nec³ Engineering and Construction

Short Contract

A contract between DEFRA Estates

and Mitie (Facilities Management) Itd for B268 CCTV Upgrade

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Notes about this contract are printed in boxes like this one. They are not part of the contract.

Γ

Name	The <i>Employer</i> is THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD A	ND RURAL AFFAIRS.
Address	Noble House	
	17 Smith Square, Westminster, London, SW1P3JR	
The works are	B268 CCTV Upgrade	
	Contact for all matters:	
The site is	Woodham Lane, New Haw, Surrey KT15 3NB	
The starting date is	2 August 2021	
The completion date is	14 December 2021	
The period for reply is		
The defects date is	ASAP up to 3 days.	
The defect correction period is	52 weeks	
The delay damages are	1 week	weeks after Completion
The assessment day is the		weeks.
The retention is	Nil	perday.
	31	of each month.
	0	%.
Does the United Kingdom Housi Regeneration Act (1996) apply?		
Regeneration Act (1990) apply:		Yes
	The Adjudicator is	
Name	The Royal Institution of Chartered Surveyors	
The interest rate on late paymer	nt is 0.5% per complete week of delay.	
The conditions of contract are the NEC3 Engineering and Construction Short Contract April 2013 and the following additional conditions:		

Option X7: Delay damages

Delay damages for Completion of the whole of the works are Nil.

Option X15: Limitation of the Contractor's liability for his design to reasonable skill and care

Applies

Option X16: Retention

The retention free amount is 0%. The retention percentage is 0%

Option X18: Limitation of liability

X18.1 The Contractor's liability to the Employer for indirect or consequential loss is limited to Nil

X18.2 For any one event, the Contractor's liability to the Employer for loss of or damage to the Employer's property, loss of damage to the Works, Plan and Materials and Equipment or liability for bodily injury or death for a person (not an employee of the Contractor) is limited to \pm 1,000,000

X18.3 The Contractor's liability for Defects due to his/her design which are not listed on the Defects Certificate is limited to \pm 1,000,000

X18.4 The Contractor's {Subcontractors} total employer liability, other than excluded matters detailed in Schedule 16 - Insurance, is limited to \pm 10,000,000 in respect of each claim.

X18.5 The end of liability date is 6 years after the Completion of the whole of the works.

Option Y(UK)2: The Housing Grants, Construction and Regeneration Act 1996

The period for payment is 30 days from the date of valuation.

Option Z	Option Z: Additional conditions of the Contract The <i>additional conditions of contract</i> are described below. Each Option Z provision will apply as set out below.
Option Z1	Option Z1: Amending the Interpretation Provisions
Option Z1.1	 Delete existing clause 12.1 and replace with: "In this contract, except where the context shows otherwise words in the singular also mean in the plural and the other way round, words in the masculine also mean in the feminine and neuter and the other way round,

	 references to a document include any revision made to it in accordance with
	this contract,
	 references to a statute or statutory instrument include any amendment or re-
	enactment of it from time to time and any subordinate legislation or code of
	practice made under it and
	 references to a standard include any current relevant standard that replaces it."
Option Z2	Option Z2: Confidentiality
Option Z2.1	For the purpose of this contract, Personal Data is information collected by the
	Contractor on behalf of the Employer in relation to this contract, which relates to living
	individuals who can be identified:
	from that information
	• from that information combined with other details in (or likely to come into) the
	possession of the Employer.
	The Contractor keeps (and ensures that its employees and Subcontractors keep)
Option Z2.2	confidential and does not disclose to any person, including, without limitation, Others:
	the terms of this contract and
	any confidential or proprietary information (including Personal Data) provided
	to or acquired by the <i>Contractor</i> in the course of Providing the Works
	except that the Contractor may disclose information
	 to its legal or other professional advisers,
	 to its employees and Subcontractors as needed to enable the <i>Contractor</i> to
	Provide the Works,
	 where required to do so by law or by any professional or regulatory obligation
	or by order of any court or government agency, provided that (unless the
	<i>Contractor</i> is prohibited by law from doing so) prior to disclosure the
	Contractor consults the Project Manager and takes full account of the
	<i>Employer's</i> views about whether (and if so to what extent) the information
	should be disclosed,
	 which it receives from a third party who lawfully acquired it and who is under
	 which it receives from a third party who fawfully acquired it and who is under no obligation restricting its disclosure,
	which is in the public domain at the time of disclosure other than due to the fault of the Contractor or with the consent of the Project Manager
	fault of the Contractor or with the consent of the Project Manager.
Option Z2.3	

