



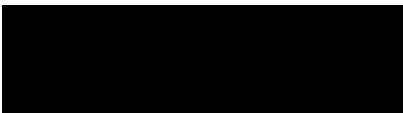
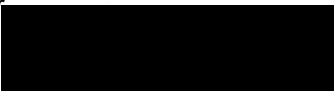
Schedule 1 - Rail Security Exercise TTSC3044
Contract including Order Form and Short Form Conditions

Order Form

1. Contract Reference	<i>TTSC3044; Rail Security Exercise</i>	
2. Date	<i>26th October</i>	
3. Buyer	<i>Department for Transport Great Minster House 33 Horseferry Road London SW1P 4DR</i>	
4. Supplier	<i>Gutteridge Haskins & Davey Limited Level 1, Building 49 Thornton Science Park, Pool Lane Ince Chester CH2 4NU Registration Number; 05528602</i>	
5. The Contract	<p>The Supplier shall supply the deliverables described below on the terms set out in this Order Form and the attached contract conditions ("Conditions") and associated Schedules</p> <p>Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in Conditions.</p> <p>In the event of any conflict between this Order Form and the Conditions, this Order Form shall prevail.</p> <p>Please do not attach any Supplier terms and conditions to this Order Form as they will not be accepted by the Buyer and may delay conclusion of the Contract.</p>	
6. Deliverables	Services	As outlined in Schedule 2 Rail Security Exercise Requirements Specification

7. Specification	The specification of the Deliverables is as set out Schedule 2, incorporating Schedule 5 Pricing Schedule and Schedule 6 Bidder Response
8. Term	<p>The Term shall commence on</p> <p>2nd November 2021</p> <p>and the Expiry Date shall be</p> <p>31st March 2021 unless it is otherwise extended or terminated in accordance with the terms and conditions of the Contract.</p> <p>The Buyer may extend the Contract for a period of up to [12 months] by giving not less than 10 Working Days' notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Contract shall apply throughout any such extended period.</p>
9. Charges	The Charges for the Deliverables shall be as set out within Schedule 2 Specification, Schedule 5 Pricing Schedule and Schedule 6 Bidder Response.
10. Payment	<p>All invoices must be sent, quoting a valid purchase order number (PO Number), to:</p> <p>ssa.invoice@sharedservicesarvato.co.uk</p> <p>or via post to:</p> <p>Accounts Payable, Shared Services arvato, 5 Sandringham Park, Swansea Vale, Swansea SA7 0EA</p> <p>Within 10 Working Days of receipt of your countersigned copy of this letter, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.</p> <p>Suppliers must be in possession of a written purchase order (PO), before commencing any work under this contract. The Purchase Order Number for this contract is will be confirmed by DfT following signature of the contract.</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your Buyer contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment.</p>

Below Threshold ITT – Schedule 1
Model version 1.3

Signed for and on behalf of the Supplier	Signed for and on behalf of the Buyer
Name: 	Name: 
Job Title: Executive Manager	Job Title: Commercial Relationship Manager
Date: 5th November 2021	Date: 26/10/2021
Signature 	Signature 

[Schedule 2 – Specification]

[Schedule 5 – Pricing Schedule]

[Schedule 6 – Bidder Response]

[Annex 1 – Authorised Processing Template] (to be discussed at Inception Meeting)

Short form Terms

1. Definitions used in the Contract

In this Contract, unless the context otherwise requires, the following words shall have the following meanings:

"Buyer"	means the person identified in the letterhead of the Order Form;
"Buyer Cause"	any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier;
"Central Government Body"	<p>means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <ul style="list-style-type: none">a) Government Department;b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);c) Non-Ministerial Department; ord) Executive Agency;
"Charges"	means the charges for the Deliverables as specified in the Order Form;
"Confidential Information"	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
"Contract"	means the contract between (i) the Buyer and (ii) the Supplier which is created by the Supplier's counter signing the Order Form and includes the Order Form and Annexes;
"Controller"	has the meaning given to it in the GDPR;
"Date of Delivery"	means that date by which the Deliverables must be delivered to the Buyer, as specified in the Order Form;
"Data Protection Legislation"	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the

	processing of personal data and privacy;
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
"Data Protection Officer"	has the meaning given to it in the GDPR;
"Data Subject"	has the meaning given to it in the GDPR;
"Data Loss Event"	any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
"Data Subject Access Request"	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
"Deliver"	means hand over the Deliverables to the Buyer at the address and on the date specified in the Order Form, which shall include unloading and any other specific arrangements agreed in accordance with Clause [X]. Delivered and Delivery shall be construed accordingly;
"Existing IPR"	any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise);
"Expiry Date"	means the date for expiry of the Contract as set out in the Order Form;
"FOIA"	means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
"Force Majeure Event"	any event, occurrence, circumstance, matter or cause affecting the performance by either Party of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control which prevent or materially delay it from performing its obligations under the Contract but excluding: i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and iii) any failure of delay caused by a lack of funds;

"GDPR"	the General Data Protection Regulation (Regulation (EU) 2016/679);
"Goods"	means the goods to be supplied by the Supplier to the Buyer under the Contract;
"Good Industry Practice"	standards, practices, methods and procedures conforming to the law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
"Government Data"	a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's confidential information, and which: i) are supplied to the Supplier by or on behalf of the Buyer; or ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or b) any Personal Data for which the Buyer is the Data Controller;
"Information"	has the meaning given under section 84 of the FOIA;
"Information Commissioner"	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
"Insolvency Event"	in respect of a person: a) if that person is insolvent; ii) if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction); iii) if an administrator or administrative receiver is appointed in respect of the whole or any part of the persons assets or business; iv) if the person makes any composition with its creditors or takes or suffers any similar or analogous action to any of the actions detailed in this definition as a result of debt in any jurisdiction;
"Key Personnel"	means any persons specified as such in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing;
"LED"	Law Enforcement Directive (Directive (EU) 2016/680);
"New IPR"	all and intellectual property rights in any materials created or developed by or on behalf of the Supplier pursuant to the Contract but shall not include the Supplier's Existing IPR;
"Order Form"	means the letter from the Buyer to the Supplier printed above these terms and conditions;

"Party"	the Supplier or the Buyer (as appropriate) and "Parties" shall mean both of them;
"Personal Data"	has the meaning given to it in the GDPR;
"Personal Data Breach"	has the meaning given to it in the GDPR;
"Processor"	has the meaning given to it in the GDPR;
"Purchase Order Number"	means the Buyer's unique number relating to the order for Deliverables to be supplied by the Supplier to the Buyer in accordance with the terms of the Contract;
"Regulations"	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;
"Request for Information"	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);
"Services"	means the services to be supplied by the Supplier to the Buyer under the Contract;
"Specification"	means the specification for the Deliverables to be supplied by the Supplier to the Buyer (including as to quantity, description and quality) as specified in the Order Form;
"Staff"	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Contract;
"Staff Vetting Procedures"	means vetting procedures that accord with good industry practice or, where applicable, the Buyer's procedures for the vetting of personnel as provided to the Supplier from time to time;
"Storage Media"	means the part of any device that is capable of storing and retrieving data;
"Subprocessor"	any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract;
"Supplier Staff"	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under a Contract;
"Supplier"	means the person named as Supplier in the Order Form;
"Term"	means the period from the start date of the Contract set out in the Order Form to the Expiry Date as such period may be

extended in accordance with clause [] or terminated in accordance with the terms and conditions of the Contract;

