RSSB Regulatory Review Advice Contract

Governing: Regulatory Review Advice Agreement Number: RSSB2013 Project Number: N/A

 (to be quoted on all correspondence) **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Table of Contents

|  |  |
| --- | --- |
| 1. | Interpretation  |
| 2. | Commencement and Duration  |
| 3. | Scope of Services  |
| 4. | Duties of the Contractor |
| 5. | Statutory and Other Regulations  |
| 6. | Termination  |
| 7. | Force Majeure  |
| 8. | Confidentiality  |
| 9. | Indemnity and Insurance  |
| 10. | Intellectual Property Rights  |
| 11. | Assignment and Sub-Contracting  |
| 12. | Recovery of Property  |
| 13. | Invoices and Payments  |
| 14. | Value Added Tax |
| 15. | Set Off |
| 16. | Variation |
| 17. | Rights of Third Parties  |
| 18. | Governing Laws and Jurisdiction |
| 19. | Notices |
| 20. | Entire Agreement Clause |
| 21. | Waiver |
| 22. | Severence |
| Schedule 1 Scope of Services |
| Schedule 2 Fees and ChargesSchedule 3 Contract Specific RequirementsSchedule 4 Points of Contact |
|  |

**This Agreement** is made the [Day} day of [Month] 20 [Year]

BETWEEN

1. **RAIL SAFETY AND STANDARDS BOARD LIMITED** a company registered in England under number 2904587 whose registered office is at The Helicon, 1 South Place, London, England, EC2M 2RB (“**RSSB**”)

AND

1. **[NAME OF CONTRACTOR]** a company registered in [Place of incorporation] under number [Number] whose registered office is at [Contractor’s address] (“**the Contractor**”)

each a “**party**”, together the “**parties**”.

**IT IS HEREBY AGREED**

### Interpretation

The following definitions and rules of interpretation apply in this Agreement:

### **“Business Day”** shall mean a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

### **“Business Hours”** shall mean the period from 9.00 am to 5.00 pm on any Business Day.

### **“Commencement Date”** shall mean [Date].

### **“Force Majeure Event”** shall have the meaning given in clause 7.1.

### **“Intellectual Property Rights”** shall mean patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) 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.

### **“Purchase Order”** shall mean a specified order for Services in the form attached at Schedule [●].

### **“Services”** shall mean the services as detailed in Schedule 1 to be supplied by the Contractor to RSSB in accordance with this Agreement.

### **“VAT”** shall mean value added tax chargeable under the Value Added Tax Act 1994.

* 1. Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
	2. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
	3. 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.
	4. A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
	5. A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.
	6. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
	7. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
	8. This Agreement shall be binding on the parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
	9. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
	10. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
	11. A reference to **writing** or **written** includes email but not fax.
	12. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
	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.

### 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.

### Commencement and Duration

This Agreement shall commence on the Commencement Date and will continue, unless terminated earlier in accordance with clause 6, for a period of five (5) months when it shall terminate automatically without notice.

### Scope of Services

* 1. The Contractor shall supply the Services in the manner detailed in the Schedules in accordance with the terms of this Agreement, which shall apply to the exclusion of any standard, purchase order, acknowledgement or other terms and conditions of the Contractor.
	2. The terms set out in the main body of this Agreement will supplement and complement the terms set out within the Schedules and in any Purchase Order made pursuant to this Agreement. However, in the event of any conflict or discrepancy between the provisions set out in the main body of this Agreement and the Schedules and/or any Purchase Order the conflicting or discrepant terms of the relevant Purchase Order will prevail over the conflicting or discrepant terms contained within the Schedules and/or the clauses, and the conflicting or discrepant terms of the Schedules will prevail over the conflicting or discrepant terms contained within the clauses, in either case solely to the extent necessary to remove such conflict or discrepancy.

### Duties of the Contractor

### The Contractor shall exercise all reasonable skill, care and diligence in the discharge of all duties to be performed by it and all Services shall be provided to the satisfaction of RSSB. The correct and timely provision of the Services by the Contractor is a condition of this Agreement.

### The Contractor acknowledges that the quality and availability of skilled personnel is essential for the proper performance of the Services. Any of the Contractor’s personnel named in Schedule 1 shall be regarded as key personnel and such key personnel shall carry out the duties and tasks allocated to them in that Schedule. The said duties and tasks may only be performed by other personnel with the prior written consent of RSSB, and the Contractor shall ensure that such other personnel are suitably qualified and experienced to undertake the said tasks and duties.