	The Contractor does not (and ensures that its employees and Subcontractors do not)
	use any confidential or proprietary information provided to or acquired by it for any
	purpose other than to Provide the Works.
Option Z3	Option Z3: Security
Option Z3.1	Without limiting this clause Z3, the <i>Contractor</i> fully complies with all security
	requirements stated in the Works Information.
	Site admittance
Option Z3.1	The Contractor submits to the Project Manager details of people who are to be
	employed by it and its Subcontractors in connection with the works. The details include
	a list of names and addresses, the capacities in which they are employed, and other
	information required by the Project Manager.
Option Z3.2	The Project Manager may instruct the Contractor to take measures to prevent
	unauthorised persons being admitted on to the Site. The instruction is a compensation
	event if the measures are additional to those required by the Works Information.
	Passes
Option Z3.3	Employees of the Contractor and its Subcontractors are to carry an Employer's pass
	whilst they are on the parts of the Site stated in the Contract Data.
Option Z3.4	The Contractor submits to the Project Manager for acceptance a list of the names of
	the people for whom passes are required.
	Photographs
Option Z3.5	The Contractor does not take photographs of the Site or the works or any part of them
	unless he has obtained the acceptance of the Project Manager.
Option Z3.6	The Contractor takes the measures needed to prevent its Subcontractors' people
	taking, publishing or otherwise circulating such photographs.
Option 74	
Option Z4	Option Z4: Data Protection
Option Z4.1	The Data Protection Acts are the Data Protection Act 2018- GDPR and any other
	laws or regulations relating to privacy or personal data.