"US-EU Privacy Shield Register" a list of companies maintained by the United States of America Department for Commerce that have self-certified their commitment to adhere to the European legislation relating to the processing of personal data to non-EU countries which is available online at: <https://www.privacyshield.gov/list>;

"VAT" means value added tax in accordance with the provisions of the Value Added Tax Act 1994;

"Workers" any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (<https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees>) applies in respect of the Deliverables;

"Working Day" means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

2. Understanding the Contract

In the Contract, unless the context otherwise requires:

- 2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 2.3 the headings in this Contract are for information only and do not affect the interpretation of the Contract;
- 2.4 references to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 2.5 the singular includes the plural and vice versa;
- 2.6 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time and to any legislation or byelaw made under that law; and
- 2.7 the word 'including', "for example" and similar words shall be understood as if they were immediately followed by the words "without limitation".

3. How the Contract works

- 3.1 The Order Form is an offer by the Buyer to purchase the Deliverables subject to and in accordance with the terms and conditions of the Contract.

- 3.2 The Supplier is deemed to accept the offer in the Order Form when the Buyer receives a copy of the Order Form signed by the Supplier.
- 3.3 The Supplier warrants and represents that its tender and all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

4. What needs to be delivered

4.1 All Deliverables

- (a) The Supplier must provide Deliverables: (i) in accordance with the Specification; (ii) to a professional standard; (iii) using reasonable skill and care; (iv) using Good Industry Practice; (v) using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract; (vi) on the dates agreed; and (vii) that comply with all law.
- (b) The Supplier must provide Deliverables with a warranty of at least 90 days (or longer where the Supplier offers a longer warranty period to its Buyers) from Delivery against all obvious defects.

4.2 Goods clauses

- (a) All Goods delivered must be new, or as new if recycled, unused and of recent origin.
- (b) All manufacturer warranties covering the Goods must be assignable to the Buyer on request and for free.
- (c) The Supplier transfers ownership of the Goods on completion of delivery (including off-loading and stacking) or payment for those Goods, whichever is earlier.
- (d) Risk in the Goods transfers to the Buyer on delivery, but remains with the Supplier if the Buyer notices damage following delivery and lets the Supplier know within three Working Days of delivery.
- (e) The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- (f) The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.
- (g) The Supplier must provide sufficient packaging for the Goods to reach the point of delivery safely and undamaged.
- (h) All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- (i) The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- (j) The Supplier will notify the Buyer of any request that Goods are returned to it or the manufacturer after the discovery of safety issues or defects that might

endanger health or hinder performance and shall indemnify the Buyer against the costs arising as a result of any such request.

- (k) The Buyer can cancel any order or part order of Goods which has not been delivered. If the Buyer gives less than 14 days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.
- (l) The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with clause 4.2. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.
- (m) The Buyer will not be liable for any actions, claims, costs and expenses incurred by the Supplier or any third party during delivery of the Goods unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any damage or injury (whether fatal or otherwise) occurring in the course of delivery or installation then the Supplier shall indemnify from any losses, charges costs or expenses which arise as a result of or in connection with such damage or injury where it is attributable to any act or omission of the Supplier or any of its [sub-suppliers].

4.3 Services clauses

- (a) Late delivery of the Services will be a default of the Contract.
- (b) The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions including any security requirements.
- (c) The Buyer must provide the Supplier with reasonable access to its premises at reasonable times for the purpose of supplying the Services
- (d) The Supplier must at its own risk and expense provide all equipment required to deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of the Contract.
- (e) The Supplier must allocate sufficient resources and appropriate expertise to the Contract.
- (f) The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- (g) On completion of the Services, the Supplier is responsible for leaving the Buyer's premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer's premises or property, other than fair wear and tear.
- (h) The Supplier must ensure all Services, and anything used to deliver the Services, are of good quality and free from defects.

- (i) The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

5. Pricing and payments

- 5.1 In exchange for the Deliverables, the Supplier shall be entitled to invoice the Buyer for the charges in the Order Form. The Supplier shall raise invoices promptly and in any event within 90 days from when the charges are due.
- 5.2 All Charges:
 - (a) exclude VAT, which is payable on provision of a valid VAT invoice;
 - (b) include all costs connected with the supply of Deliverables.
- 5.3 The Buyer must pay the Supplier the charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds to the Supplier's account stated in the Order Form.
- 5.4 A Supplier invoice is only valid if it:
 - (a) includes all appropriate references including the Purchase Order Number and other details reasonably requested by the Buyer;
 - (b) includes a detailed breakdown of Deliverables which have been delivered (if any).
- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Buyer shall pay the undisputed amount. The Supplier shall not suspend the provision of the Deliverables unless the Supplier is entitled to terminate the Contract for a failure to pay undisputed sums in accordance with clause 11.6. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 33.
- 5.6 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.
- 5.7 The Supplier must ensure that all subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, the Buyer can publish the details of the late payment or non-payment.

6. The Buyer's obligations to the Supplier

- 6.1 If Supplier fails to comply with the Contract as a result of a Buyer Cause:
 - (a) the Buyer cannot terminate the Contract under clause 11;
 - (b) the Supplier is entitled to reasonable and proven additional expenses and to relief from liability under this Contract;
 - (c) the Supplier is entitled to additional time needed to deliver the Deliverables;
 - (d) the Supplier cannot suspend the ongoing supply of Deliverables.

6.2 Clause 6.1 only applies if the Supplier:

- (a) gives notice to the Buyer within 10 Working Days of becoming aware;
- (b) demonstrates that the failure only happened because of the Buyer Cause;
- (c) mitigated the impact of the Buyer Cause.

7. Record keeping and reporting

7.1 The Supplier must ensure that suitably qualified representatives attend progress meetings with the Buyer and provide progress reports when specified in the Order Form.

7.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract for seven years after the date of expiry or termination of the Contract.

7.3 The Supplier must allow any auditor appointed by the Buyer access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for the audit.

7.4 The Supplier must provide information to the auditor and reasonable co-operation at their request.

7.5 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:

- (a) tell the Buyer and give reasons;
- (b) propose corrective action;
- (c) provide a deadline for completing the corrective action.

7.6 If the Buyer, acting reasonably, is concerned as to the financial stability of the Supplier such that it may impact on the continued performance of the Contract then the Buyer may:

- (a) require that the Supplier provide to the Buyer (for its approval) a plan setting out how the Supplier will ensure continued performance of the Contract and the Supplier will make changes to such plan as reasonably required by the Buyer and once it is agreed then the Supplier shall act in accordance with such plan and report to the Buyer on demand
- (b) if the Supplier fails to provide a plan or fails to agree any changes which are requested by the Buyer or fails to implement or provide updates on progress with the plan, terminate the Contract immediately for material breach (or on such date as the Buyer notifies).