### The Contractor’s personnel and any personnel engaged to perform the Services through a sub-contract or otherwise whilst carrying out the Services shall conduct themselves in strict accordance with the requirements of RSSB’s Drugs and Alcohol policy (a copy of which is attached to this Agreement at Appendix [Number]), as amended from time to time.

### The Contractor shall, and shall procure that its personnel shall, comply at all times with the Bribery Act 2010 and RSSB’s Anti-Bribery policy (a copy of which is attached to this Agreement at Appendix 1 as amended from time to time. Failure by the Contractor to comply with this clause shall entitle RSSB to terminate this Agreement without notice and recover from the Contractor the amount of any loss resulting from such a termination and/or recover from the Contractor the amount or value of any gift, consideration or commission gained as a result of the Contractor’s breach.

### Statutory and Other Regulations

### The Contractor shall comply in all respects with the law and all applicable rules and regulations in all matters arising in the performance of or in connection with this Agreement.

### Without prejudice to or limitation of any other rights RSSB may have, if the Contractor does not fulfil its obligations and responsibilities under this Agreement, the Contractor shall indemnify RSSB against all costs for which RSSB becomes liable and for which it would not otherwise be liable.

### Termination

### Without prejudice to any other remedies:

### RSSB may terminate this Agreement for any reason by giving to the Contractor 30 days' notice in writing; and

### the Contractor may terminate this Agreement for any reason by giving RSSB three calendar months’ notice in writing.

### RSSB may at any time before the expiration of the notice period exercise, as soon as may be reasonably practical within that period, such of the following powers as may be considered reasonable:

### to direct the Contractor, when the Services have not commenced, to refrain from commencing the Services;

### to direct the Contractor to complete in accordance with the Agreement all or any part of the Services in the course of performance at the expiration of the notice and to complete the same at such time or times as may be mutually agreed, or in default of such agreement, at the time or times provided by the Agreement. All Services provided by the Contractor in accordance with such directions and accepted by RSSB shall be paid for in accordance with Schedule 2;

### to direct the Contractor to determine on the best possible terms such sub-contracts or orders as may have not been completed, observing in this connection any direction given under 6.2.1.1 and 6.2.1.2 above.

### The Contractor shall prepare and submit to RSSB a report on the Services prior to termination making recommendations based on such Services as may have been done prior to termination and handing over any completed Services (as appropriate). All Services provided by the Contractor in accordance with this provision and accepted by RSSB shall be paid in accordance with Schedule 2.

### Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect without notice if:

###  the other party commits a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

###  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;

### the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

### the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

### a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

### an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;

### the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;

### a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;

### a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

### any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 6.3.1 to clause 6.3.10 (inclusive);

### the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

### there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010).

### For the purposes of clause 6.3.2, 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. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

### Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.

### 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.

### Force Majeure

### Neither party shall be liable for any failure to perform or delay in performance of any of its obligations under this Agreement caused by any circumstance beyond the reasonable control of that party including Acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, acts of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalisation, government sanction, blockage, and embargo (a **“Force Majeure Event”**).

### The party claiming the Force Majeure Event shall promptly notify the other party in writing of its reasons for the delay or stoppage and its likely duration and shall take all reasonable steps to overcome the delay or stoppage.

### If the party claiming the Force Majeure Event has complied with this clause 7, its performance under this Agreement shall be suspended for the period that the Force Majeure Event continues and the party will have a reasonable extension of time for performance of its obligations given all the circumstances. As regards the delay or stoppage arising from the Force Majeure Event:

### any costs arising from such delay or stoppage shall be borne by the party incurring those costs;

### the party claiming the Force Majeure Event shall take all reasonable steps necessary to bring that event to a close or to find a solution by which its obligations under this Agreement may be performed despite the Force Majeure Event; and

### if the Force Majeure Event continues for more than 30 consecutive days, RSSB may terminate this Agreement with immediate effect on giving written notice to the other party and RSSB shall not be liable to the other for such termination.

