably practicable.

12. Limitation of liability

12.1 The Supplier has obtained insurance cover in respect of its own legal liability for individual claims not exceeding £7,500,000 (SEVEN MILLION FIVE HUNDRED THOUSAND POUNDS) per claim. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange, and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

12.2 References to liability in this clause **12** include every kind of liability arising under or in connection with this agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

12.3 Neither party may benefit from the limitations nor exclusions set out in this clause in respect of any liability arising from its deliberate default.

12.4 Nothing in this this clause **12** shall limit the Customer's payment obligations under this agreement.

12.5 Nothing in this agreement shall limit the Customer's liability under the clause 9,3 (IPR indemnities).

12.6 Nothing in this agreement limits any liability which cannot legally be limited, including but not limited to liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; and
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

12.7 Subject to clause 12.3 (no limitations in respect of deliberate default) and clause 12.6 (liabilities which cannot legally be limited), the Supplier's total liability to the Customer:

- (a) for damage to property caused by the negligence of its employees and agents in connection with this agreement shall not exceed £7,500,000 (SEVEN MILLION FIVE HUNDRED THOUSAND POUNDS) for any one event or series of connected events;
- (b) for loss arising from the Supplier's failure to comply with its data processing obligations under clause 10 (Data protection) shall not exceed £7,500,000 (SEVEN MILLION FIVE HUNDRED THOUSAND POUNDS); and
- (c) for all other loss or damage which does not fall within sub clause (a) or (b) shall not exceed £7,500,000 (SEVEN MILLION FIVE HUNDRED THOUSAND POUNDS);

12.8 Subject to clause 12.3 (no limitations in respect of deliberate default), clause 12.5 (liability under identified clauses) and clause 12.6 (liabilities which cannot legally be limited), the Customer's total liability to the Supplier:

- (a) for damage to property caused by the negligence of its employees and agents in connection with this agreement shall not exceed £7,500,000 (SEVEN MILLION FIVE HUNDRED THOUSAND POUNDS) for any one event or series of connected events;
- (b) for loss arising from the Supplier's failure to comply with its data processing obligations under clause 10 (Data protection) shall not exceed £7,500,000 (SEVEN MILLION FIVE HUNDRED THOUSAND POUNDS); and
- (c) for all other loss or damage which does not fall within sub clause (a) or (b) shall not exceed £7,500,000 (SEVEN MILLION FIVE HUNDRED THOUSAND POUNDS)

12.9 The caps on the Customer's liabilities shall not be reduced by:

- (a) amounts awarded or agreed to be paid under clause 9 (IPR indemnities); and
- (b) amounts awarded by a court or arbitrator, using their procedural or statutory powers in respect of costs of proceedings or interest for late payment.

12.10 Subject to clause 12.3 (No limitations in respect of deliberate default), clause 12.4 (No limitation on the customer's payment obligations), clause 12.5 (liability under identified clauses) and clause 12.6 (Liabilities which cannot legally be limited), this clause 12.10 specifies the types of losses that are excluded:

- (a) loss of agreements or contracts;
- (b) loss of anticipated savings;
- (c) loss of use or corruption of software, data or information;
- (d) loss of or damage to goodwill; and
- (e) indirect or consequential loss.

- 12.11 The Supplier has given commitments as to compliance of the Services with relevant specifications in clause 3 (Supplier's responsibilities). In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.
- 12.12 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of its having grounds to make a claim in respect of the event and shall expire 2 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

13. Termination

- 13.1 Either party may terminate this agreement by giving at least 6 months' notice to the other.
- 13.2 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any other term of this agreement and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so; or
 - (b) the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement.
- 13.3 For the purposes of clause 13.2(a), a **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from a substantial portion of this agreement over 3-month period during the term of this agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.
- 13.4 Without affecting any other right or remedy available to it, the Supplier may terminate this agreement with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment.

14. Obligations on Termination and Survival

14.1 Obligations on Termination or Expiry

On termination or expiry of this agreement:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
- (b) the Customer shall, return all of the Supplier's Equipment. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of the Supplier's Equipment. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping; and
- (c) the Supplier shall on request return any of the Customer Materials not used up in the provision of the Services.