8. Supplier staff

8.1 The Supplier Staff involved in the performance of the Contract must:

- (a) be appropriately trained and qualified;

- (b) be vetted using Good Industry Practice and in accordance with Schedule 2 Specificaiton;
 - (c) comply with all conduct requirements when on the Buyer's premises.
- 8.2 Where a Buyer decides one of the Supplier's Staff isn't suitable to work on the Contract, the Supplier must replace them with a suitably qualified alternative.
- 8.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach clause 8.
- 8.4 The Supplier must provide a list of Supplier Staff needing to access the Buyer's premises and say why access is required.
- 8.5 The Supplier indemnifies the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.
- 8.6 The Supplier shall use those persons nominated in the Order Form (if any) to provide the Deliverables and shall not remove or replace any of them unless:
 - (a) requested to do so by the Buyer (not to be unreasonably withheld or delayed);
 - (b) the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
 - (c) the person's employment or contractual arrangement with the Supplier or any subcontractor is terminated for material breach of contract by the employee.
- 9. Rights and protection**
- 9.1 The Supplier warrants and represents that:
 - (a) it has full capacity and authority to enter into and to perform the Contract;
 - (b) the Contract is executed by its authorised representative;
 - (c) it is a legally valid and existing organisation incorporated in the place it was formed;
 - (d) there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its affiliates that might affect its ability to perform the Contract;
 - (e) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract;
 - (f) it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract; and
 - (g) it is not impacted by an Insolvency Event.
- 9.2 The warranties and representations in clause 9.1 are repeated each time the Supplier provides Deliverables under the Contract.

- 9.3 The Supplier indemnifies the Buyer against each of the following:
- (a) wilful misconduct of the Supplier, any of its subcontractor and/or Supplier Staff that impacts the Contract;
 - (b) non-payment by the Supplier of any tax or National Insurance.
- 9.4 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.
- 9.5 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.

10. Intellectual Property Rights (IPRs)

- 10.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it and its sub-licensees to both:
- (a) receive and use the Deliverables;
 - (b) use the New IPR.
- 10.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs for the purpose of fulfilling its obligations under the Contract and a perpetual, royalty-free, non-exclusive licence to use any New IPRs.
- 10.3 Where a Party acquires ownership of intellectual property rights incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 10.4 Neither Party has the right to use the other Party's intellectual property rights, including any use of the other Party's names, logos or trademarks, except as provided in clause 10 or otherwise agreed in writing.
- 10.5 If any claim is made against the Buyer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Deliverables (an "**IPR Claim**"), then the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.
- 10.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
- (a) obtain for the Buyer the rights in clauses 10.1 and 10.2 without infringing any third party intellectual property rights;
 - (b) replace or modify the relevant item with substitutes that don't infringe intellectual property rights without adversely affecting the functionality or performance of the Deliverables.

11. Ending the contract

- 11.1 The Contract takes effect on the date of or (if different) the date specified in the Order Form and ends on the earlier of the date of expiry or termination of the Contract or earlier if required by Law.
- 11.2 The Buyer can extend the Contract where set out in the Order Form in accordance with the terms in the Order Form.

11.3 Ending the Contract without a reason

The Buyer has the right to terminate the Contract at any time without reason or liability by giving the Supplier not less than 90 days' written notice and if it's terminated clause 11.5(b) to 11.5(g) applies.

11.4 When the Buyer can end the Contract

- (a) If any of the following events happen, the Buyer has the right to immediately terminate its Contract by issuing a termination notice in writing to the Supplier:
- (i) there's a Supplier Insolvency Event;
 - (ii) if the Supplier repeatedly breaches the Contract in a way to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;
 - (iii) if the Supplier is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
 - (iv) there's a change of control (within the meaning of section 450 of the Corporation Tax Act 2010) of the Supplier which isn't pre-approved by the Buyer in writing;
 - (v) if the Buyer discovers that the Supplier was in one of the situations in 57(1) or 57(2) of the Regulations at the time the Contract was awarded;
 - (vi) the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations;
 - (vii) the Supplier or its affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them.
- (b) If any of the events in 73(1) (a) to (c) of the Regulations (substantial modification, exclusion of the Supplier, procurement infringement) happen, the Buyer has the right to immediately terminate the Contract and clause 11.5(b) to 11.5(g) applies.

11.5 What happens if the Contract ends

Where the Buyer terminates the Contract under clause 11.4(a) all of the following apply:

- (a) the Supplier is responsible for the Buyer's reasonable costs of procuring replacement deliverables for the rest of the term of the Contract;
- (b) the Buyer's payment obligations under the terminated Contract stop immediately;
- (c) accumulated rights of the Parties are not affected;
- (d) the Supplier must promptly delete or return the Government Data except where required to retain copies by law;
- (e) the Supplier must promptly return any of the Buyer's property provided under the Contract;
- (f) the Supplier must, at no cost to the Buyer, give all reasonable assistance to the Buyer and any incoming supplier and co-operate fully in the handover and re-procurement;
- (g) the following clauses survive the termination of the Contract: [3.2.10, 6, 7.2, 9, 11, 14, 15, 16, 17, 18, 34, 35] and any clauses which are expressly or by implication intended to continue.

11.6 When the Supplier can end the Contract

- (a) The Supplier can issue a reminder notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate the Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract value or £1,000, whichever is the lower, within 30 days of the date of the reminder notice.
- (b) If a Supplier terminates the Contract under clause 11.6(a):
 - (i) the Buyer must promptly pay all outstanding charges incurred to the Supplier;
 - (ii) the Buyer must pay the Supplier reasonable committed and unavoidable losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated;
 - (iii) clauses 11.5(d) to 11.5(g) apply.

11.7 Partially ending and suspending the Contract

- (a) Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends the Contract it can provide the Deliverables itself or buy them from a third party.

- (b) The Buyer can only partially terminate or suspend the Contract if the remaining parts of it can still be used to effectively deliver the intended purpose.
- (c) The Parties must agree (in accordance with clause 24) any necessary variation required by clause 11.7, but the Supplier may not either:
 - (i) reject the variation;
 - (ii) increase the Charges, except where the right to partial termination is under clause 11.3.
- (d) The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under clause 11.7.