### Confidentiality

### Each party undertakes that it shall not at any time disclose to any person any confidential information in any form (including in written, oral, visual or electronic form or on any magnetic or optical disk or memory or wherever located) concerning the business, technical knowhow, affairs, customers, clients or suppliers of the other party, or of any of the other party’s contractors, customers, agents, distributors, shareholders, managers or business contacts, except as permitted by clause 8.2.

### Each party may disclose the other party's confidential information:

### to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 8; and

### as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

### No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

### The provisions of this clause 8 shall continue to apply after termination or expiry of this Agreement.

### Indemnity and Insurance

### The Contractor shall be liable for and shall indemnify and keep indemnified RSSB against all damages, losses, compensation, expenses and/or costs howsoever incurred or suffered arising directly or indirectly from, out of or in connection with this Agreement (including any damages, losses, compensation, expenses and/or costs arising from the death or injury of any person and any loss of or damage to any physical property) caused by any act, default or negligence of the Contractor, its sub-contractors and/or agents and against all actions, claims, demands or proceedings in respect thereof or in relation thereto, provided that this liability and indemnity shall not apply to the extent that such damage, loss, compensation, expense and/or cost is wholly or partly attributable to any act, default or negligence of RSSB or a third party (other than the Contractor's sub-contractors and/or agents).

### The Contractor will effect and maintain for the period of this Agreement an insurance policy or policies with a reputable insurance company for such sums as RSSB considers to be adequate, but in any event for not less than £1,000,000 (one million pounds sterling) for any one incident and which shall cover the indemnity set out above and the Contractor shall produce to RSSB on demand evidence of the policy and/or a form of a certificate prepared by the insurance providers.

### The provisions of this clause 9 shall continue to apply after termination or expiry of this Agreement.

### Intellectual Property Rights

### Unless otherwise agreed in writing between the parties, all Intellectual Property Rights attaching to any materials which are written or produced on a bespoke or customised basis pursuant to the terms of this Agreement (including any such rights as may arise in the future) shall be owned by RSSB, and the Contractor shall ensure that it executes all documents necessary to effect such ownership.

### Intellectual Property Rights subsisting in any plans, drawings, documents, handbooks, codes of practice or any other information (the **“Documents”**)provided by RSSB to the Contractor pursuant to the terms of this Agreement shall at all times remain the property of RSSB and the Contractor shall not use, reproduce, disseminate, adapt, transmit in any form or by any means the Documents or any part thereof or permit the same to be so used, reproduced, disseminated, adapted or transmitted as aforesaid or published other than for the purposes of carrying out the Contractor’s obligations under this Agreement.

### The Contractor grants to RSSB an irrevocable, non-exclusive, royalty-free licence to use for any purpose in connection with the Service all the Contractor’s intellectual property which the Contractor has used or supplied in connection with the Service, provided that the Contractor shall have no liability for any use of such intellectual property other than for the purposes for which it is intended. RSSB may grant sub-licences out of the said licence.

### The Contractor warrants that any work or materials provided by the Contractor or any sub-Contractor to RSSB and its use by RSSB shall not infringe any Intellectual Property Rights or moral rights of any third party.

### The Contractor shall indemnify and keep indemnified RSSB against all loss, damage, costs and expenses for which RSSB is or becomes liable as a result of any infringement or alleged infringement by the Contractor of any third party’s Intellectual Property Rights.

### Assignment and Sub-Contracting

### The Contractor shall not sub‑contract, transfer or assign the whole or any part of this Agreement without the prior written consent of the RSSB, whose consent may be subject to such terms and conditions as RSSB may see fit to impose.

### The Contractor shall be responsible for the acts and omissions of its sub-contractors as though they were its own.

### Recovery of Property

### Upon termination or expiry of this Agreement, howsoever caused, each party shall forthwith deliver up to the other party any property of the other party acquired for use for the purposes of this Agreement and which is no longer required for such purposes. In the event of failure to deliver up such property before the expiry of a period of five Business Days immediately following termination or expiry, the party owning the property shall be entitled to withhold payment from the other party for the full amount of replacement of the goods withheld at market value until such time that the said items are fully recovered from the party holding the goods.

