



CONTRACT

between

THE HEALTH AND SAFETY EXECUTIVE

and

ESTIMOTE POLSKA SP. Z O. O.

for

**Provision of a Proximity Wearable Technology
The Wear-It Study**

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This Contract is made between:

The **HEALTH AND SAFETY EXECUTIVE** (acting as part of the Crown) of Redgrave Court, Merton Road, Bootle, Merseyside, L20 7HS (hereinafter called 'the HSE' of the one part) and

Estimote Polska Sp. z o. o., company registration number 122699050, KRS 0000438766 and whose registered office is at KRAKUSA 11, 30-535 Krakow, Poland (hereinafter 'the Contractor' of the other part), in accordance with the details, terms and conditions stated herein.

WHEREAS

The Contractor was successful as a result of a tender exercise to deliver the proposal as detailed in Schedule A.

1 GENERAL CONDITIONS

- 1.1 This Contract will be subject to the HSE Standard Terms and Conditions of Contract for the Provision of Services, attached as Schedule B. However, where any conflict exists between the clauses in this Contract and the Terms and Conditions at Schedule B, then the clauses in this Contract will prevail. The Clauses in this Contract and the Terms and Conditions at Schedule B will also govern all Purchase Orders placed against this Contract.

2 ENTIRE AGREEMENT

- 2.1 This Contract constitutes the entire agreement and understanding between the parties concerning the subject matter hereof and supersedes all prior agreements, both oral and written, representations, statements, negotiations and undertakings.

3 STATEMENT OF SERVICE REQUIREMENTS

- 3.1 The Contractor will carry out on behalf of the HSE a Statement of Services (hereinafter called the "Services") as detailed in Schedule A to this Contract ("Pilot package" and "Deployment phase package" as described in Tender Submissions Form for Tender REF HSE/T4502).
- 3.2 The Contractor shall organise and conduct the entire Services in consultation with the HSE where appropriate, and provide all necessary resources of personnel, materials, Services and equipment, except for such resources that may be provided by the HSE at its discretion.
- 3.3 No undertaking shall be deemed to have been made by the HSE in respect of the total quantities or values of the Services to be ordered pursuant to this contract and the Contractor acknowledges and agrees that it has not entered into this contract on the basis of any such undertaking.

4 MANAGEMENT OF THE CONTRACT

- 4.1 The HSE Contract Manager who will be responsible for liaison and certifying completion of the provision and overall management of the Services is identified at Annex 1.
- 4.2 The Services will be monitored by the Contract Manager who will also evaluate the provision on completion.
- 4.3 In all cases, both parties will work within the agreed timescales/constraints and costs outlined in the Contract.

5 DURATION

- 5.1 The Services shall commence on 8th November 2021 and shall be completed by 7th November 2022, whereby “Pilot package” and “Deployment phase package” will be delivered and configured by the Contractor by 31 December 2021.

6 COSTS AND DELIVERY

- 6.1 The total amount to be paid by the HSE to the Contractor for the Services shall not exceed £76,391.00 exclusive of VAT.
- 6.2 Any additional costs will be agreed in advance with the HSE Contract Manager and subject to clause 15 Variation to Contract.
- 6.3 Where appropriate, and subject to the HSE Contract Manager’s approval, actual and reasonable travel and subsistence costs shall be payable in line with the rates agreed at Annex 2.
- 6.4 HSE will bear all taxes and public fees relating to the delivery of the physical deliverables (especially proximity beacons/wearables) to the HSE, in particular customs duties, as well as the remuneration of the optional intermediary transport company chosen by the HSE (FCA Incoterms).

7 IR35 – INTERMEDIARIES LEGISLATION

- 7.1 HSE has undertaken an IR35 assessment of this engagement, and the HMRC online assessment tool determined that IR35 does not apply to this engagement.

8 TAX STATUS

- 8.1 Where the Contractor, or its staff, is liable to be taxed in the UK in respect of consideration received under this contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.