12. How much you can be held responsible for

- 12.1 Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than 125% of the Charges paid or payable to the Supplier.
- 12.2 No Party is liable to the other for:
 - (a) any indirect losses;
 - (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 12.3 In spite of clause 12.1, neither Party limits or excludes any of the following:
 - (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or subcontractors;
 - (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
 - (c) any liability that cannot be excluded or limited by law.
- 12.4 In spite of clause 12.1, the Supplier does not limit or exclude its liability for any indemnity given under clauses 4.2(j), 4.2(m), 8.5, 9.3, 10.5, 13.2, 14.26(e) or 30.2(b).
- 12.5 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including any indemnities.
- 12.6 If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers

13. Obeying the law

- 13.1 The Supplier must, in connection with provision of the Deliverables, use reasonable endeavours to:
 - (a) comply and procure that its subcontractors comply with the Supplier Code of Conduct appearing at

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf) and such other corporate social responsibility requirements as the Buyer may notify to the Supplier from time to time;

- (b) support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010;
 - (c) not use nor allow its subcontractors to use modern slavery, child labour or inhumane treatment;
 - (d) meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:
<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>
- 13.2 The Supplier indemnifies the Buyer against any costs resulting from any default by the Supplier relating to any applicable law to do with the Contract.
- 13.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 13.1 and Clauses 27 to 32
- 13.4 "Compliance Officer" the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations

14. Data protection

- 14.1 The Buyer is the Controller and the Supplier is the Processor for the purposes of the Data Protection Legislation.
- 14.2 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with this Contract.
- 14.3 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 14.4 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every six Months.
- 14.5 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the security requirements specified [in writing] by the Buyer.
- 14.6 If at any time the Supplier suspects or has reason to believe that the Government Data provided under the Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Buyer and immediately suggest remedial action.
- 14.7 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:

- (a) tell the Supplier to restore or get restored Government Data as soon as practical but no later than five Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier;
 - (b) restore the Government Data itself or using a third party.
- 14.8 The Supplier must pay each Party's reasonable costs of complying with clause 14.7 unless the Buyer is at fault.
- 14.9 Only the Buyer can decide what processing of Personal Data a Supplier can do under the Contract and must specify it for the Contract using the template in Annex 1 of the Order Form (*Authorised Processing*).
- 14.10 The Supplier must only process Personal Data if authorised to do so in the Annex to the Order Form (*Authorised Processing*) by the Buyer. Any further written instructions relating to the processing of Personal Data are incorporated into Annex 1 of the Order Form.
- 14.11 The Supplier must give all reasonable assistance to the Buyer in the preparation of any Data Protection Impact Assessment before starting any processing, including:
 - (a) a systematic description of the expected processing and its purpose;
 - (b) the necessity and proportionality of the processing operations;
 - (c) the risks to the rights and freedoms of Data Subjects;
 - (d) the intended measures to address the risks, including safeguards, security measures and mechanisms to protect Personal Data.
- 14.12 The Supplier must notify the Buyer immediately if it thinks the Buyer's instructions breach the Data Protection Legislation.
- 14.13 The Supplier must put in place appropriate Protective Measures to protect against a Data Loss Event which must be approved by the Buyer.
- 14.14 If lawful to notify the Buyer, the Supplier must notify it if the Supplier is required to process Personal Data by Law promptly and before processing it.
- 14.15 The Supplier must take all reasonable steps to ensure the reliability and integrity of any Supplier Staff who have access to the Personal Data and ensure that they:
 - (a) are aware of and comply with the Supplier's duties under this clause 14;
 - (b) are subject to appropriate confidentiality undertakings with the Supplier or any Subprocessor;
 - (c) are informed of the confidential nature of the Personal Data and do not provide any of the Personal Data to any third Party unless directed in writing to do so by the Buyer or as otherwise allowed by the Contract;
 - (d) have undergone adequate training in the use, care, protection and handling of Personal Data.

14.16 The Supplier must not transfer Personal Data outside of the EU unless all of the following are true:

- (a) it has obtained prior written consent of the Buyer;
- (b) the Buyer has decided that there are appropriate safeguards (in accordance with Article 46 of the GDPR);
- (c) the Data Subject has enforceable rights and effective legal remedies when transferred;
- (d) the Supplier meets its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred;
- (e) where the Supplier is not bound by Data Protection Legislation it must use its best endeavours to help the Buyer meet its own obligations under Data Protection Legislation; and
- (f) the Supplier complies with the Buyer's reasonable prior instructions about the processing of the Personal Data.

14.17 The Supplier must notify the Buyer immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with the request is required or claims to be required by Law;
- (f) becomes aware of a Data Loss Event.

14.18 Any requirement to notify under clause 14.17 includes the provision of further information to the Buyer in stages as details become available.

14.19 The Supplier must promptly provide the Buyer with full assistance in relation to any Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 14.17. This includes giving the Buyer:

- (a) full details and copies of the complaint, communication or request;
- (b) reasonably requested assistance so that it can comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;

- (c) any Personal Data it holds in relation to a Data Subject on request;
 - (d) assistance that it requests following any Data Loss Event;
 - (e) assistance that it requests relating to a consultation with, or request from, the Information Commissioner's Office.
- 14.20 The Supplier must maintain full, accurate records and information to show it complies with this clause 14. This requirement does not apply where the Supplier employs fewer than 250 staff, unless either the Buyer determines that the processing:
- (a) is not occasional;
 - (b) includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR;
 - (c) is likely to result in a risk to the rights and freedoms of Data Subjects.
- 14.21 The Supplier must appoint a Data Protection Officer responsible for observing its obligations in this Schedule and give the Buyer their contact details.
- 14.22 Before allowing any Subprocessor to process any Personal Data, the Supplier must:
- (a) notify the Buyer in writing of the intended Subprocessor and processing;
 - (b) obtain the written consent of the Buyer;
 - (c) enter into a written contract with the Subprocessor so that this clause 14 applies to the Subprocessor;
 - (d) provide the Buyer with any information about the Subprocessor that the Buyer reasonably requires.
- 14.23 The Supplier remains fully liable for all acts or omissions of any Subprocessor.
- 14.24 At any time the Buyer can, with 30 Working Days notice to the Supplier, change this clause 14 to:
- (a) replace it with any applicable standard clauses (between the controller and processor) or similar terms forming part of an applicable certification scheme under GDPR Article 42;
 - (b) ensure it complies with guidance issued by the Information Commissioner's Office.
- 14.25 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office.
- 14.26 The Supplier:

- (a) must provide the Buyer with all Government Data in an agreed open format within 10 Working Days of a written request;
- (b) must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
- (c) must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice;
- (d) securely erase all Government Data and any copies it holds when asked to do so by the Buyer unless required by Law to retain it;
- (e) indemnifies the Buyer against any and all Losses incurred if the Supplier breaches clause 14 and any Data Protection Legislation.

15. What you must keep confidential

15.1 Each Party must:

- (a) keep all Confidential Information it receives confidential and secure;
- (b) not disclose, use or exploit the disclosing Party's Confidential Information without the disclosing Party's prior written consent, except for the purposes anticipated under the Contract;
- (c) immediately notify the disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

15.2 In spite of clause 15.1, a Party may disclose Confidential Information which it receives from the disclosing Party in any of the following instances:

- (a) where disclosure is required by applicable Law or by a court with the relevant jurisdiction if the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- (b) if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;
- (c) if the information was given to it by a third party without obligation of confidentiality;
- (d) if the information was in the public domain at the time of the disclosure;
- (e) if the information was independently developed without access to the disclosing Party's Confidential Information;
- (f) to its auditors or for the purposes of regulatory requirements;
- (g) on a confidential basis, to its professional advisers on a need-to-know basis;
- (h) to the Serious Fraud Office where the recipient Party has reasonable grounds to believe that the disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

- 15.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Buyer at its request.
- 15.4 The Buyer may disclose Confidential Information in any of the following cases:
- (a) on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
 - (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
 - (c) if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
 - (d) where requested by Parliament;
 - (e) under clauses 5.7 and 16.
- 15.5 For the purposes of clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in clause 15.
- 15.6 Information which is exempt from disclosure by clause 16 is not Confidential Information.
- 15.7 The Supplier must not make any press announcement or publicise the Contract or any part of it in any way, without the prior written consent of the Buyer and must take all reasonable steps to ensure that Supplier Staff do not either.