### Invoices and Payments

### Invoices shall be submitted by the Contractor to RSSB, not more often than monthly, and in arrears. Each invoice shall show:

* + 1. details of the goods or services provided;
		2. copies of backing information as necessary;
		3. in instances where expenses are being claimed, copies of all receipts;
		4. the total units of measure;
		5. the cost per unit of measure;
		6. the total amount invoiced;
		7. the Agreement number;
		8. the PO number; and
		9. any other contract specific information required to be included on invoices as detailed in Schedule 2
	1. Payment in respect of each properly submitted invoice by the Contractor will be made by RSSB within 30 days after receipt of a valid invoice. If the Contractor’s invoice does not comply with the requirements of clause 13.1 RSSB shall be under no obligation to pay the same.
	2. Payment by RSSB shall be without prejudice to any claims or rights which RSSB may have against the Contractor and shall not constitute any admission by RSSB as to the performance by the Contractor of its obligations hereunder.
	3. Invoices should be sent directly to the Finance Accounts Payable Department [Insert RSSB address].

### Value Added Tax

All prices indicated shall be exclusive of VAT. The Contractor shall, if registered for VAT, supply a valid VAT invoice, including a statement of how the supply in question is rated for the purposes of tax and show separately any relevant rates of tax relating to the Services. The Contractor shall provide further information as may reasonably be required in relation to any such invoice.

### Set Off

### Without prejudice to other rights and remedies, RSSB may deduct from any sums due to the Contractor under this Agreement an amount equivalent to any sum due from the Contractor to the RSSB (whether such sums are due to RSSB under this Agreement or under any other agreement between the Contractor and RSSB) and may also deduct any sum of money that is recoverable from or payable by the Contractor under this Agreement from any sum then due or which at any time thereafter may become due under any other agreement between the Contractor and RSSB. RSSB shall give to the Contractor notice of any such deduction or set-off and such notice shall specify:

### the amount proposed to be withheld and the ground for withholding payment; or

### if there is more than one ground, each ground and the amount attributable to it.

Such notice shall be given not later than five days before the final date for payment of each invoice under clause 13.

### Variation

### No variation of this Agreement shall be effective unless it is in writing and signed by each of the parties (or their authorised representatives).

### Rights of Third Parties

### A person who is not a party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This clause does not affect any right or remedy of any person which exists or is available other than pursuant to that act.

### Counterparts

### This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

### Governing Law and Jurisdiction

### This Agreement shall be governed and construed in all respects by English Law and the parties to it irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales.

### Notices

### All notices to be given hereunder shall be in writing and may be served:

### personally;

### by pre-paid first-class post or other next working day delivery service; or

### by email, provided always that a hard copy of the notice is also served,

### to the relevant party’s registered address (or as it may from time-to-time be notified in writing to the other party) or to such email address as shall be notified in writing to the other party (as appropriate).

### Any notice shall be deemed to have been received:

### if delivered by hand, on signature of a delivery receipt;

### 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

### if sent by email, at 9.00 am on the next Business Day after sending.

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

### Announcements

### No party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

### Mediation

### If any dispute arises in connection with this Agreement, the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (**“CEDR”**) Model Mediation Procedure. Unless otherwise agreed between the parties within 14 days of notice

### of the dispute, the mediator will be nominated by CEDR.

### Entire Agreement Clause

* 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.
	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 based on any statement in this Agreement.

### Waiver

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

### Severance

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

### No partnership or agency

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.

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

**Agreement Signature**

Signed ................................................................. Date .................................

Name in block capitals:...........................................

Duly authorised to sign for and on behalf of RSSB

and

Signed.................................................................. Date .................................

Name in block capitals: ..........................................

Duly authorised to sign for and on behalf of [Contractor]

SCHEDULE ONE

#  Scope of Services

RSSB are seeking independent Regulatory Review advice on how to best disseminate the outcome of the Office of Road and Rail (ORR) regulatory review which will take place between May and June 2016. The outcomes of this review are expected to be delivered in Autumn 2016 with a report on the findings to be delivered to the RSSB’s Board in November 2016.

The outcomes for the work package that we are tendering for are:

1. To produce a written report in response to any questions raised by the ORR review
2. To provide strategic advice to RSSB Board

These outcomes are to be fully delivered by September 2016.

The successful supplier needs a detailed understanding of the Regulatory Review process and reporting, preferably within the Rail industry but this is not a prerequisite, calling on multiple skill sets to understand how the rail industry works as a system and the issues involved in managing this as a system.

The successful supplier will also be able to present conclusions in a simple and compelling way for different rail stakeholders.

