

YPO Training for Emergency Services Framework (Ref: 532) Lot 12 Call-Off

BETWEEN

(1) ENVIRONMENT AGENCY

AND

(2) ST JOHN AMBULANCE


For Provision of:

26283 Mental Health First Aid Training

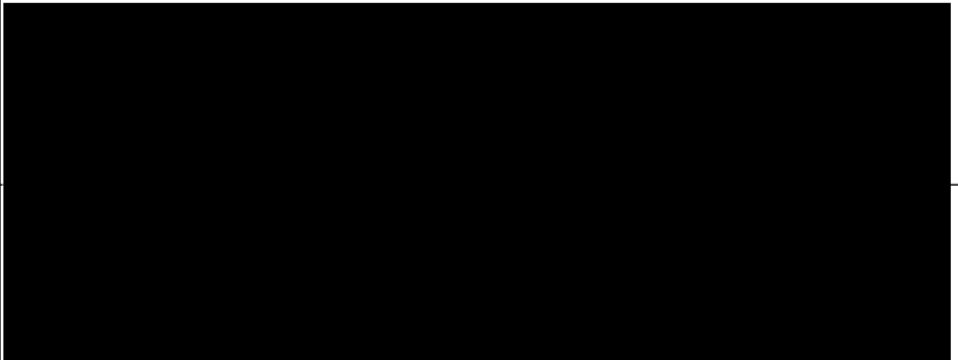
CALL-OFF CONTRACT

ORDER FORM
26283 Call-Off Contract
Mental Health First Aid Training

FROM

Customer	Environment Agency
Delivery Address:	Various – see Schedule 2
For the attention of: E-mail: Telephone number:	
Address:	
Order Number:	26283
Order Date:	29/10/19

TO

Provider:	St John Ambulance
For the attention of: E-mail: Telephone number:	
Address:	

1. ORDER REQUIREMENTS
(1.1) Services Required: As per Schedule 2
(1.2) Initial Contract Period: 21/10/19 to 20/10/20
(1.3) Extension Options: Two further 12 month periods with a maximum contract duration of 36 months
(1.4) Price: As per Schedule 3

2 MINI-COMPETITION ORDER - ADDITIONAL REQUIREMENTS
(2.1) Supplemental Requirements in addition to Call-off Terms and Conditions (as at Schedule 1): None
(2.2) Variations to Call-off Terms and Conditions (as at Schedule 1): None

FORMATION OF CALL OFF CONTRACT

BY AGREEING AND RETURNING THIS ORDER FORM (by electronic means) the Provider agrees to enter a Call Off Contract with the Customer to provide the Services.

The Parties hereby acknowledge and agree that they have read the Order Form and the Call Off Terms and by accepting the order form agree to be bound by this Call Off Contract.

In accordance with Clause 6 of the Agreement (contained in PART ONE: FRAMEWORK AGREEMENT AND AWARD PROCEDURE), the Parties hereby acknowledge and agree that this Call Off Contract shall be formed when the Customer acknowledges (by electronic means) the receipt of an accepted copy of the Order Form from the Supplier.

SCHEDULE 1: CALL-OFF TERMS AND CONDITIONS

1. GENERAL PROVISIONS

1.1 Definitions

In the Contract, unless the context otherwise requires the following provisions shall have the meanings given to them below:-

"Approval" and "Approved"	means the written consent of the Customer
"Auditor"	means the National Audit Office or an auditor appointed by the Audit Commission as the context requires
"Customer"	means the customer(s) identified in the Order Form
"Commencement Date"	means the date set out in the Order Form
"Commercially Sensitive Information"	<p>means any Confidential Information comprised of information:-</p> <ul style="list-style-type: none">(a) which is provided by the Contractor and designated as commercially sensitive information by the Customer for the period set out in that Order Form and/or(b) that constitutes a trade secret
"Confidential Information"	<p>means:-</p> <ul style="list-style-type: none">(a) any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party and all personal data and sensitive personal data within the meaning of the DPA; and(b) the Commercially Sensitive Information <p>and does not include any information:-</p> <ul style="list-style-type: none">(i) which was public knowledge at the time of disclosure (otherwise than by breach of Clause 6.3 (Confidential Information));(ii) which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;(iii) which is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or(iv) is independently developed without access to the Confidential Information
"Contract"	means the written agreement between the Customer and the Contractor consisting of the Order Form and these clauses save that, for the purposes of Clause 1.5.4 only, reference to 'Contract' shall not include the Order Form