16. When you can share information

- 16.1 The Supplier must tell the Buyer within 48 hours if it receives a Request For Information.
- 16.2 Within the required timescales the Supplier must give the Buyer full co-operation and information needed so the Buyer can:
- (a) comply with any Freedom of Information Act (FOIA) request;
 - (b) comply with any Environmental Information Regulations (EIR) request.
- 16.3 The Buyer may talk to the Supplier to help it decide whether to publish information under clause 16. However, the extent, content and format of the disclosure is the Buyer's decision, which does not need to be reasonable.

17. Invalid parts of the contract

If any part of the Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as

much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it's valid or enforceable.

18. No other terms apply

The provisions incorporated into the Contract are the entire agreement between the Parties. The Contract replaces all previous statements and agreements whether written or oral. No other provisions apply.

19. Other people's rights in a contract

No third parties may use the Contracts (Rights of Third Parties) Act (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

20. Circumstances beyond your control

20.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under the Contract while the inability to perform continues, if it both:

- (a) provides written notice to the other Party;
- (b) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

20.2 Either party can partially or fully terminate the Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

20.3 Where a Party terminates under clause 20.2:

- (a) each party must cover its own losses;
- (b) clause 11.5(b) to 11.5(g) applies.

21. Relationships created by the contract

The Contract does not create a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

22. Giving up contract rights

A partial or full waiver or relaxation of the terms of the Contract is only valid if it is stated to be a waiver in writing to the other Party.

23. Transferring responsibilities

23.1 The Supplier cannot assign the Contract without the Buyer's written consent.

23.2 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.

- 23.3 When the Buyer uses its rights under clause 23.2 the Supplier must enter into a novation agreement in the form that the Buyer specifies.
- 23.4 The Supplier can terminate the Contract novated under clause 23.2 to a private sector body that is experiencing an Insolvency Event.
- 23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 23.6 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:
- (a) their name;
 - (b) the scope of their appointment;
 - (c) the duration of their appointment.

24. Changing the contract

- 24.1 Either Party can request a variation to the Contract which is only effective if agreed in writing and signed by both Parties. The Buyer is not required to accept a variation request made by the Supplier.

25. How to communicate about the contract

- 25.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective when sent unless an error message is received.
- 25.2 Notices to the Buyer or Supplier must be sent to their address in the Order Form.
- 25.3 This clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

26. Preventing fraud, bribery and corruption

- 26.1 The Supplier shall not:
- (a) commit any criminal offence referred to in the Regulations 57(1) and 57(2);
 - (b) offer, give, or agree to give anything, to any person (whether working for or engaged by the Buyer or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other public function or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other public function.
- 26.2 The Supplier shall take all reasonable steps (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with good industry practice, to prevent any matters referred to in clause 26.1 and any fraud by the Staff and the Supplier (including its shareholders, members and directors) in

connection with the Contract and shall notify the Buyer immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.

26.3 If the Supplier or the Staff engages in conduct prohibited by clause 26.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Buyer) the Buyer may:

- (a) terminate the Contract and recover from the Supplier the amount of any loss suffered by the Buyer resulting from the termination, including the cost reasonably incurred by the Buyer of making other arrangements for the supply of the Deliverables and any additional expenditure incurred by the Buyer throughout the remainder of the Contract; or
- (b) recover in full from the Supplier any other loss sustained by the Buyer in consequence of any breach of this clause.

27. Equality, diversity and human rights

27.1 The Supplier must follow all applicable equality law when they perform their obligations under the Contract, including:

- (a) protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise;
- (b) any other requirements and instructions which the Buyer reasonably imposes related to equality Law.

27.2 The Supplier must take all necessary steps, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

28. Health and safety

28.1 The Supplier must perform its obligations meeting the requirements of:

- (a) all applicable law regarding health and safety;
- (b) the Buyer's current health and safety policy while at the Buyer's premises, as provided to the Supplier.

28.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer premises that relate to the performance of the Contract.

29. Environment

29.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.

29.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

30. Tax

30.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.

30.2 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Off Contract, the Supplier must both:

- (a) comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions;
- (b) indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.

30.3 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

- (a) the Buyer may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause 30.2, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
- (b) the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
- (c) the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with clause 30.2 or confirms that the Worker is not complying with those requirements;
- (d) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

31. Conflict of interest

31.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer.

- 31.2 The Supplier must promptly notify and provide details to the Buyer if a conflict of interest happens or is expected to happen.
- 31.3 The Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential conflict of interest.

32. Reporting a breach of the contract

- 32.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of law, clause 13.1, or clauses 26 to 31.
- 32.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in clause 32.1.

33. Resolving disputes

- 33.1 If there is a dispute between the Parties, their senior representatives who have authority to settle the dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the dispute.
- 33.2 If the dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the dispute, the dispute must be resolved using clauses 33.3 to 33.5.
- 33.3 Unless the Buyer refers the dispute to arbitration using clause 33.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- (a) determine the dispute;
 - (b) grant interim remedies;
 - (c) grant any other provisional or protective relief.
- 33.4 The Supplier agrees that the Buyer has the exclusive right to refer any dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 33.5 The Buyer has the right to refer a dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under clause 33.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under clause 33.4.
- 33.6 The Supplier cannot suspend the performance of the Contract during any dispute.

34. Which law applies

This Contract and any issues arising out of, or connected to it, are governed by English law.

Schedule 2 Specification

1. Introduction

The Department for Transport (DfT) invites proposals for the Rail Security Exercise project. The anticipated value of the project is approximately £80,000. This value is given in good faith as a guide to aid Tenderer's planning for submitting their Tender. It should not be interpreted as an undertaking to purchase any goods or services to any value and does not form part of the Contract. The project will be subject to the Short Form Contract Conditions (Schedule 1).

2. Background to the Requirement

The DfT works with its agencies and partners to support the transport network that helps the UK's businesses and gets people and goods travelling around the country. The DfT plans and invests in transport infrastructure.

Transport Security, Resilience and Response (TSRR) within DfT, leads on national security matters, ranging from counter terrorism and cyber security to planning for and responding to natural hazards or civil contingencies. We deliver expertise to support security and resilience policy teams whilst also providing the department's 24/7 response for all security or civil contingency incidents. The team works with security and intelligence partners from across government to mitigate risk to the UK's transport sector.