Furthermore, the successful supplier will need to have experience in the following areas:

- providing strategic board level advice

- supporting a business in a regulatory review

- developing communication devices to inform parties to the review alongside a comprehensive regulatory submission

- reflecting impact of regulatory review on articles of association and constitution agreement

- sound knowledge of key stakeholders in GB rail sector

The requirement does not involve primary research, but will require presentation of findings/ outcomes to RSSB’s Board.

The budget for this work must not exceed £80,000. Any proposals that do meet this requirement will be considered as unacceptable.

SCHEUDLE TWO

# Agreement Price, Admissible Costs and Payment

### 1. Agreement Price

RSSB shall pay to the Contractor the Firm Fee of £ **<<Insert Figure)** (**Insert number in words** pounds) exclusive of VAT in consideration of the Work.

Where Firm chosen delete Admissible Cost Clause and renumber subsequent clauses

### 2. Payment

Progress Payments

2.1 Monthly Progress Payments in respect of the Work carried out in accordance with the requirements of the Agreement may be claimed by the Contractor as follows:-

|  |  |
| --- | --- |
| **Milestone** | **Invoice Date**  |
|  |  |
|  |  |
|  |  |
|  |  |

### 3. Payment of Invoices

3.1 All invoices or other claims for payment correctly rendered in accordance with the provisions of the Agreement shall be paid by RSSB 30 days from the date in which the invoice was received.

SCHEDULE THREE

# Contract Specific Requirements

None

SCHEDULE FOUR

# Points of Contact

Further information may be obtained from:-

### RSSB Supply Chain Department

The Helicon

One South Place

London

EC1M 2UP

Procurement Manager: Vikram Singh Gudra **<<Insert Supply Chain Representitive**

Telephone: 0203 142 5317**<<**

Email: Vikram.Gudra**<<**@rssb.co.uk

### RSSB Research Department

The Helicon

One South Place

London

EC1M 2UP

Delivery Manager: **<<Insert Delivery Manager**

Telephone: 0203 142 **<<**

Email: [ ] **<<**@rssb.co.uk

### RSSB'S Finance Department

RSSB Finance Department

The Helicon

One South Place

London

EC1M 2UP

Telephone: 0203 142 5313

Facsimile: 0203 142 5667

Appendix One

Business Conduct, Confidentiality and Anti‑corruption Policy

**Contents**

[1 Introduction 2](#_Toc346191755)

[2 Laws, regulations and RSSB’s anti-corruption statement 3](#_Toc346191756)

[3 What is bribery? 3](#_Toc346191757)

[4 Relationships with government officials, customers, suppliers and partners 4](#_Toc346191758)

[5 Political contributions 4](#_Toc346191759)

[6 Commissions, fees and similar payments 5](#_Toc346191760)

[7 Proper financial control and accounting 5](#_Toc346191761)

[8 Duty to declare hospitality or gifts and record keeping 5](#_Toc346191762)

[9 RSSB resources and personal interest 6](#_Toc346191763)

[10 Disqualifying interests 7](#_Toc346191764)

[11 Reporting incidents 7](#_Toc346191765)

[12 Confidentiality 8](#_Toc346191766)

[13 Responsibility for this policy 8](#_Toc346191767)

[14 Related BMS Documents 8](#_Toc346191768)