14.2 Survival

- (a) On termination or expiry of this agreement, the following clauses shall continue in force: clause 1 (Interpretation), clause 6 (Non-solicitation), clause 9 (Intellectual property rights), clause 10 (Data Protection) clause 12 (Limitation of liability), clause 14 (Obligations on Termination or Expiry), clause 17 (Waiver), clause 19 (Severance), clause 25 (Governing law) and clause 26 (Jurisdiction).
- (b) Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

15. Force Majeure

15.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;

- (f) collapse of buildings, fire, explosion or accident;
- (g) any labour or trade dispute, strikes, industrial action or lockouts; and
- (h) interruption or failure of utility service.

15.2 Provided it has complied with clause 15.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

15.3 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

15.4 The Affected Party shall:

- (a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than 7 days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and
- (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

15.5 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 2 months, the party not affected by the Force Majeure Event may terminate this agreement by giving 1 month's written notice to the Affected Party.

16. **Variation**

Subject to clause 7 (Change control), no variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

17. **Waiver**

17.1 A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

17.2 A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right

or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

- 17.3 A party that waives a right or remedy provided under this agreement or by law in relation to one party, or takes or fails to take any action against that party, does not affect its rights in relation to any other party.

18. Rights and remedies

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

19. Severance

- 19.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.
- 19.2 If any provision or part-provision of this agreement is deemed deleted under clause 19.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

20. Entire agreement

- 20.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter provided that nothing in this clause 20 shall prejudice the operation of clause 10 (Data Protection).
- 20.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

21. No partnership or agency

- 21.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

21.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

22. Third party rights

22.1 Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

22.2 The rights of the parties to rescind or vary this agreement are not subject to the consent of any other person.

23. Notices

23.1 Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by e-mail to the other party's nominated manager for the Services as specified in accordance with clause 5.1 to the e-mail address specified in accordance with clause 4.2.

23.2 Any notice or communication shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- (c) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 23.2(c), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

23.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

24. Counterparts

24.1 This agreement may be signed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

24.2 Transmission of a signed counterpart of this agreement (but for the avoidance of doubt not just a signature page) by email (in PDF, JPEG or other agreed format) shall take effect as the transmission of a signed "wet-ink" counterpart of this agreement. If this method of transmission is adopted, without prejudice to the validity of the agreement thus made, each party shall on request provide the other with the "wet-ink" hard copy original of their counterpart.

24.3 No counterpart shall be effective until each party has signed at least one counterpart.

25. **Governing law**

This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

26. **Jurisdiction**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

This agreement has been entered into on the date stated at the beginning of it.

Schedule 1: The Services

Caerphilly County Borough Council, as the Supplier, operates a CCTV Control Room which runs for 24 hours (through three shift patterns) on 7 days of the week every day of any given year.

Blaenau Gwent County Borough Council, as the Customer, will enter into a Service Level Agreement (SLA) with the Supplier to provide:

- Pro-active remote maintenance checks across the Customer's CCTV Zones for identifying faults and issues, and reporting accordingly (through established points of contact) for investigation, maintenance and action;
- Information in response to retrospective requests from Gwent Police (and other Police Services) as a responsible authority, in-line with the Supplier's operating timeframe and practices for their Control Room.
- Information in response to retrospective requests from Blaenau Gwent County Borough Council as a responsible authority.
- Information in response to non-direct retrospective requests from other responsible authorities and relevant third parties for activities such as Freedom of Information requests, Subject Access Requests and Insurance investigations at the request of the Customer.
- Where reasonably practicable, the digital uploading of evidence to an online portal for viewing by Gwent Police, in accordance with the Memorandum of Understanding entered between the parties and Gwent Police at Schedule 5.
- Where reasonably practicable, live CCTV feeds to Gwent Police to enable real time collaboration between the Police and the Customer to respond to incidents, in accordance with the Memorandum of Understanding.
- Operational data and information to support statutory and non-statutory performance monitoring and reporting.