"Contract Price"	means the price (exclusive of any applicable VAT), payable to the Contractor by the Customer under the Contract, as set out in the Order Form, for the full and proper performance by the Contractor of its obligations under the Contract
"Contracting Authority"	means any contracting authority as defined in Regulation 3 of the Public Contracts Regulations 2006 other than the Customer
"Contractor"	means the person, firm or company with whom the Customer enters into the Contract as identified in the Order Form
"Crown"	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf
"Default"	means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject-matter of the Contract and in respect of which such Party is liable to the other
"Environmental Information Regulations"	means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations
"FOIA"	means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time, 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"	<p>means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding:-</p> <ul style="list-style-type: none"> (a) any industrial action occurring within the Contractor's or any sub-contractor's organisation; or (b) the failure by any sub-contractor to perform its obligations under any sub-contract
"Framework Agreement"	means the framework agreement for the provision of Training for Emergency Services between Yorkshire Purchasing Organisation and the Contractor dated 26 April 2016

"Fraud"	means any offence under Laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud a Contracting Authority or the Customer
"Goods"	means the goods to be supplied as specified in the Order Form
"Information"	has the meaning given under Section 84 of the FOIA
"Intellectual Property Rights" and "IPRs"	means patents, inventions, trade marks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off
"Law"	means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body of which the Contractor is bound to comply
"Month"	means calendar month
"Order"	means the order submitted by the Customer to the Contractor in accordance with the Framework Agreement
"Order Form"	means the order submitted to the Contractor by the Customer in accordance with the Framework Agreement which sets out the description of the Goods to be supplied
"Parent Company"	means any company which is the ultimate Holding Company of the Contractor or any other company of which the ultimate Holding Company of the Contractor is also the ultimate Holding Company and which is either responsible directly or indirectly for the business activities of the Contractor or which is engaged by the same or similar business to the Contractor. The term "Holding Company" shall have the meaning ascribed in Section 1159 of the Companies Act 2006 or any statutory re-enactment or amendment thereto
"Party"	means the Contractor or the Customer
"Premises"	means the delivery address where the Goods are to be supplied, as set out in the Order Form

"Quality Standards"	means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent body, (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with (as may be further detailed in the Order Form) and any other quality standards set out in the Order Form
"Regulatory Bodies"	means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Customer
"Replacement Contractor"	means any third party provider of Goods appointed by the Customer to supply any goods which are substantially similar to any of the Goods, and which the Customer receives in substitution for any of the Goods following the expiry, termination or partial termination of the Contract
"Request for Information"	shall have the meaning set out in the FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term "Request" shall apply)
"Staff"	means all persons employed by the Contractor to perform its obligations under the Contract together with the Contractor's servants, agents, suppliers and sub-contractors used in the performance of its obligations under the Contract
"Tender"	means the document(s) submitted by the Contractor to the Customer in response to the Customer's invitation to providers for offers to supply it with Goods pursuant to the Framework Agreement
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994
"Working Day"	means any day other than a Saturday or Sunday or public holiday in England and Wales

1.1 Interpretation

The interpretation and construction of the Contract including any schedules and appendices shall be subject to the following provisions:-

- 1.1.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- 1.1.2 words importing the masculine include the feminine and the neuter;
- 1.1.3 the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
- 1.1.4 references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;

- 1.1.5 references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- 1.1.6 headings are included in the Contract for ease of reference only and shall not affect the interpretation or construction of the Contract; and
- 1.1.7 reference to a clause is a reference to the whole of that clause unless stated otherwise.

1.2 Contractor's Status

At all times during the Contract Period the Contractor shall be an independent contractor and nothing in the Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and, accordingly, neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Contract.

1.3 Customer's Obligations

Save as otherwise expressly provided, the obligations of the Customer under the Contract are obligations of the Customer in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation upon, or in any other way fetter or constrain the Customer in any other capacity, nor shall the exercise by the Customer of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Customer to the Contractor.