TSRR is a major player in delivering both the Government's counter-terrorism strategy (CONTEST, <https://www.gov.uk/government/publications/counter-terrorism-strategy-contest-2018>), and the DfT's aim for a transport system that works for everyone and balances the needs of society, the environment and the economy. A key factor in that aim is to deliver a safe, secure and resilient transport network, for people and goods, for today and tomorrow.

The Rail Security Exercise project will be overseen by the Research, Analysis and Development (RAD) team within DfT. RAD are a team of scientists responsible for providing data and evidence that support decisions around maintaining a safe and secure transport infrastructure.

To maintain a safe and secure transport infrastructure, consideration is given to a variety of security scenarios to support the understanding of how scenarios may develop, including responses and reactions. Understanding scenarios and responses helps the DfT inform planning and use of mitigations to best effect. To achieve this, live role-playing exercises are used to help inform the RAD team in their analyses.

This project requires a live role-play exercise to be run, exploring the outcomes and lessons of a security scenario in a rail transport environment.

A security scenario will be mocked-up by the DfT in a Rail transport environment. This will include volunteers (provided by Transport for London (TfL)) playing the role of passengers / customers and existing staff undertaking their normal duties.

Actors provided by the DfT/TfL will assume the role of hostiles and initiate the security scenario being reviewed.

The supplier will be expected to observe and record responses of volunteers and staff to inform DfT's understanding of what may happen in the selected scenario and to identify lessons to improve outcomes.

Stewards will be provided by the DfT/TfL to be present in the background of the scenario to observe and monitor health and safety issues throughout. Whilst the minimum required steward resource will be provided by DfT/TfL, the supplier can supplement the numbers if required. This must be reflected in the supplier's tender submission. This will be discussed in the planning board meetings outlined below.

3. Procurement Timetable

Description	Date
Launch of Procurement	10/09/2021
Clarification period closes	27/09/2021
Deadline for submission of bids	30/09/2021
Evaluation of Bids	01/10/2021
Proposed award date of contract	08/10/2021
Expected execution (signature) date for contract	15/10/2021
Contract start date	02/11/2021
Inception meeting (to discuss Service Commencement)	03/11/2021
Contract end date	31/03/2022

4. Scope

Suppliers will be expected to work with RAD in the planning and delivery of the exercise. RAD will co-ordinate the interactions with the wider DfT, industry operators, emergency services and other government departments. RAD will co-ordinate "planning board" meetings that bring stakeholders together, including attendance by the supplier, where they will provide progress updates and planning documentation. It is also expected for the supplier to attend a start-up meeting within a week of the contract being awarded. Attendance at planning boards may be virtual via telepresence. It is expected that meeting frequency will be no further apart than monthly but may be subject to more if deemed appropriate subject to issues/clarifications.

Whilst it is anticipated that the number of volunteers will be approximately several hundred, the exact number will be proportionate to the exercise. Sourcing volunteers is not required by the supplier and will be led by the DfT/TfL in collaboration with industry operators. However, the supplier must manage the logistics for the volunteers on the

day of the exercise. This includes providing food and drink for the participants on the day of the exercise. The DfT will cover these costs but approval will be needed in advance to ensure that costs are reasonable.

The DfT will mock-up the exercise and provide details to the supplier, who will be responsible for planning how the exercise will be run, monitoring the exercise and the subsequent recording of decisions taken by both the staff and volunteers participating. For example, this might include the use of CCTV, emergency exits used and post exercise surveys and questionnaires. These examples are not exhaustive, and the supplier will be expected to use their industry knowledge to fully capture this requirement.

Following the exercise, the supplier must provide a summary report of actions taken by the participants and potential recommendations to identify opportunities for the DfT to improve outcomes. This should be delivered by the end of February 2022 and include a report, follow up presentation to the DfT and a series of clarifications incorporated as necessary.

It is anticipated the exercise will be run (as a “Play”) over the course of a single day, with set up and clear down time anticipated either side of the exercise (which the supplier will also be responsible for). The exercise will be “played” through a few times (estimated to be 3 times, but this will be confirmed as part of the planning) to allow iterations and testing of different responses.

The exercise is anticipated to take place on a day between November 2021 – January 2022. The exact date and time will depend upon availability of the selected location, health and safety, security and legal provisions being completed and accepted. Ministerial permission will be required before the exercise can go ahead, and will be dependent on factors listed, being satisfactorily addressed. The supplier must ensure they are available during this time frame for when approval is received.

It should be noted that weekend or overnight timeframes may be considered for the exercise and any additional costs associated with this should be highlighted within the tender submission.

The observations and outcomes of each of the “Plays” on the day will need to be included in the summary report to illustrate factors that affected participants decisions, effects of subsequent actions and their messaging throughout the scenario.

For example, this might include (but not limited to):

- information included or omitted from public announcement messages,
- influences such as signage on choices to use a particular exit or;
- why participants moved in a particular direction, putting them closer or farther from the hazard.

Again, the supplier will be expected to use their industry knowledge to fully capture this requirement.

For clarity, the supplier is not expected to;

- Provide “hostile” actors
- Organise existing Rail staff duties
- Provide any/all of the stewards. However, the supplier may wish to provide some stewards as part of the planning and exercise management. This must be included as a cost within the supplier’s tender submission.

5. Implementation and Deliverables

Supplier(s) will be expected to:

- attend planning board meetings;
- deliver progress reports at planning documentation at planning board meetings;
- regularly communicate with RAD
- set-up, deliver and clear down the exercise in collaboration with organisations represented on the planning board;
- document results of each exercise “Play”, in a summary report (written in English)
- Present and discuss findings with an audience of stakeholders (in English)
- incorporate any necessary amendments because of the discussion and submit the final summary report

For reasons of safety, security or overriding priority of activity at the selected exercise location, the contract may be terminated early, or timescales be revised. Such decisions, including the review of breakpoints, will be taken by the planning board.

Milestone/Deliverable	Description	Timeframe or Delivery Date
Inception meeting	Initial meeting with key stakeholders, which will be organised by the DfT.	Within 1 week of contract being awarded
Planning board meetings	Regular meetings with key stakeholders to monitor progress and discuss any risks and issues.	At least monthly (and as required)
Planning document shared	Supplier to provide the DfT with planning document.	Within 2 weeks of the inception meeting
Progress updates	Supplier to provide regular progress updates to the DfT.	At planning board meetings
Exercise decision point Milestone payment 1	A decision will be made regarding whether or not the exercise will go ahead. (Please see section 4, paragraph 7 for details.)	To be agreed at inception meeting
Exercise	The exercise will be completed as agreed between the DfT and the supplier.	By 31 st of January 2022
Draft report submitted	The supplier will submit the draft report to the DfT.	By 28 th of February 2022
Presentation/Discussion	The supplier will present their findings to the DfT and other stakeholders.	By 28 th of February 2022
Final report (with clarifications incorporated) Milestone payment 2	The supplier will submit the final report to the DfT.	By 31 st of March 2022

The milestone payments must align to the breakdown of costs submitted for the Price response.