Option Z4.2	 For the purposes of this contract and the Data Protection Acts the <i>Employer</i> is the Data Controller and the <i>Contractor</i> is the Data Processor.
Option Z4.4	The <i>Contractor</i> processes the Personal Data in accordance with (and so as not to put the <i>Employer</i> in breach of) the Data Protection Acts and only to the extent necessary for the purpose of performing its obligations under this contract.
Option Z4.5	 The Contractor has in place and maintains until the defects date appropriate technical and organisational measures (having regard to the nature of the Personal Data) to protect the Personal Data against accidental, unauthorised or unlawful processing, destruction, loss, damage, alteration or disclosure and adequate security programmes and procedures to ensure that unauthorised persons do not have access to the Personal Data or to any equipment used to process Personal Data.
Option Z4.6	 The <i>Contractor</i> immediately notifies the <i>Project Manager</i> if it receives a request from any person whose Personal Data it holds to access his Personal Data or a complaint or request relating to the <i>Employer's</i> obligations under the Data Protection Acts.
Option Z4.7	 The <i>Contractor</i> assists and co-operates with the <i>Project Manager</i> in relation to any complaint or request received, including providing full details of the complaint or request, complying with the request within the time limits set out in the Data Protection Acts and in accordance with the instructions of the <i>Project Manager</i> and promptly providing the <i>Project Manager</i> with any Personal Data and other information requested by him.
Option Z4.8	The <i>Contractor</i> allows the <i>Employer</i> to conduct periodic audits of the <i>Contractor's</i> compliance with the Data Protection Acts. The <i>Contractor</i> complies with the instructions of the <i>Project Manager</i> to enable such audits to be carried out.
Option Z4.9	
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	The <i>Contractor</i> complies with the requirements of the <i>Employer</i> in relation to the storage, dispatch and disposal of the Personal Data in any form or medium.
Option Z4.10	The <i>Contractor</i> immediately notifies the <i>Project Manager</i> on becoming aware of any breach of this clause or of the Data Protection Acts by the <i>Contractor</i> or any Subcontractor.
Option Z4.11	The <i>Contractor</i> does not process the Personal Data outside the European Economic Area without the agreement of the <i>Project Manager</i> . Where the <i>Project Manager</i> agrees, the <i>Contractor</i> complies with the instructions of the <i>Project Manager</i> and provides an adequate level of protection to any Personal Data in accordance with the eighth data protection principle set out in Schedule 1 to the Data Protection Act 1998.
Option Z5	Option Z5: Disclosure of Information
Option Z5.1	A Disclosure Request is a request for information relating to this contract received by the <i>Employer</i> pursuant to the Freedom of Information Act 2000, the Environmental Information Regulations 2004 or otherwise.
Option Z5.2	The <i>Contractor</i> acknowledges that the <i>Employer</i> may receive Disclosure Requests and that the <i>Employer</i> may be obliged (subject to the application of any relevant exemption and, where applicable, the public interest test) to disclose information (including commercially sensitive information) pursuant to a Disclosure Request. Where practicable, the <i>Employer</i> consults with the <i>Contractor</i> before doing so in accordance with the relevant Code of Practice. The <i>Contractor</i> uses its best endeavours to respond to any such consultation promptly and within any deadline set by the <i>Project Manager</i> and acknowledges that it is for the <i>Employer</i> to determine whether such information should be disclosed.
Option Z5.3	When requested to do so by the <i>Project Manager</i> , the <i>Contractor</i> promptly provides information in its possession relating to this contract and assists and co-operates with the <i>Project Manager</i> to enable the <i>Employer</i> to respond to a Disclosure Request within the time limit set out in the relevant legislation.
Option Z5.4	The <i>Contractor</i> promptly passes any Disclosure Request which it receives to the <i>Project Manager</i> . The <i>Contractor</i> does not respond directly to a Disclosure Request unless instructed to do so by the <i>Project Manager</i> .

Option Z6	Option Z6: Copyright
Option Z6.1	Material means all materials prepared by or on behalf of the <i>Contractor</i> for the <i>works</i> and all updates, additions and revisions to them and any designs or inventions incorporated in them.
Option Z6.2	Permitted Uses means the design, construction, completion, reconstruction, modification, extension, refurbishment, maintenance, funding, disposal, letting, fitting-out, advertisement, demolition, reinstatement, building information, modelling and repair of the <i>works</i> .
Option Z6.3	The <i>Contractor</i> grants to the <i>Employer</i> , with immediate effect, an irrevocable, non- exclusive, royalty-free licence to copy and make full use of the Material for any purpose, including without limitation any of the Permitted Uses.
Option Z6.4	The <i>Employer's</i> licence carries the right to grant sub-licences and is transferable to third parties without the consent of the <i>Contractor</i> and survives termination (for any reason) of the <i>Contractor's</i> employment under this contract.
Option Z6.5	The <i>Contractor</i> is not liable for use of the Material for any purpose other than that for which it was prepared or provided.
Option Z7	Option Z7: Discrimination
Option Z7.1	The <i>Contractor</i> does not discriminate directly or indirectly or by way of victimisation or harassment against any person contrary to the Race Relations Act 1976, the Sex Discrimination Act 1975, the Disability Discrimination Acts 1995 and 2005 or the Equality Act 2010 (the " Discrimination Acts ").
Option Z7.2	Where possible in Providing the Works, the <i>Contractor</i> co-operates with and assists the <i>Employer</i> to satisfy its duty under the Discrimination Acts to eliminate unlawful discrimination and to promote equality of opportunity between persons of different racial groups and between disabled people and other people.
Option Z7.3	Where an employee or Subcontractor employed by the <i>Contractor</i> is required to carry out any activity alongside the <i>Employer's</i> employees in any premises, the <i>Contractor</i>