1.4 Entire Agreement

- 1.4.1 This Contract constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with in it and supersedes, cancels or nullifies any previous agreement between the Parties in relation to such matters.
- 1.4.2 Each of the Parties acknowledges and agrees that in entering into the Contract it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in the Contract. The only remedy available to either Party for any such statements, representation, warranty or understanding shall be for breach of contract under the terms of the Contract.
- 1.4.3 Nothing in Clauses 1.5.1 and 1.5.2 shall operate to exclude Fraud or fraudulent misrepresentation.
- 1.4.4 In the event of and only to the extent of any conflict between the Order Form, the clauses of the Contract and any document referred to in those clauses, the conflict shall be resolved in accordance with the following order of precedence:-
 - (a) the Order Form;
 - (b) the clauses of the Contract; and
 - (c) any other document referred to in the clauses of the Contract.
- 1.4.5 The Contract may be executed in counterparts each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

1.5 Notices

- 1.5.1 Except as otherwise expressly provided within the Contract, no notice or other communication from one Party to the other shall have any validity under the Contract unless made in writing by or on behalf of the Party sending the communication.
- 1.5.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, post, registered post or by the recorded delivery service), by facsimile transmission or electronic mail. Such letters shall be addressed to the other Party in the manner referred to in Clause 1.6.3. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail or facsimile transmission or sooner where the other Party acknowledges receipt of such letters, facsimile transmission or item of electronic mail.
- 1.5.3 For the purposes of Clause 1.6.2 the address of each Party shall be:-
- (a) for the Customer: the address set out in the Order Form;
 - (b) for the Contractor: the address set out in the Framework Agreement.
- 1.5.4 Either Party may change its address for service by serving a notice in accordance with this clause.

1.6 Mistakes in Information

The Contractor shall be responsible for the accuracy of all drawings, documentation and information supplied to the Customer by the Contractor in connection with the supply of the Goods and shall pay the Customer any extra costs occasioned by any discrepancies, errors or omissions therein.

1.7 Conflicts of Interest

- 1.7.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff are placed in a position where (in the reasonable opinion of the Customer), there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor or Staff and the duties owed to the Customer under the provisions of the Contract.
- 1.7.2 The Contractor shall promptly notify the Customer (and provide full particulars to the Customer) if any conflict referred to in Clause 1.8.1 above arises or is reasonably foreseeable.
- 1.7.3 The Customer reserves the right to terminate the Contract immediately by giving notice in writing to the Contractor and/or to take such other steps it deems necessary where, in the reasonable opinion of the Customer, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Customer under the provisions of the Contract. The actions of the Customer pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Customer.

1.8 Prevention of Fraud

- 1.8.1 The Contractor shall take all reasonable steps to prevent any Fraud by Staff and the Contractor (including its shareholders, members and directors) in connection with the receipt of monies from the Customer.
- 1.8.2 The Contractor shall notify the Customer immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.

- 1.8.3 If the Contractor or its Staff commits any Fraud in relation to this or any other contract with a Contracting Authority or the Customer the Customer may:-
- (a) terminate the Contract with immediate effect by giving the Contractor notice in writing and recover from the Contractor the amount of any loss suffered by the Customer resulting from the termination including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Goods and any additional expenditure incurred by the Customer throughout the remainder of the Contract Period; and/or
 - (b) recover in full from the Contractor any other loss sustained by the Customer in consequence of any breach of this clause.
- 1.8.4 This Clause shall apply during the Contract Period and for a period of two (2) years after expiry of the Contract Period.

2. SUPPLY OF GOODS

2.1 The Goods

- 2.1.1 The Contractor shall supply and, where relevant, install the Goods in accordance with the Customer's requirements in the Framework Agreement, the Order Form and in accordance with any obligations implied by Section 12 or 14 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982.
- 2.1.2 If requested by the Customer the Contractor shall provide the Customer with samples of Goods for evaluation and approval, at the Contractor's cost and expense and such requests shall be acted upon immediately.
- 2.1.3 The Contractor shall ensure that the Goods are fully compatible with any of the Customer's equipment, to the extent specified in the Order Form.

- 2.2 The Contractor acknowledges that the Customer relies on the skill and judgment of the Contractor in the supply of the Goods and the performance of its obligations under the Contract.