With regard to any personal data created in the delivery of the Services, the Supplier will act as the Data Processor and will support the Customer, as the Data Controller in complying with the Surveillance Camera Code of Practice issued by the Home Office and any other legislation or code of practice which may amend or supersede the same.

The Implementation and Facilitation of the Service

To be able to effectively deliver a service on behalf of the Customer, the Supplier will have the need for the following requirements to support the implementation and on-going operation of the service:

- Technical and Infrastructure Requirements
- Licensing and Compliance Requirements
- Operational and Staffing Requirements

Technical and Infrastructure Requirements

The Supplier will submit orders to British Telecom (BT) and subsequently oversee the implementation of six Public Service Broadband Aggregations (PSBAs) to provide private and secure Wide Area Network (WAN). This will be for the six CCTV Zones as set out in Schedule 4. The Customer will be responsible for the associated installation and on-going operating charges of the equipment required for this purpose, as well as any associated costs of the Supplier's IT service or contractors.

The Supplier will submit orders to BT and oversee the implementation of one further PSBA providing a private and secure WAN for the remaining CCTV Zone of Llanhilleth (at a future date within timeframe of this agreement, such date to be agreed between the parties). The Customer will be responsible for the associated installation and on-going operating charges for equipment associated with this one PSBA as with others noted above, as well as any associated costs of the Suppliers IT Service or contractors.

The Customer and any identified contractors operating on its behalf, will carry out all required preparatory work to enable the connection of the Blaenau Gwent Camera Infrastructure (as listed in Schedule 4) to the Supplier's existing operating infrastructure and systems. This includes the installation of compliant network video recorders and changing IP addresses to fit with the Supplier's operating arrangements and standards.

The Supplier will, if requested to do so by the Customer, supply to the Customer proposals for the use of remote cameras, i.e., Deployable/4G cameras, supplied by the Customer, if compatible with the Supplier's operating systems for monitoring and

downloading footage therefrom. All installation, set-up and on-going costs for this service will be paid by the Customer.

The Supplier will operate all the Customer's camera infrastructure through its already established operating system, Synetics, at its control room.

The Supplier's IT service will provide the Customer, and any contractor nominated by the Customer, with IP addresses/ranges for all camera infrastructure configured to the Customer NVRs (as set out in Schedule 4).

The Customer will liaise directly with the Suppliers contractor to obtain quotations and carry out all required work to connect the PSBA lines to the Supplier's Control Room and operating system. This will include quotations for completion of implementation including testing before live implementation.

The Supplier will expand its scheme and maps to include the Customer's camera infrastructure to the extent that the same is subject to this agreement.

The Customer will be responsible for all set up costs to complete the above actions/work, and supplementary on-going costs such as annual fees associated with installation for operations e.g., PBSA annual licences and running costs.

Licensing and Compliance Requirements

The Customer will engage with the Suppliers contractor to provide the required Synergy camera licences and complete installation to the Supplier's Synergy System as detailed in Schedule 2 to accommodate the monitoring of the Customer's camera infrastructure as outlined in Schedule 4.

The Supplier will ensure the appropriate Security Industry Authority (SIA) Licences are in place for all of its personnel engaged in the delivery of the Services.

The Customer will check that all Privacy zones (aimed at reducing potential for privacy infringements) on camera infrastructure are in place before implementation and provide information so that the Supplier can monitor and audit as part of the service delivery.

The Supplier will carry out monthly audits on privacy zones, check for any changes. The Supplier will report any questions, issues or concerns relating to privacy zones to the Customer for consideration and agreed actions.

The Supplier will ensure that any staff carrying out work on the Customer's systems are appropriately trained to be able to carry out any part of the delivery of the Services.

The Supplier will ensure that all relevant legislation and statutory codes of practice are adhered to for the provision of the Services, including but not limited to any requirements in relation to directed surveillance as defined in the Regulation of Investigatory Powers Act 2000 (RIPA).