# Introduction

* 1. Behaving ethically and legally is fundamental to RSSB’s reputation and central to its policies on business practice, personal conduct and other matters.
	2. This policy sets out the values and expectations with which all employees are to conduct RSSB’s business and provides information and guidance to employees on how to recognise and deal with bribery and corruption issues.
	3. This policy must be complied with at all times by all those employed by RSSB. Conduct of RSSB’s business should be characterised by honesty, transparency, non-discrimination and freedom from corruption, bribery and fraud. RSSB is committed to upholding all laws relevant to countering bribery and corruption.
	4. Bribery and corruption are punishable for individuals by up to ten years’ imprisonment and if RSSB is found to have corporately taken part in corruption, it could face an unlimited fine, be excluded from tendering for public contracts and face significant damage to its reputation. RSSB therefore takes its legal responsibilities very seriously.
	5. Employees have a duty to raise any matter of business conduct or ethics that causes concern with their Head of Department or Director at the earliest opportunity. Should an issue arise, any employee may seek guidance from the Company Secretary.
	6. This policy applies to and must be brought to the attention of all employees, contractors and others with whom we are associated or do business.
	7. Within RSSB, behaviour expected from individuals includes:
1. The scrupulous avoidance of deception, corruption, sharp practice, fraud, bribery, improper personal gain and any behaviour or situations which may reflect badly on RSSB.
2. Honesty and good faith in all dealings with fellow employees.
3. Respect for the trust placed in them to make proper use of RSSB resources and information.
4. Understanding that neither narrow perceptions of RSSB’s interests nor loyalty to colleagues should be put above adherence to the expected standards of ethical and lawful behaviour.
5. Consulting the Company Secretary in any case of uncertainty or concern.
	1. Key questions which should be considered by employees in respect of any action or line of business conduct are:
6. Does the action contravene RSSB’s objectives and / or principles of operation as outlined in the constitution agreement, the law or any convention?
7. Could the action be damaging to RSSB if it were known publicly in the locality, in the UK or abroad?
8. Are the costs incurred disproportionate to the benefits received?
	1. If the proposed action appears to fail any one of these tests, it should not be progressed without upward reference and approval.
	2. Compliance may sometimes confront the individual with difficult decisions or uncertainty as to the proper course of action. In these circumstances, employees should always seek approval from their Head of Department or Director and guidance from the Company Secretary.

# Laws, regulations and RSSB’s anti-corruption statement

* 1. RSSB complies with the laws and regulations of the United Kingdom, including the [Bribery Act 2010](http://www.legislation.gov.uk/ukpga/2010/23/contents), in respect of its conduct both at home and abroad. Any case of actual or prospective non-compliance with either law or RSSB policy should be raised urgently to a Head of Department / Director.
	2. RSSB is committed to conducting its business in a lawful and ethical way, acting professionally and with integrity in all its dealings. RSSB takes a zero-tolerance approach to any form of bribery or corruption. All reported incidents will be investigated. See [section 11](#_Reporting_incidents) of this policy.

# What is bribery?

* 1. A bribe is an inducement or reward offered, promised or provided in order to gain any commercial, contractual, regulatory or personal advantage.
	2. All forms of bribery are expressly prohibited by RSSB. For the avoidance of doubt, this can include:
1. Offering a bribe, for example offering a potential client tickets to a major sporting event, but only if they agree to do business with RSSB.
2. Receiving a bribe, for example a supplier gives an employee’s relative a job, but makes it clear that in return they expect the employee to use his/her influence at RSSB to ensure we continue to do business with them.
3. Bribing a foreign official, for example arranging for RSSB to pay an additional payment to a foreign official to speed up an administrative process.

# Relationships with government officials, customers, suppliers and partners

* 1. Relationships and dealings with government officials, customers, suppliers and partners should at all times be such that RSSB’s integrity and its reputation would not be damaged if details of the relationship or dealings were to become public knowledge.
	2. These relationships will be conducted ethically and within the law. Unlawful or unethical payments should neither be made nor received, directly or indirectly, regardless of the amount.
	3. The use of agents, contractors or advisers does not absolve RSSB from responsibility, since actions undertaken by them in support of RSSB business will be perceived as having been done on our behalf. Therefore, agents, contractors or advisers as well as others with whom we are associated or do business with shall be made aware of our ethical values and expectations as set out in this policy, and our assessment of their suitability should be made against these standards.
	4. Gifts within the context of business relationships or activities should not be given or accepted if they could influence a business decision or be considered extravagant. Similarly, entertainment should not be extended or received if it could be seen as extravagant or unduly frequent or could potentially influence, or be seen to influence, a business decision. All spending on gifts and entertainment must be properly authorised and recorded. All gifts received must be declared to RSSB if they are of material value, that is, have a nominal value of greater than £20. All entertainment and hospitality received must be properly recorded and declared by all employees.

# Political contributions

* 1. RSSB makes no political contributions (whether in cash or in kind, and including any sponsorship or loans or transactions at a favourable rate). If there is any doubt as to whether items such as sponsorship may constitute political contributions, the Director, Business Services must be consulted.

# Commissions, fees and similar payments

* 1. Commissions, consultants’ fees, retainers or similar payments should be clearly related to, and commensurate with, the services being performed. Payments, loans, or commissions that are not so related, or that could be seen to be an improper inducement, shall not be made or accepted.