2.3 Delivery

- 2.3.1 The Contractor shall deliver the Goods at the time(s) and date(s) specified in the Order Form.
- 2.3.2 Delivery lead times from point of order to receipt of goods should not exceed 5 working days.
- 2.3.3 Unless otherwise stated in the Order Form, where the Goods are delivered by the Contractor, the point of delivery shall be when the Goods are removed from the transporting vehicle at the Premises. Where the Goods are collected by the Customer, the point of delivery shall be when the Goods are loaded onto the Customer's vehicle.
- 2.3.4 Except where otherwise provided in the Framework Agreement or the Order Form, delivery shall include the unloading, stacking or installation of the Goods by the Staff or the Contractor's suppliers or carriers at such place as the Customer or duly authorised person shall reasonably direct.
- 2.3.5 Time of delivery shall be of the essence and if the Contractor fails to deliver the Goods within the time specified in the Order Form the Customer may release itself from any obligation to accept and pay for the Goods and/or terminate the Contract, in either case without prejudice to any other rights and remedies of the Customer.

- 2.3.6 The Customer shall be under no obligation to accept or pay for any Goods delivered in excess of the quantity ordered. If the Customer elects not to accept such over-delivered Goods it shall give notice in writing to the Contractor to remove them within five (5) Working Days and to refund to the Customer any expenses incurred by it as a result of such over-delivery (including but not limited to the costs of moving and storing the Goods), failing which the Customer may dispose of such Goods and charge the Contractor for the costs of such disposal. The risk in any over-delivered Goods shall remain with the Contractor unless they are accepted by the Customer. The Customer shall be under no obligation to accept or pay for any Goods supplied earlier than the date for delivery stated in the Order Form.
- 2.3.7 Unless expressly agreed to the contrary, the Customer shall not be obliged to accept delivery by instalments. If, however, the Customer does specify or agree to delivery by instalments, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to any other rights or remedies of the Customer, entitle the Customer to terminate the whole of any unfulfilled part of the Contract without further liability to the Customer.
- 2.3.8 The Contractor shall deliver the Goods in accordance with the requirements of the Supply Chain Agreement relevant to the appropriate delivery point. See Appendix One.

2.4 **Ownership and Risk**

Ownership and risk in the Goods shall, without prejudice to any other rights or remedies of the Customer, pass to the Customer at the time of acceptance of delivery.

2.5 **Non-Delivery**

Where specified by the Customer on dispatch of any consignment of the Goods the Contractor shall send the Customer an advice note specifying the means of transport, the place and date of dispatch, the number of packages and their weight and volume. Where the Goods, having been placed in transit, fail to be delivered to the Customer on the due date for delivery, the Customer shall, (provided that the Customer has been advised in writing of the dispatch of the Goods), within ten (10) Working Days of the notified date of delivery, give notice to the Contractor that the Goods have not been delivered and may request the Contractor free of charge to deliver substitute Goods within the timescales specified by the Customer or terminate the Contract.

2.6 **Inspection, Rejection and Guarantee**

- 2.6.1 The Customer or its authorised representatives may inspect or test the Goods either complete or in the process of manufacture during normal business hours on reasonable notice at the Contractor's premises and the Contractor shall provide all reasonable assistance in relation to any such inspection or test free of charge. No failure to make complaint at the time of any such inspection or test and no approval given during or after such inspection or test shall constitute a waiver by the Customer of any rights or remedies in respect of the Goods and the Customer reserves the right to reject the Goods in accordance with Clause 2.6.2.
- 2.6.2 The Customer may by written notice to the Contractor reject any of the Goods which fail to conform to the approved sample or fail to meet the Contract requirements. Such notice shall be given within a reasonable time after delivery to the Customer of such Goods. If the Customer rejects any of the Goods pursuant to this clause the Customer may (without prejudice to other rights and remedies) either:-
- (a) have such Goods promptly, and in any event within 3 Working Days, either repaired by the Contractor or replaced by the Contractor with Goods which conform in all respects with the approved sample or with the Order Form and due delivery shall not be deemed to have taken place until such repair or replacement has occurred; or

- (b) treat the Contract as discharged by the Contractor's breach and obtain a refund from the Contractor in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Customer in obtaining other goods in replacement provided that the Customer uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement goods.