6. Specifying Goods and / or Services

Required attendance at planning board meetings is estimated to be as frequent as monthly but may become more frequent as the date of the exercise approaches. Outside of planning boards, it is anticipated that there will be regular communication with RAD.

Reasonable Travel & Subsistence should be included in the planning and in line with the DfT's travel and subsistence allowance, which can be found [here](#). However, all costs are expected to be included in the tender submission.

The supplier will raise any concerns about possibilities of failing to meet the overall deadline, at any point throughout the planning and delivery process, as they arise.

The supplier shall acknowledge any communications from the contract / project manager within 2 business days through written confirmation/acknowledgement.

If there is an urgent issue the supplier shall make the contract manager aware of this within 2 business days.

If there is a dispute or complaint raised, the DfT should be able to contact the single point of contact for the potential provider and a resolution plan should be put in place within two business days.

7. Skills and Apprenticeships

The supplier should have suitably qualified and experienced staff with appropriate security clearance to undertake the work. This is evaluated as part of 'Evaluation Criteria' below.

8. Quality Assurance Requirements

Supplier outputs, such as the proposed plans and summary report will be reviewed and agreed by the planning board with the supplier incorporating feedback and amendments as necessary.

9. Service Conditions and Environmental Factors

The exercise will take place in a rail station environment (likely to be a London Underground Station).

Any temporary modifications required (e.g. installation of temporary equipment) to the setting must be agreed in consultation with the appropriate site owners. No permanent changes to the setting will be permitted and all reasonable steps must be taken to protect the setting from damage during set-up, exercise and clear down.

Surrounding areas and businesses should not be negatively impacted by the exercise and consideration of this should be included in the planning.

The supplier will need to factor in set-up / clear down requirements and appropriate disposal that align with the required industry standards.

Health and safety and data protection legislation must be adhered to. Health and safety risk assessments will be required, and appropriate approvals given for the exercise to go ahead. Any footage of the exercise recorded will be shared with members of the planning board and a data retention policy agreed with the DfT in line with GDPR requirements.

10. Management and Contract Administration

Required attendance at planning board meetings is estimated to be as frequent as monthly but may become more frequent as the date of the exercise approaches. Outside of planning boards it is anticipated that there will be regular communication with RAD. This will be a requirement until the conclusion of the contract.

For reasons of safety, security or overriding priority of activity at the selected exercise location, the contract may be terminated early, or planned timescales be revised. Such decisions will be taken by the planning board. The DfT reserves the right to terminate as per the rights and obligations for non-commitment of spend.

It is anticipated that the contract will end on 31st March 2022, however due to the timescale of the exercise being ambiguous until further detailed planning is complete and in acknowledgment of the risk that the timescale could move, the contract may optionally be extended for a further 12 months.

The payment mechanism shall be Milestone Payments (see table in section 5 for details). Invoices shall be submitted for amounts to be agreed by the parties, indicative of the provider's bid submission and the Delivery Plan.

Payment can only be made following satisfactory delivery of pre-agreed certified products and deliverables (see table in section 5 for details).

Before payment can be considered, each invoice must include a detailed elemental breakdown of work completed and the associated costs. Invoices must show DfT's purchase order number. The Purchase Order number (PO) will be handed over at the inception meeting.

Invoices will be processed via the raising of a PO and that process will be further defined upon satisfactory delivery of any pre-agreed deliverables. Such invoices should be submitted to the respective Contract Manager.

The DfT will also require a contract award letter signed by both the supplier and the DfT in conjunction to invoices before any POs can be raised.

11. Security

The exercise will cover a security scenario. Access to security information may be required, therefore security clearance (Security Check) will be required. The content and results of the exercise will be subject to a non-disclosure agreement, which the supplier will be expected to sign at the inception meeting.

The supplier may be given access to sensitive information which must only be shared on a strict need to know basis (i.e. selected members of the project team only). The supplier will destroy all classified information, to the required standard, on completion of the project.

Any information arising from this project (including data, interim or final reports, recommendations and information provided by third parties) must be stored securely and access controlled. Such that only those with a direct need-to-know may be able to get access to them.

Any information held on an IT system must be encrypted and password protected. Information from this project may only be shared with third parties if prior written approval is obtained from DfT. This includes publication, presentations at conferences and any informal discussions with peers who are not directly involved with the project.

Staff with open access to the collated information and the final report must have (or have a willingness to obtain), at least a basic security check which meets the Basic Personnel Security Standard defined by the Cabinet Office.

A description of security clearance levels can be found here:

<https://www.gov.uk/government/publications/united-kingdom-security-vetting-clearance-levels/national-security-vetting-clearance-levels>

12. Data Protection

The supplier will be required to comply with all applicable requirements of the Data Protection Legislation (including the General Data Protection Regulation ((EU) 2016/679) ("GDPR"), the Law Enforcement Directive (Directive (EU) 2016/680), and all applicable Law about the processing of personal data and privacy).

Delivery of this contract will require the supplier to process Personal Data (as defined in the GDPR) on the DfT's behalf. The DfT will be the Data Controller and the supplier will act as the Data Processor. The supplier will process Personal Data only on the DfT's documented instructions, as set out in Schedule 8 (Schedule of Processing, Personal Data & Data Subjects) of this Specification.

If CCTV is used to record the exercises data should only be held by the supplier for the duration of the contract and in accordance with GDPR requirements.

Responses from staff and volunteers should be recorded anonymously wherever possible e.g by the assignments of reference numbers or role descriptors.

The content and results of the trial will be subject to a non-disclosure agreement.

13. Training / Skills / Knowledge Transfer

All supplier resource must be adequately trained and skilled to deliver the project.

CVs covering a summary of skills, experience and clearances should be provided will be evaluated as per the below.

All findings should be presented in the summary report.

14. Documentation

Planning documentation is required to be submitted to the planning board at regular intervals leading up to the exercise. Planning documentation should at least include a Gantt chart or equivalent.

Raw data collected should be provided to RAD following the conclusion of the exercise (timeframe subject to be agreed but should not exceed the end of February 2022).

A written summary report, is to be provided in English, following the conclusion of the exercise (timeframe to be agreed but should not exceed the end of February 2022).

A visual / oral presentation and discussion of results are to be provided in English, following the submission of the summary report.

Invoices should be presented following delivery of milestones.

15. Arrangement for End of Contract

All exercise tasks are anticipated to complete within financial year 2021-2022. If timescales for the exercise are delayed the contract may be extended by 12 months.

If approvals for the exercise to go ahead are not obtained, the exercise may be cancelled, and the contract will be ended. Any costs incurred by the supplier up to the date of cancellation, that align to the deliverables and breakdown of costs submitted for the Price response, will be paid. However, no further costs after this date will be paid.

16. Evaluation Criteria

All suppliers must respond to all of the quality factor questions within Schedule 6 Bidder Response.

17. Points of Contact

Invitation to Tender documents and where to submit your tender responses can be accessed via the Jaggaer e-sourcing portal. This can be found here:

<https://dft.app.jaggaer.com/web/login.html> where the respective contract title and reference will be.