- 8.2 Where the Contractor, or its staff, is liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.
- 8.3 HSE may, at any time request that the Contractor provides information which demonstrates how it, or its staff, complies with Clauses 8.1 and 8.2 above or why those Clauses do not apply to it.
- 8.4 A request under Clause 8.3 above may specify the information which the Contractor, or its staff, must provide and the period within which that information must be provided.
- 8.5 HSE may terminate this contract if
- a) in the case of a request mentioned in Clause 8.3 above-
 - (i) The Contractor, or its staff, fails to provide information in response to the request within a reasonable time, or
 - (ii) The Contractor, or its staff, provides information which is inadequate to demonstrate either how it complies with Clauses 8.1 and 8.2 above or why those Clauses do not apply to it;
 - (b) in the case of a request mentioned in Clause 8.4 above, The Contractor, or its staff, fails to provide the specified information within the specified period, or
 - (c) it receives information which demonstrates that, at any time when Clauses 8.1 and 8.2 apply the Contractor, or its staff, is not complying with those Clauses.
- 8.6 HSE may supply any information which it receives under Clause 8.3 to the Commissioners of Her Majesty's Revenue and Customs for the purposes of the collection and management of revenue for which they are responsible.

9 INVOICING AND PAYMENTS

- 9.1 All invoices raised must include the relevant Purchase Order number which will be issued by HSE Procurement Unit. Failure to include the Purchase Order Number may delay payment. Invoices should be submitted electronically in PDF format to APinvoices-HAS-U@gov.sscl.com. The Contractor will issue an invoice covering the costs (remuneration) indicated in paragraph 6.1 above as soon as the configuration of "Deployment phase package" has been completed.
- 9.2 Invoices should also include details of work satisfactorily carried out and any VAT properly chargeable.
- 9.3 HSE shall make payment of agreed costs, in arrears, within 30 days of the acceptance of the invoice.

- 9.4 The Contractor shall send a copy invoice along with details of any work satisfactorily carried out to the HSE Contract Manager identified at Annex 1.

10 DELIVERABLES

- 10.1 The Contractor shall provide deliverables detailed at Schedule A.

11 INTELLECTUAL PROPERTY AND SOFTWARE LICENSE

- 11.1 At the commencement of and for the duration of the Services, the Contractor grants to HSE on the territory of the United Kingdom a limited, non-exclusive, non-transferable and non-sublicensable per-user license to access and use of workplace safety/distancing platform created by the Contractor ("Platform") for conducting a study described in Statement of Service Requirements for the Procurement of a Proximity Wearable Technology The Wear-It Study. The abovementioned license is limited up to 100 (in "Pilot package") and then up to an additional 200 (in "Deployment phase package") concurrent users of wearables and up to 10 concurrent users of HR Dashboard.
- 11.2 HSE is authorized to configure the Platform within the scope of configuration possibilities described in End User Documentation provided by the Contractor. HSE acknowledges that it is not authorized to modify, develop or enhance Platform or any of its hardware or software elements (beacons, wearables, Micro-app, HR Dashboard) in any other way than described in preceding sentence.
- 11.3. Unless otherwise provided by mandatory provisions of law, HSE is also not authorized to reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code, software structure, algorithms or know-how relevant to Platform.
- 11.4 The Parties agree that clause E8.1-E8.4 and E8.11 of the HSE Standard Terms and Conditions of Contract for The Provision of Services shall not apply.

12 ACCESS TO HSE PREMISES

- 12.1 It shall be the Contractor's responsibility to ensure that, where access to HSE Premises or HSE confidential information is necessary, personnel engaged in the performance of this Contract shall have undergone pre-employment checks covering identity, the last three years employment history, nationality and immigration status and criminal record for unspent convictions. Such checks shall meet the requirements of HMG Baseline Security Standard.
- 12.2 HSE reserves the right, at its sole discretion, to carry out audits and spot checks at any time during the Contract Period to satisfy itself that the checks have been carried out. Guidance on pre-employment checks may be found at <http://www.cabinetoffice.gov.uk/sites/default/files/resources/hmg-personnel-security-controls.pdf>