2.6.3 The issue by the Customer of a receipt note for the Goods shall not constitute any acknowledgement of the condition, quantity or nature of those Goods.

2.6.4 Any Goods rejected or returned by the Customer as described in Clause 2.6.2 shall be returned to the Contractor at the Contractor's risk and expense.

2.7 Labelling and Packaging

The Goods shall be packed and marked in a proper manner and in accordance with the Customer's instructions and any statutory requirements and any requirements of the carriers. In particular the Goods shall be marked with the order number (or other reference number if appropriate) and the net, gross and tare weights, the name of the contents shall be clearly marked on each container and all containers of hazardous Goods (and all documents relating thereto) shall bear prominent and adequate warnings.

3. CONTRACT PERFORMANCE

3.1.1 The Contractor shall perform its obligations under the Contract:-

- (a) with appropriately experienced, qualified and trained Staff with all due skill, care and diligence;
- (b) in a timely manner; and
- (c) in compliance with all applicable Laws, including but not limited to, any obligations implied by Section 12 and 14 of the Sale of Goods Act 1979 and Section 2 of the Supply of Goods and Services Act 1982.

3.1.2 The Contractor shall ensure that:-

- (a) the Goods conform in all respects with the Order Form and, where applicable, with any sample approved by the Customer;
- (b) the Goods operate in accordance with the relevant technical specifications and correspond with the requirements set out in the Order Form;
- (c) the Goods conform in all respects with all applicable Laws; and
- (d) the Goods are free from defects in design, materials and workmanship and fit and sufficient for all the purposes for which such Goods are ordinarily used and for any particular purpose made known to the Contractor by the Customer.
- (e) Any complaints received from the customer are investigated and responded to within 48 hours.

4. PAYMENT AND CONTRACT PRICE

4.1 Contract Price

4.1.1 In consideration of the Contractor's performance of its obligations under the Contract, the Customer shall pay the Contract Price in accordance with Clause 4.2 (Payment and VAT).

- 4.1.2 The Customer shall, in addition to the Contract Price and following evidence of a valid VAT invoice, pay the Contractor a sum equal to the VAT chargeable on the value of the Goods supplied in accordance with the Contract.
- 4.1.3 The Contractor shall, where applicable, pay the appropriate YPO member the retrospective payments as per the Framework Agreement.

4.2 Payment and VAT

- 4.2.1 In consideration of the Contractor performing its obligations under the Contract, the Customer shall pay all sums due to the Contractor in cleared funds by the end of the month following the date of invoice, submitted in accordance with the payment profile set out in the Order Form.
- 4.2.2 The Contractor shall ensure that each invoice contains all appropriate references and a detailed breakdown of the Goods supplied and that it is supported by any other documentation reasonably required by the Customer to substantiate the invoice.
- 4.2.3 Manufacturers may be receiving orders from the YPO distributors and not the contracting authorities direct. Any call-off arrangements made by distributors will result in a contract between the distributor and the manufacturer (not as agent of the contracting authorities). It is critical that any failure on the part of a distributor does not result in a default liability upon contracting authorities utilising the framework.
- 4.2.4 If the Customer agrees to delivery by instalments in accordance with clause 2.3.7 payments may also be made in corresponding instalments at the discretion of the Customer.
- 4.2.5 Where the Contractor enters into a sub-contract with a supplier or contractor for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Contractor to the sub-contractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice.
- 4.2.6 The Contractor shall add VAT to the Contract Price at the prevailing rate as applicable.
- 4.2.7 The Contractor shall indemnify the Customer on a continuing basis against any liability, including any interest, penalties or costs incurred which is levied, demanded or assessed on the Customer at any time in respect of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under the Contract. Any amounts due under this Clause 4.2.5 shall be paid by the Contractor to the Customer not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Customer.
- 4.2.8 The Contractor shall not suspend the supply of the Goods unless the Contractor is entitled to terminate the Contract under Clause 9.2 (Termination on Default) for failure to pay undisputed sums of money.

4.3 Recovery of Sums Due

- 4.3.1 Wherever under the Contract any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Customer in respect of any breach of the Contract), the Customer may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Contract or under any other agreement or contract with the Customer.
- 4.3.2 Any overpayment by either Party, whether of the Contract Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

4.3.3 The Contractor shall make any payments due to the Customer without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Customer to the Contractor.