# Proper financial control and accounting

* 1. RSSB maintains a system of internal control measures to ensure compliance with RSSB’s policies. Compliance with prescribed accounting systems and rules is required to ensure that the accounts at all times accurately reflect, properly describe and promptly record the transactions undertaken. No secret or unrecorded fund of money or other assets will be established or maintained.
	2. For any companies in which RSSB has a material interest but does not have control, the RSSB person responsible should endeavour to ensure that equivalent standards are applied and should refer the matter upwards within RSSB when they are not. The person to whom these matters are referred has a personal responsibility to resolve them in accordance with RSSB’s policies and procedures or to refer them to the Chief Executive.
	3. Employees must adhere to RSSB’s [procurement policy](https://catalyst.rssb.co.uk/bms/All%20BMS%20Documents/PO037.doc) and [procedure](https://catalyst.rssb.co.uk/bms/All%20BMS%20Documents/QP008.doc), and apply them consistently in their dealings with tenderers and contractors. In addition, various European Union directives and regulations (including European Union Procurement Directives) may apply to the procurement of goods and services. In these cases, advice should be sought from the Supply Chain Manager.

# Duty to declare hospitality or gifts and record keeping

* 1. Employees or any members of their immediate families should not accept alcohol, commissions, discounts, entertainment, favours, gifts, holidays, loans, meals, money, prizes, services, shares or securities, stocks, tickets to sporting events, trips, or anything else of material value (a nominal value of greater than £20) from outside companies or individuals dealing with RSSB if they could influence a business decision or be considered to be extravagant or unduly frequent.
	2. This is especially important if the outside company or individual concerned is soliciting business or information from RSSB or is employed in the procurement area.
	3. If employees are offered hospitality which could be considered extravagant, or air or rail transport or overnight accommodation at the other party’s expense, they should first seek approval from their Head of Department or Director before accepting the offer.
	4. When considering whether to offer gifts or entertainment to companies or individuals, it is important to assess their value not only by the standards of the giver but also by those of the recipient, who may ascribe a different value to them than was intended.
	5. Employees must declare all hospitality or gifts accepted if they are of material value, using form [PO003\_F1](https://catalyst.rssb.co.uk/bms/All%20BMS%20Documents/PO003_F1.doc). Employees must also declare all hospitality or gifts offered, using form [PO003\_F1](https://catalyst.rssb.co.uk/bms/All%20BMS%20Documents/PO003_F1.doc), unless an [expense claim](https://catalyst.rssb.co.uk/departments/Finance/All%20Finance%20Documents/Business%20Expenses%20form.xls) is submitted – see below. Forms shall be submitted to the Company Secretary and may be subject to review by the Executive. The Company Secretary shall maintain a record of all hospitality or gifts offered or accepted.
	6. Depending on the circumstances a gift may be:
1. Retained by RSSB;
2. Donated to a charity of the individual’s choice;
3. Retained by the recipient; or
4. Returned to the giver.
	1. Employees must ensure all [expense claims](https://catalyst.rssb.co.uk/departments/Finance/All%20Finance%20Documents/Business%20Expenses%20form.xls) relating to hospitality, gifts or expenses incurred to third parties are submitted in accordance with RSSB’s [business expenses policy](https://catalyst.rssb.co.uk/bms/All%20BMS%20Documents/PO004.doc) and specifically record the reason for the expenditure.

# RSSB resources and personal interest

* 1. RSSB possesses valuable resources such as materials, plant and equipment, cash, computer systems, trade secrets and confidential information. These should not be used for any purpose other than for the proper advancement of RSSB’s business. They should not be used for unlawful purposes or for personal gain. Employees may use their company mobile phone for personal calls and company email and internet access for personal use provided this is kept to a reasonable level. See RSSB’s [IT Usage Policy](https://catalyst.rssb.co.uk/bms/All%20BMS%20Documents/PO008.doc) and [policy on provision of mobile phones and BlackBerrys](https://catalyst.rssb.co.uk/bms/All%20BMS%20Documents/PO036.doc).
	2. RSSB requires all employees to handle sensitive information in accordance with the laws of the United Kingdom. RSSB’s technical, commercial or financial information should not be disclosed without written approval from appropriate management and reassurance that confidentiality will be respected. This applies to all employees and professional and technical advisors (with the exclusion of RSSB’s solicitors).
	3. Before accepting additional employment within or outside the rail industry, or fees for activities whether associated with the rail industry or not (other than directorships, see below) employees must always secure written consent (this can be in the form of a memo, letter or email) to do so from the Head of Human Resources.
	4. Before accepting any directorships, regardless of industry, employees must always secure written consent to do so from the Head of Human Resources. Employees should ensure that they are not putting themselves in a position where there is, or could be, a conflict between their own interests, or the interests of the company or organisation of which they are becoming a Director, and those of RSSB.