13 CONFIDENTIALITY

- 13.1 The Contractor shall not at any time divulge any information or material acquired during the performance of this Contract to any third party without prior permission in writing of the Executive, except where required in the course of any legal proceedings. The Contractor may also disclose the Confidential Information of HSE on the terms set out in HSE Standard Terms and Conditions of Contract for The Provision of Services, especially on a confidential basis to a professional adviser, consultant or supplier for any purpose relating to or connected with this Contract.
- 13.2 The Contractor shall keep documents and other materials produced or acquired in the course of the contract in accordance with The Criminal Procedure and Investigations Act 1996 (CPIA).
- 13.3 HSE may disclose the Confidential Information of the Contractor:
- (a) on a confidential basis to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body;
 - (b) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
 - (c) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
 - (d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 13.3(a) (including any benchmarking organisation) for any purpose relating to or connected with this Contract;
 - (e) on a confidential basis for the purpose of the exercise of its rights under this Contract; or
 - (f) on a confidential basis to a proposed Successor Body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Contract,

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this Clause. Unless prohibited by mandatory law, HSE will inform the Contractor in advance of such disclosure.

- 13.4 On the basis of clauses E6 within Schedule B of the attached standard terms and conditions, ~~on the~~ understanding that no confidential information is published HSE hereby consents to the publication in the media (including Contractor's website and social media profiles) of information on the commencement of the cooperation between HSE and Estimote, in particular the nature and scope of the cooperation and the value of the Contract.

14 PUBLICATION

- 14.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. HSE shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- 14.2 Notwithstanding any other term of this Contract, the Contractor hereby gives his consent for HSE to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public. HSE will inform the Contractor in advance of such publication.
- 14.3 HSE will consult with the Contractor to inform its decision regarding any redactions but HSE shall have the final decision in its absolute discretion.
- 14.4 The Contractor shall assist and co-operate with HSE to enable HSE to publish this Contract.

15. TRANSPARENCY

- 15.1 The Government has set out the need for greater transparency across its operations to enable the public to hold public bodies and politicians to account. This includes commitments relating to public expenditure, intended to help achieve better value for money. HSE is obliged to publish documents for contracts with a value over £10,000.
- 15.2 In addition, you should be aware that if you are awarded a new contract with a value of over £10,000, the resulting contract comprising of Specification, Terms and Conditions and Associated Schedules (including the winning bid) will be published.
- 15.3 By exception, requests for redaction will be subject to the public interest test and redaction will only be agreed where the public interest in withholding the information outweighs the public interest in disclosure. You must identify / reference the relevant text, show clear justification for redaction and detail the appropriate section of the Freedom of Information Act 2000 (for example, Sections 40, 41, 43) on which the redaction request is sought.

16 VARIATION TO CONTRACT

- 16.1 Except where expressly stated in this contract, no change, amendment or modification shall be effective unless in writing and signed by the duly authorised representatives of both parties.

- 16.2 Any agreed changes to the Contract or Schedule A (Statement of Service Requirement) will be in the form of a Contract Change Note (CCN), which will be raised and issued by the HSE Procurement Unit.

17 PERSONAL DATA PROTECTION

- 17.1 In relation to the personal data shared for setting up this contract - As independent data controllers, HSE and the Contractor will not process the personal data relating to the legal representatives, employees and staff of the other Party involved in the activities relating to this Contract. Both Parties will hand over to abovementioned persons information clauses supplied by the other Party.
- 17.2 in relation to the personal data generated by the Wear-It study team - The HSE acknowledges that personal data of the study participants will not be processed by the Contractor. The HSE undertakes not to provide the Contractor with any personal data of abovementioned persons, especially wearing wearables. If such data are entered into the Contractor's cloud or uploaded on any tangible or intangible carries used by the Contractor to provide Services, they will be immediately deleted by the Contractor.

18 GOVERNING LAW

- 18.1 This Contract shall be governed by and interpreted in accordance with English law and the Parties submit to the exclusive jurisdiction of the courts of England and Wales.

19 TERMINATION AND WITHDRAWAL

- 19.1 This Contract may be terminated by either party by giving one month's written notice. In the event of termination by HSE, the Contractor shall be provided with any re-imbursement of costs, actually and reasonably incurred, up to the date of termination, subject to the limit specified in Clause 6 above.