4.3.4 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

4.4 Euro

4.4.1 Any requirement of Law to account for the Goods in Euro (or to prepare for such accounting) instead of and/or in addition to sterling, shall be implemented by the Contractor free of charge to the Customer.

4.4.2 The Customer shall provide all reasonable assistance to facilitate compliance with Clause 4.4.1 by the Contractor.

5. STATUTORY OBLIGATIONS AND REGULATIONS

5.1 Prevention of Corruption

5.1.1 The Contractor shall not offer or give, or agree to give, to any employee, agent, servant or representative of the Customer or any other public body or person employed by or on behalf of the Customer any gift or consideration of any kind which could act as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the Contract or any other contract with the Customer or any other public body or person employed by or on behalf of the Customer, or for showing or refraining from showing favour or disfavour to any person in relation to any such contract.

5.1.2 If the Contractor, its Staff or any person acting on the Contractor's behalf, engages in conduct prohibited by Clauses 5.1.1, the Customer may:-

- (a) terminate the Contract with immediate effect by giving notice in writing to the Contractor and recover from the Contractor the amount of any loss suffered by the Customer resulting from the termination; and/or
- (b) recover in full from the Contractor any other loss sustained by the Customer in consequence of any breach of those clauses.

5.2 Discrimination

5.2.1 The Contractor shall not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise).

5.2.2 The Contractor shall take all reasonable steps to secure the observance of Clause 5.2.1 by all servants, employees or agents of the Contractor and all suppliers and sub-contractors employed in the execution of the Contract.

5.3 The Contracts (Rights of Third Parties) Act 1999

A person who is not a Party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties, but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act and does not apply to the Crown.

5.4 Environmental Requirements

The Contractor shall perform its obligations under the Contract in accordance with the Customer's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

6. PROTECTION OF INFORMATION

6.1 Data Protection

The Contractor shall (and shall procure that all of its Staff) comply with any notification requirements under the Data Protection Act 1998 and both Parties will duly observe all of their obligations under the Data Protection Act 1998 which arise in connection with the Contract.

6.2 Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989

6.2.1 The Contractor shall comply with and shall ensure that its Staff comply with, the provisions of:-

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) Section 182 of the Finance Act 1989.

6.2.2 In the event that the Contractor or its Staff fail to comply with this Clause, the Customer reserves the right to terminate the Contract by giving notice in writing to the Contractor.

6.3 Confidential Information

6.3.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each Party shall:

- (a) treat the other Party's Confidential Information as confidential and safeguard it accordingly; and
- (b) not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.

6.3.2 Clause 6.3.1 shall not apply to the extent that:

- (a) such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to clause 5.4 (Freedom of Information);
- (b) such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
- (c) such information was obtained from a third party without obligation of confidentiality;
- (d) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
- (e) it is independently developed without access to the other party's Confidential Information.

6.3.3 The Contractor may only disclose the Customer's Confidential Information to its Staff who are directly involved in the provision of the Services and who need to know the

information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.

- 6.3.4 The Contractor shall not, and shall procure that its Staff do not, use any of the Customer's Confidential Information received otherwise than for the purposes of this Contract.
- 6.3.5 At the written request of the Customer, the Contractor shall procure that those members of the Staff identified in the Customer's notice signs a confidentiality undertaking prior to commencing any work in accordance with this Contract.
- 6.3.6 Nothing in this Agreement shall prevent the Customer from disclosing the Contractor's Confidential Information:
- (a) to any Crown Body or any other Contracting Authority. All Crown Bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Authority;
 - (b) to any consultant, contractor or other person engaged by the Customer or any person conducting an Office of Government Commerce gateway review;
 - (c) for the purpose of the examination and certification of the Customer's accounts;
 - (d) for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer has used its resources.
- 6.3.7 The Customer shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to clause 6.3.6 is made aware of the Customer's obligations of confidentiality.
- 6.3.8 Nothing in this clause 6.3 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.