Any queries you have, should also be submitted via the e-sourcing suite.

Schedule 5 Pricing Schedule

Lump Sum

GHD propose to perform the scope of works identified within the 'Rail Security Exercise Invitation to Tender ITT' and associated schedules, taking into account the proposed approach as described in response to section 1c of GHD's proposal for a lump sum of [REDACTED] excluding VAT.

Task

Investment (excl. VAT)

General (project management and regular meetings with planning board)

Preparation

Milestone 1

Exercise Setup and Attendance

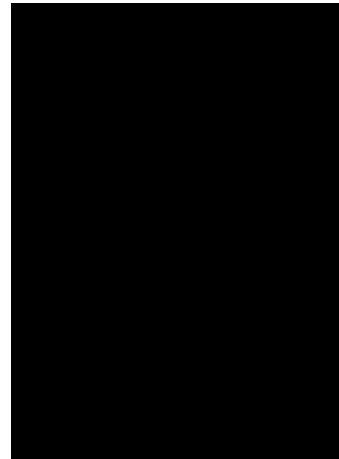
Analysis

Reporting and presentation

Milestone 2

Expenses

Total Investment



Of this fee, GHD will sub-contract [REDACTED] to BRE.

Assumptions

In developing this price, please note we have assumed the following:

- In accordance with the scope of works identified with ITT pack, GHD will not be responsible for the provision of hostile actors, ammunition, or PPE.
- GHD will manage the logistics for volunteers on the day of the exercise, with costs for ancillary provisions (food and drink, PPE, provision of bibs, etc) covered by DfT. These costs will be agreed in advance with DfT and will be in addition to the above lump sum figure.
- Allowance has been made for attendance at the following project meetings:
 - One (1) Start-Up meeting within one (1) week of contract award and RAD co-ordinated planning meetings. It is assumed these occur once a month, with the potential for increased frequency in the lead up to the exercise. These meetings are intended to be attended in person (within the Greater London region) by the core GHD team. However, GHD is appropriately equipped to attend these meetings virtually if required.
 - During the lead up to the exercise, hosting and attendance during daily virtual Stand-Up meetings.
- The exercise will be conducted over the course of a single day, between November 2021 to January 2022
- The exercise will be conducted on a weekday between 09:00 to 17:00. If the exercise is required to be undertaken on or overnight, the 'Exercise Setup and Attendance' phase pricing will need to be increased to take account of potential travel and accommodation expenses, which will be charged at cost. The final cost increase will be discussed and agreed with DfT, depending on the final

timeframe of the exercise. However, it is anticipated that this will be an additional of cost approximately [REDACTED] (excluding VAT) subject to the specific timing and arrangements.

- The exercise will be located within the Greater London region.
- Our fee estimate allows for up to 30 interviews for each of three plays, i.e., 5 for each of our 6 team members, and ninety in total.

Stewards

GHD will not provide stewards for the exercise. However, GHD and BRE will have approximately six persons deployed out on site during the exercise to support monitoring of the exercise and to undertake interviews once the exercise is completed.

Prior experience with other trials has indicated that these staff members can provide support to the stewards and help with crowd management whilst not undertaking their primary activities. In planning for the exercise, GHD's team members will liaise with the management of the stewards to agree how and where support can be most effectively provided.

Hostile Actors, Equipment and Ammunition

During prior trials, GHD have used D J Goode and Associates Ltd to provide hostile actors, health and safety risk assessments, PPE, rifles, handguns, and ammunition. It is noted that these provisions are not part of the scope. However, GHD can coordinate with D J Goode and Associates to provide the necessary elements to support the exercise if necessary, or if additional equipment is required to support the exercise. The additional scope and costs will be agreed in advance with DfT and will be in addition to the above lump sum figure.

Annex 1 –Schedule of Processing, Personal Data & Data Subjects

(To be discussed at Inception Meeting if required)

This Schedule shall be completed by the Controller. The Controller may take account of the view of the Processor(s), however the final decision as to the content of this Schedule shall be with the Controller at its absolute discretion.

1. The contact details of the Controller's Data Protection Officer are: [to be agreed at inception meeting].
2. The contact details of the Processor's Data Protection Officer are: [to be agreed at inception meeting].
3. The Processor shall comply with any further written instructions with respect to processing by the Controller.
4. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Controller and Processor	<p>The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor in accordance with Clause [E1.1].</p> <p>DfT, deciding what the purpose or outcome of the processing will be; obtaining benefit from the processing and appointing the processor to process on our behalf, is a Controller.</p> <p>The Supplier, being given the personal data by a customer or similar third party or told what data to collect; is a Processor.</p>
Subject matter of the processing	<p>The processing is needed in order to ensure that the Processor can effectively deliver the contract to provide a service to the controller (Authority).</p> <p>Raw data (CCTV images of staff, volunteers, stewards and suppliers) will be provided to the supplier by TfL at the request of DfT (the Controller) and / or captured by the supplier.</p> <p>Raw footage will be reviewed by the supplier (the Processor) to understand and analyse movements of people during a</p>

	<p>simulated security scenario. Raw data will contain visual identities of individuals (i.e. images will not be blurred), which is necessary for the supplier (the Processor) to follow individual's movements through the simulated security scenario.</p> <p>Visual identities are not required in the outputs following analysis of information by the supplier (the Processor).</p> <p>Project outputs prepared for DfT (the Controller) will be represented by the supplier (the Processor) anonymously, removing identifiable information e.g. by blurring or blanking faces in images and referring to individuals by an allocated number.</p>
Duration of the processing	<p>Provision of CCTV footage following the exercise (November to February 2022)</p> <p>Analysis of CCTV footage (November to March 2022)</p> <p>Storage of CCTV footage (April to July 2022)</p> <p>Disposal of CCTV footage (July 2022)</p>
Nature and purposes of the processing	<p>Raw data (CCTV images of staff, volunteers, stewards and suppliers) will be provided to the supplier by TfL at the request of DfT (the Controller) and / or captured by the supplier.</p> <p>Raw footage will be reviewed by the supplier (the Processor) to understand and analyse movements of people during a simulated security scenario. Raw data will contain visual identities of individuals (i.e. images will not be blurred), which is necessary for the supplier (the Processor) to follow individual's movements through the simulated security scenario.</p> <p>Visual identities are not required in the outputs following analysis of information by the supplier (the Processor).</p> <p>Project outputs prepared for DfT (the Controller) will be represented by the supplier (the Processor) anonymously,</p>

	removing identifiable information e.g. by blurring or blanking faces in images and referring to individuals by an allocated number.
Type of Personal Data being Processed	Images of individuals on CCTV footage.
Categories of Data Subject	Station staff, exercise volunteers, stewards, suppliers.
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<p>Supplier to detail how they will return and destroy data following the short retention period.</p> <p>The duration of the retention period shall be no longer than 3 months following the completion of the contract.</p> <p>All personally identified data will be analysed and anonymised and returned to DfT securely using Egress.</p> <p>All personally identified data will be securely destroyed within 3 months of the analysed and anonymised data by DfT.</p>