19.2 Until 31st of March February 2022 and providing that the Pilot package will not meet the conditions set out in the Technology specification (Schedule A, HSE T4052 Schedule B Tender Submission Form Estimate, Part 2: Procurement Specific Questions #1 Theme number 2), HSE shall have the right to withdraw from the Contract in respect of the Deployment phase. The withdrawal from the Contract must be made in writing or by e-mail sent by the HSE Contractual Queries Contact under pain of nullity. In the event that HSE exercises this right:

- (a) HSE will return the Contractor without delay and at its own expense and risk all physical deliverables delivered to the HSE under Deployment phase package (including 20040 proximity beacons);
- (b) software license will not be granted in regard to the Deployment phase package or will immediately cease in that regard. Thereafter the license will be limited up to 100 concurrent users of wearables and up to 4 concurrent users of HR Dashboard;

- (c) within 30 days of the receipt of deliverables mentioned in clause 19.2 (a) above, the Contractor will reimburse the HSE for the returned deliverables (-[.] nett 11,000 GBP) provided that the Contractor may deduct from that amount the value of not returned or damaged deliverables. The Contractor will also reimburse the HSE an amount corresponding to 109/12 of the total license fee for Deployment phase package (-[.] nett 37,000 GBP).

ALTERNATYWNIEM The Contractor will also reimburse the HSE Deployment phase package software license fee in the amount of [.] nett.

As Witnessed at the Hands of the Parties

SIGNATORIES

IN WITNESS WHEREOF THIS CONTRACT HAS BEEN AGREED :

Signature

Name in Capitals

Position

Date

Duly authorised to sign on behalf of

ESTIMOTE POLSKA SP. Z O. O.

KRAKUSA 11, 30-535, Krakow, Poland

Signature

Name in Capitals

Position

Procurement Manager

Date

Duly authorised to sign on behalf of the

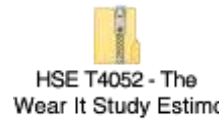
HEALTH AND SAFETY EXECUTIVE

Procurement Unit, Building 2.3, Redgrave Court, Merton Road, Bootle, Merseyside L20 7HS

Schedule A

STATEMENT OF SERVICE REQUIREMENT

The Contractor shall undertake the following Statement of Service embedded in this document below.



Schedule B

**HSE STANDARD TERMS AND CONDITIONS OF CONTRACT FOR
THE PROVISION OF SERVICES**

Please see the attached document containing the HSE Standard Terms and Conditions of Contract for the Provision of Services



HSE's%20Terms%20
and%20Conditions%

Annex 1

CONTACT LIST

HSE Contacts	Contractor Contacts
Contractual Queries	
<p>Jackie Fairclough Health & Safety Executive Procurement Unit Building 2.3 Redgrave Court Merton Road Bootle Merseyside L20 7HS</p> <p>e-mail: Jackie.Fairclough@hse.gov.uk</p>	
Contract Managers / Technical Queries	
<p>Nick Warren Health & Safety Executive Harpur Hill Buxton Derbyshire</p> <p>e-mail: Nick.Warren@hse.gov.uk</p>	

Annex 2

HSE UK TRAVEL AND SUBSISTENCE RATES

Car Mileage Rates (for using your own vehicle) – All engine types and sizes	
Up to 10,000 mile per financial year	45p per mile
Over 10,000 miles per financial year	25p per mile
NB: Your vehicle must be insured for Business Use	
Public Transport Fares	
Second Class Rail travel, Air fares (within UK only), Bus fares etc will be payable at cost on production of receipts, provided that the most economical means of transport has been used.	

SUBSISTENCE RATES

All receipts **must** be retained to support your claim.

Day Subsistence	
More than 5 hours and up to 10 hours	Actual costs up to £6.00
More than 10 hours and up to 12 hours	Actual costs up to £10.00
More than 12 hours	Actual costs up to £16.00
Night Subsistence	
Booked via HSE Accommodation Booking Agency :	
The 24 hour overnight subsistence allowance consists of 2 components :	
Meal One	Actual costs up to £6.00
Meal Two	Actual costs up to £15.00
This is payable as a “24 hour” rate and amounts incurred over any individual component will not be reimbursed by HSE. The rates are agreed with HMRC to obtain dispensation from tax liability.	
Booked making your own Commercial Arrangements	
Actual cost of bed and breakfast up to a maximum of:	£93.00 per night in
London	or
elsewhere	£70.00 per night