6.4 **Freedom of Information**

- 6.4.1 The Contractor acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Customer to enable the Customer to comply with its Information disclosure obligations.
- 6.4.2 The Contractor shall and shall procure that its Sub-contractors shall:
- (a) transfer to the Customer all Requests for Information that it receives as soon as practicable and in any event within [two] Working Days of receiving a Request for Information;
 - (b) provide the Customer with a copy of all Information in its possession, or power in the form that the Customer requires within [five] Working Days (or such other period as the Customer may specify) of the Customer's request; and
 - (c) provide all necessary assistance as reasonably requested by the Customer to enable the Customer to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

- 6.4.3 The Customer shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.
- 6.4.4 In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Customer.
- 6.4.5 The Contractor acknowledges that (notwithstanding the provisions of Clause 6.4.2) the Customer may, acting in accordance with the Secretary of State for Constitutional Affairs Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Services:
- (a) in certain circumstances without consulting the Contractor; or
 - (b) following consultation with the Contractor and having taken their views into account;
 - (c) provided always that where 6.4.2 applies the Customer shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.
- 6.4.6 The Contractor shall ensure that all Information is retained for disclosure and shall permit the Customer to inspect such records as requested from time to time.
- 6.4.7 The Contractor acknowledges that the Commercially Sensitive Information listed in schedule 7 is of indicative value only and that the Customer may be obliged to disclose it in accordance with clause 6.4.5.

6.5 Publicity, Media and Official Enquiries

- 6.5.1 The Contractor shall not make any press announcements or publicise the Contract in any way without the Customer's prior Approval and shall take reasonable steps to ensure that its servants, employees, agents, sub-contractors, suppliers, professional advisors and consultants comply with this Clause.
- 6.5.2 The Customer shall be entitled to publicise the Contract in accordance with any legal obligation upon the Customer, including any examination of the Contract by the Auditor.
- 6.5.3 The Contractor shall not do anything or cause anything to be done, which may damage the reputation of the Customer or bring the Customer into disrepute.

6.6 Security

- 6.6.1 The Contractor shall comply with all reasonable security requirements of the Customer while on the Premises and shall ensure that all Staff complies with such requirements.
- 6.6.2 The Customer shall provide the Contractor upon request copies of its written security procedures and shall afford the Contractor upon request an opportunity to inspect its physical security arrangements.

6.7 Records and Audit Access

- 6.7.1 The Contractor shall keep and maintain until one (1) year after the date of termination or expiry (whichever is the earlier) of the Contract (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of the Contract including the Goods provided under it, the Call-Off Contracts entered into with the Contracting Authority and the amounts paid by each Contracting Authority.

- 6.7.2 The Contractor shall keep the records and accounts referred to in Clause 6.7.1 above in accordance with good accountancy practice.
- 6.7.3 The Contractor shall on request afford the Customer, the Customer's representatives and/or the Auditor such access to such records and accounts as may be required from time to time.
- 6.7.4 The Contractor shall provide such records and accounts (together with copies of the Contractor's published accounts) during the Contract Period and for a period of one (1) year after the expiry of the Contract Period to the Customer and the Auditor.
- 6.7.5 The Customer shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the supply of the Goods save insofar as the Contractor accepts and acknowledges that control over the conduct of audits carried out by the Auditor is outside of the control of the Customer.
- 6.7.6 Subject to the Customer's rights of Confidential Information, the Contractor shall on demand provide the Auditor with all reasonable co-operation and assistance in relation to each audit, including:-
- (a) all information requested by the Customer within the scope of the audit;
 - (b) reasonable access to sites controlled by the Contractor and to Equipment used in the provision of the Services; and
 - (c) access to Staff.
- 6.7.7 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 6.7, unless the audit reveals a material Default by the Contractor in which case the Contractor shall reimburse the Customer for the Customer's reasonable costs incurred in relation to the audit.

7. CONTROL OF THE CONTRACT

7.1 Transfer and Sub-Contracting

- 7.1.1 The Contractor shall not assign, novate, sub-contract or in any other way dispose of the Contract or any part of it without prior Approval. Sub-contracting any part of the Contract shall not relieve the Contractor of any obligation or duty attributable to the Contractor under the Contract.
- 7.1.2 The Contractor shall be responsible for the acts and omissions of its sub-contractors as though they are its own.
- 7.1.3 Where the Customer has consented to the placing of sub-contracts, copies of each sub-contract shall, at the request of the Customer, be sent by the Contractor to the Customer as soon as reasonably practicable.
- 7.1.4 Subject to Clause 7.1.6, the Customer may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:-
- (a) any Contracting Authority; or
 - (b) any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Customer; or
 - (c) any private sector body which substantially performs the functions of the Customer;

provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor's obligations under the Contract.