	ensures that each such employee or Subcontractor complies with the <i>Employer's</i> employment policies and codes of practice relating to discrimination and equal
	opportunities.
Option Z7.4	The Contractor notifies the Project Manager in writing as soon as he becomes aware
001127.4	of any investigation or proceedings brought against the Contractor under the
	Discrimination Acts in connection with this contract and
	 provides any information requested by the investigating body, court or trib unal in the timescale allotted,
	 attends (and permits a representative from the <i>Employer</i> to attend) any associated meetings,
	promptly allows access to any relevant documents and information and
	• co-operates fully and promptly with the investigatory body, court or tribunal.
Option Z7.5	The Contractor indemnifies the Employer against all costs, charges, expenses
	(including legal and administrative expenses) and payments made by the Employer
	arising out of or in connection with any investigation or proceedings under the Discrimination Acts resulting from any act or omission of the <i>Contractor</i> .
Option Z7.6	The Contractor includes in the conditions of contract for each Subcontractor
	obligations substantially similar to those set out above.
Option Z8	Option Z8: Quality Management and Audit
	The Contractor operates a quality management system for Providing the Works which
Option Z8.1	complies with the relevant parts of ISO 9001:2008 and ISO 9001:2008/Cor
	1:2009,
	 incorporates an environmental management system consistent with ISO 14001:2004,
	 includes processes for delivering continual improvement following the guidance in ISO 9004:2009,
	 has third party certification from a UKAS approved accreditation body (or its
	equivalent) or is operating in preparation for accreditation within 12 months of
	the Contract Date
	complies with good industry practice and

	• otherwise fully complies, and is consistent with the requirements set out in the Works Information.
Option Z8.2	The <i>Contractor</i> provides to the <i>Project Manager</i> , within one week of the Contract Date, a quality policy statement and a quality plan for acceptance. The quality policy statement and quality plan comply with the requirements stated in the Works Information and are sufficiently detailed to demonstrate how the <i>Contractor</i> will Provide the Works in accordance with this contract.
Option Z8.3	The <i>Contractor</i> keeps a controlled copy of the quality plan available for inspection by the <i>Project Manager</i> at all times.
Option Z8.4	 The <i>Contractor</i> complies with an instruction from the <i>Project Manager</i> to change the quality plan so that it complies with the requirements of this contract or correct a failure of the <i>Contractor</i> to comply with the quality plan.
Option Z8.5	The <i>Project Manager</i> and other persons authorised by him may carry out periodic audits of the <i>Contractor's</i> quality management system as specified in the Works Information. The <i>Contractor</i> allows access to the Working Areas and other premises used by the <i>Contractor</i> to Provide the Works and provides all facilities and assistance necessary to enable such audits to be carried out.
Option Z9	Option Z9: Compliance with Legislation
Option Z9.1	 The Contractor Provides the works: in a proper and workmanlike manner, and in compliance with
	 all statutes, statutory instruments, regulations, rules and orders made under any statute or directive having the force of law which affect the <i>works</i> or performance of any obligations under this contract, and any regulation, bye-law, permission or approval of any local
	authority or statutory undertaker having jurisdiction in relation to