# Disqualifying interests

* 1. RSSB is under a continuing obligation to ensure that no Executive Director or his/her dependants has, or acquires, a disqualifying interest (as defined in the [Articles of Association of Rail Safety and Standards Board Limited](http://www.rssb.co.uk/SiteCollectionDocuments/pdf/Articles_of_Association.pdf)) without the Office of Rail Regulation’s (ORR) approval during the tenure of his/her RSSB directorship.
	2. Under article 72 of RSSB’s Articles of Association a new Director must, prior to appointment, provide a declaration that:
1. neither he/she nor any of his/her dependants have any unapproved disqualifying interest
2. he/she undertakes to notify his/her dependants that they should not hold an unapproved disqualifying interest while he/she is an RSSB Director and
3. he/she undertakes to notify RSSB if he/she, or any of his/her dependants, subsequently acquire an unapproved disqualifying interest
	1. Article 72 also enables the Board to require such a declaration from existing Directors, at any time and at the Board’s discretion.

# Reporting incidents

* 1. Employees must ensure that they read, understand and comply with this policy. All employees are responsible for their own actions and for ensuring that the requirements of this policy are complied with.
	2. The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for RSSB or under our control. All workers are required to avoid any activity that might lead to, or suggest, a breach of this policy.
	3. If an employee believes or suspect that a breach of this policy has occurred or may occur in the future, he/she should report this immediately to his/her Head of Department / Director who will in turn report it to the Director, Business Services.
	4. Any employee who breaches this policy will face disciplinary action, which could result in dismissal for gross misconduct. Any issues of non-compliance will be dealt with through RSSB’s [Disciplinary Procedure](https://catalyst.rssb.co.uk/bms/All%20BMS%20Documents/PO039.doc) or [Grievance Procedure](https://catalyst.rssb.co.uk/bms/All%20BMS%20Documents/PO012.doc). RSSB reserve its right to terminate its contractual relationship with other workers or their employers if they breach this policy.
	5. All employees are encouraged to raise any concern they have at the earliest possible stage and RSSB will support anyone who raises genuine concerns in good faith under this policy, even if they turn out to be mistaken. If an employee is unsure whether an act constitutes bribery or corruption then he/she should raise this with his/her line manager. Alternatively concerns can be raised via the reporting procedure set out in RSSB’s [Whistleblowing Policy](https://catalyst.rssb.co.uk/bms/All%20BMS%20Documents/PO033.doc).

# Confidentiality

* 1. Employees must not, either during employment or thereafter, except in the proper course of their duties divulge to any person, firm or company or make use of any confidential information about RSSB:
1. its business, accounts, finances, projects, research projects, pricing policy, future business strategy, marketing strategies and plans, or customer lists;
2. any other information designated as confidential which may have come to an employees’ knowledge in the course of their employment.
	1. This restriction continues to apply after the termination of employment without limitation in time but will cease to apply to any information or knowledge, which subsequently comes into the public domain, other than as a result of unauthorised disclosure.
	2. Employees must not publish any literature, deliver any lecture or make any communication to the media (including the press, radio, television or the internet) relating to RSSB’s business without the prior authority of the Communications Manager and relevant Director.
	3. Any remuneration an employee receives for public speaking, writing for publication, or a media appearance, where RSSB information is involved or where the appearance is as a result of an individual’s employment with RSSB, must be declared in writing to his or her Head of Department or Director and either passed to RSSB or donated to a charity of the individual’s choice.
	4. All confidential papers and files should be kept secure. Employees should take care to ensure that business matters are not discussed in public places where they can be overheard.

# Responsibility for this policy

* 1. The Executive Management team has ultimate responsibility for ensuring this policy complies with RSSB’s legal, ethical and moral obligations, and that all those individuals under RSSB’s control comply with it.
	2. The Director, Business Services has primary and day to day responsibility for implementing this policy and regularly monitoring its use and effectiveness.