Operational and Staffing Requirements

The Supplier will provide appropriate staffing levels to deliver the Services to the Customer, initially on the basis of the Supplier's assumptions as to appropriate levels of staffing based on the Supplier's knowledge of the Customer's operations and its own operating responsibilities. Any proposed changes to staffing levels would be made in-line with the main agreement as set out at sections 5 and 7. This will be carried out generally through the Contract Management arrangements provided at schedule 6.

The Services will be delivered 24 hours a day, 7 days per week.

The Supplier will carry out proactive maintenance checks of the Customer's camera infrastructure as listed in Schedule 4 in order to ensure effective operation with a focus on diagnosing issues and faults. Any issues and faults discovered by the Supplier will be reported to the Customer's nominated contractor, as well as being reported to the Customer by e-mail to CCTV@blaenau-gwent.gov.uk. These patrols will generally be carried out once per shift i.e. three times in every 24-hour period 7 days a week. The number of patrols carried out each month will be reported to the Customer through the Synergy System.

The Supplier will be the point of contact for liaison with the Customer's nominated contractor during remedial works identified by camera patrols and confirmation of rectification.

Retrospective requests for Information from the Police

The Supplier will retrospectively (not live) facilitate the provision of information (CCTV footage) from the Customer's camera infrastructure for requests from the Police through established and agreed Policy/Procedure requirements set out and agreed by both the Supplier and the Customer.

The Supplier, Customer and Gwent Police will agree and sign a Memorandum of Understanding (MoU), provided at Schedule 5, which outlines the expected procedures and protocols for requesting and supply of information.

Any information exchanged with the Police will be transmitted by the Supplier to Police using the Supplier's existing mechanisms. The focus of this will generally be through established online portals. The Customer recognises that under certain exceptional circumstances, for example where the size of the request is substantial, alternative methods for exchange may be used e.g. physical transfer of information via DVDs or hard drives. The Supplier will ensure that any such transfer follows a lawful process and is in-line with its own operating procedures.

The Supplier will submit a weekly log sheet to the Customer with the number of requests received. A more detailed summary will be submitted monthly, requests received may relate to earlier time periods and are therefore subject to change, numbers will be updated and reconciled retrospectively.

Live Response to requests from Gwent Police

The Supplier, on request from Gwent Police, will provide them the opportunity to obtain live response information from the Customer's camera infrastructure and or the transmission of a live image to Gwent Police HQ Control Room

The Supplier and the Customer will agree and provide a Memorandum of Understanding (MoU), provided at Schedule 5, which will outline the expected procedures and protocols for operating such a service, including utilising the dedicated telephone line in place and already provided to Gwent Police.

Such requests will be recorded by the Supplier on a daily log sheet, which will be shared every morning via email to the Customer via CCTV@blaenau-gwent.gov.uk.

Other Retrospective requests for information from the Customer

The Supplier will retrospectively (not live) provide to the Customer CCTV footage from the Customer's camera infrastructure following a request from the Customer through an established and agreed Policy/Procedure agreed by both the Supplier and the Customer

The Supplier will submit a weekly log sheet detailing all the nature of the requests and the footage supplied.

Monitoring Information for the Service

The Supplier will provide statistical information on a monthly and annual basis in relation to camera faults and issues; privacy zones audits; live incidents as requested by Police, retrospective requests for others, and any other information agreed between the parties from time to time.

The Supplier will provide daily incident logs as detailed in Schedule 6

which will be emailed to the Customer via CCTV@blaenau-gwent.gov.uk the next working day.

The Supplier will provide appropriate summaries on key financial and staffing information for meetings associated to contract management arrangements (see Schedule 6)

Signed by ROBERT HARTSHORN
for and on behalf of Caerphilly
County Borough Council



.....

Robert Hartshorn
Head of Public Protection,
Community & Leisure

Date 20th April
2023.....

Signed by SARAH KING for and
on behalf of BLAENAU GWENT
COUNTY BOROUGH COUNCIL



.....

Sarah King
Head of Governance and
Partnerships

Date 20th April
2023.....