	the works or with whose systems the works are, or are to be,
	connected.
Option Z9.2	The project that comprises or includes the <i>works</i> is not notifiable for the purposes of the Construction (Design and Management) Regulations 2015 (the " CDM Regulations "). The <i>Contractor</i> is the principal contractor under the CDM Regulations in respect of the <i>works</i> and performs all the functions and obligations required to be performed by the principal contractor under the CDM Regulations.
Option Z10	Option Z10: Fair Payment
Option Z10.1	The Contractor assesses the amount due to a Subcontractor without taking into account the amount certified by the Project Manager.
Option Z10.2	The Contractor includes in the contract with each Subcontractor
	• a period for payment of the amount due to the Subcontractor not greater than
	19 days after the due date in this contract. The amount due includes, but is
	not limited to, payment for work which the Subcontractor has completed from the previous assessment date up to the current assessment date in this contract,
	• a provision requiring the Subcontractor to include in each sub subcontract the same requirement, except that the period for payment is to be not greater than
	23 days after the due date in this contract and
	• a provision requiring the Subcontractor to assess the amount due to a sub- contractor without taking into account the amount paid by the <i>Contractor</i> .
Option Z10.3	The due date in this contract is the date on which the <i>Project Manager</i> certifies payment.
Option Z10.4	The Contractor notifies non-compliance with the timescales for payment through the
	Efficiency and Reform Group Supplier Feedback Service. The <i>Contractor</i> includes this provision in each subcontract and requires Subcontractors to include the same provision in each subcontract.
Option Z11	Option Z11: Assignment
Option Z11.1	The <i>Contractor</i> does not assign its interest in or any rights arising under this contract without the consent of the <i>Employer</i> .
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Option Z11.2	The <i>Employer</i> may assign, charge or transfer its interest in this contract or any rights arising under it at any time without the consent of the <i>Contractor</i> . The <i>Employer</i> notifies the <i>Contractor</i> of any such assignment, charge or transfer.
Option Z11.3	The <i>Contractor</i> does not (and ensures that its employees and Subcontractors do not) use any confidential or proprietary information provided to or acquired by it for any purpose other than to Provide the Works.
Option Z12	Option Z12: Contractor's Design Submission Procedure
Option Z12.1	Insert a new definition in clause 11.2: "Contractor's Design Documents are drawings, design details and specifications of work, Plant and Materials prepared by the Contractor for the works".
Option Z12.2	 Delete clauses 21.2 and 21.3 and replace with the following: "21.2 The <i>Contractor</i> submits the <i>Contractor's</i> Documents to the <i>Supervisor</i> for acceptance at the times and in the manner and format stated in the Works Information. 21.3 The <i>Supervisor</i> returns each <i>Contractor's</i> Document to the Contractor marked either 'A' (accepted), 'B' (accepted with comments) or 'C' (rejected). If the <i>Supervisor</i> marks a <i>Contractor's</i> Document 'B' or 'C', he will state his reasons. A reason for not accepting a <i>Contractor's</i> Document is that it does not comply with: the Works Information, any previous <i>Contractor's</i> Document which: the <i>Supervisor</i> has returned marked 'A', or
	 the Supervisor has returned marked 'B' and the Contractor has amended to incorporate the Supervisor's comments, the applicable law or any other provision of this contract.
	21.4 If the Supervisor does not return a Contractor's Document within the period for reply, it is treated as having been returned marked 'A'.
	21.5 Where a <i>Contractor's</i> Document is returned marked 'A', the <i>Contractor</i> proceeds with the relevant work in accordance with the <i>Contractor's</i> Design Document.

	21.6 Where a Contractor's Document is returned marked 'B', the Contractor					
	 amends the Contractor's Document to incorporate the Supervisor's comments, 					
	• submits the Contractor's Document as so amended to the Supervisor and					
	 proceeds with the relevant work in accordance the Contractor's Document as 					
	so amended.					
	21.7 Where a Contractor's Design Document is returned marked 'C', the Contractor					
	 amends the Contractor's Document to incorporate the Supervisor's comments, 					
	 re-submits it to the Supervisor for acceptance and 					
	• does not proceed with the relevant work until the Supervisor has returned it marked 'A' or 'B' and, where it is marked 'B', it has complied with clause 21.6					
	21.8 If the <i>Contractor</i> disagrees with the comment of the <i>Supervisor</i> on a <i>Contractor's</i> Document marked 'B' or 'C', he notifies the <i>Supervisor</i> within one week of receipt stating his reasons and that in his opinion compliance with the comment will give rise to a change in the Works Information. The <i>Supervisor</i> replies within one week of receipt of the <i>Contractor's</i> notice either confirming or withdrawing his comment. A confirmation or withdrawal by the <i>Supervisor</i> is not an acceptance of the <i>Contractor's</i> opinion.					
	21.9 If the <i>Contractor</i> does not notify the <i>Supervisor</i> within one week that he disagrees with a comment of the <i>Supervisor</i> , compliance with the comment does not give rise to a change in the Works Information."					
Option Z14	Option Z14: New Clause 60.1 (20)					
	60.1 (20) Provisional Sums referred to in the Activity Schedule will be dealt with as a Compensation Event.					



The Contractor's Offer

The Contractor is Name Mitie (Facilities Management) Itd Address The Shard, Level 12 32 London Bridge Street Southwark London SE1 9SG

The percentage for overheads and profit added to the Defined Cost for people is 5.85% (as per the ECC fees referenced in Schedule 31B of the Defra/Mitie Contract).

The percentage for overheads and profit added to other Defined Cost is 8.70%

The Contractor offers to Provide the Works in accordance with the conditions of contract for an amount to be determined in accordance with the conditions of contract.

The offered total of the Prices is £184,209.85.

Execution of this Contract is carried out in accordance with the 1999 EU Directive 99/93(Communication Framework for Electronic Signatures) and the UK Electronic Communications Act 2000. This Contract is formed on the date on which both the Authority and the Contractor have communicated acceptance of its terms on the Authority's e-tendering system ('Bravo').

The Employer's Acceptance

Execution of this Contract is carried out in accordance with the 1999 EU Directive 99/93(Communication Framework for Electronic Signatures) and the UK Electronic Communications Act 2000. This Contract is formed on the date on which both the Authority and the Contractor have communicated acceptance of its terms on the Authority's e-tendering system ('Bravo').

Price List

Entries in the first four columns in this Price List are made either by the Employer or the tenderer.

If the *Contractor* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tenderer enters the amount in the Price column only; the Unit, Quantity and Rate columns being left blank.

If the *Contractor* is to be paid an amount for the item of work which is the rate for the work multiplied by the quantity completed, the tenderer enters the rate which is then multiplied by the expected quantity to produce the Price, which is also entered.

Cost plan/activity Schedule - As per the cost plan provided in itt_8616 – B268 CCTV Upgrade issued 5/5/21.

As per costs submitted in Mitie FM Major BCP W952640 dated 25/6/2021

ITEM

COST

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	Approvers / Recommenders Details				
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;	Works Information should	be a com	nplo	oyer's re	gir soluton e in me war targets.
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A	Approval Date by the DEFRA SRO (dd/mm/yy)				
	**** This BCP may be subject to an audit at a late	r stage. ****			
E	BCP Reference: ** To be provided by the Project Inbo	ox (Defra.Projects@Interserve.com) once this BCP has been pr	ocessed **		
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Select number of Tenders Sought

Works Information							
Title	Date or revision	Tick if publicly available					
4 Constraints on how the Contractor Provides the Works							
State any constraints on the sequence and timing of work and on the methods and conduct of work including the requirements for any work by the <i>Employer</i> .							
All works as per information contained in itt_8616 – B268 CCTV Upgrade issued 5/5/21.							
As per Mitie / Defra Framework agreement site rules.							

Works Information

5 Requirements for the programme

All requirements as per information provided in itt_8616 – B268 CCTV Upgrade issued 5/5/21. Schedule that plans accordingly to be provided by Mitie.

6 Services and other things provided by the Employer

As per Mitie site arrangements with DEFRA

Site Information

Give information about the site such as the ground conditions and any other information which is likely to affect the *Contractor*'s work such as limitations on access and the position of adjacent structures.

As per Mitie site arrangements with DEFRA