- 7.1.5 Any change in the legal status of the Customer such that it ceases to be a Contracting Authority shall not, subject to Clause 7.1.6, affect the validity of the Contract. In such circumstances, the Contract shall bind and inure to the benefit of any successor body to the Customer.
- 7.1.6 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to Clause 7.1.4 to a body which is not a Contracting Authority or if there is a change in the legal status of the Customer such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as "**the Transferee**"):-
- (a) the rights of termination of the Customer in Clauses 9.1 (Termination on insolvency and change of control) and 9.2 (Termination on Default) shall be available to the Contractor in the event of, respectively, the bankruptcy or insolvency, or Default of the Transferee; and
 - (b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the previous consent in writing of the Contractor.
- 7.1.7 The Customer may disclose to any Transferee any Confidential Information of the Contractor which relates to the performance of the Contractor's obligations under the Contract. In such circumstances the Customer shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Contractor's obligations under the Contract and for no other purposes and shall take all reasonable steps to ensure that the Transferee gives a Confidential Information undertaking in relation to such Confidential Information.
- 7.1.8 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the provisions of the Contract.

7.2 **Waiver**

- 7.2.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.
- 7.2.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Clause 1.6 (Notices).
- 7.2.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

7.3 **Variation**

- 7.3.1 Subject to the provisions of this Clause 7.3, the Customer may request a variation to Goods ordered provided that such variation does not amount to a material change to the Order. Such a change is hereinafter called a "Variation".
- 7.3.2 The Customer may request a Variation by completing and sending the Variation form attached at Appendix 1 ("**the Variation Form**") to the Contractor giving sufficient information for the Contractor to assess the extent of the Variation and any additional cost that may be incurred. The Contractor shall respond to a request for a Variation within the time limits specified in the Variation Form. Such time limits shall be reasonable having regard to the nature of the Order.
- 7.3.3 In the event that the Contractor is unable to provide the Variation to the Goods or where the Parties are unable to agree a change to the Contract Price, the Customer may:-

- (a) agree to continue to perform their obligations under the Contract without the Variation; or
- (b) terminate the Contract with immediate effect, except where the Contractor has already delivered part or all of the Order in accordance with the Order Form or where the Contractor can show evidence of substantial work being carried out to fulfil the Order, and in such a case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution Procedure detailed at Clause 10.2.

7.3.4 If the Parties agree the Variation and any variation in the Contract Price, the Contractor shall carry out such Variation and be bound by the same provisions so far as is applicable, as though such Variation was stated in the Contract.

7.4 Severability

7.4.1 If any provision of the Contract is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

7.4.2 In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Contract, the Customer and the Contractor shall immediately commence good faith negotiations to remedy such invalidity.

7.5 Remedies in the event of inadequate performance

7.5.1 Where a complaint is received about the standard of Goods or about the manner in which any Goods have been supplied or about the materials or procedures used or about any other matter connected with the performance of the Contractor's obligations under the Contract, then the Customer shall take all reasonable steps to investigate the complaint. The Customer may, in its sole discretion, uphold the complaint, or take further action in accordance with Clause 9.2 (Termination on Default) of the Contract.

7.5.2 In the event that the Customer is of the reasonable opinion that there has been a material breach of the Contract by the Contractor, then the Customer may, without prejudice to its rights under Clause 9.2 (Termination on Default), do any of the following:-

- (a) without terminating the Contract, itself supply or procure the supply of all or part of the Goods until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the Customer that the Contractor will once more be able to supply all or such part of the Goods in accordance with the Contract;
- (b) without terminating the whole of the Contract, terminate the Contract in respect of part of the Goods only (whereupon a corresponding reduction in the Contract Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Goods;
- (c) terminate, in accordance with Clause 9.2 (Termination on Default), the whole of the Contract; and/or
- (d) charge the Contractor for and the Contractor shall pay any costs reasonably incurred by the Customer (including any reasonable administration costs) in respect of the supply of any part of the Goods by the Customer or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Contractor for such part of the Goods and provided that the Customer uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Goods.

7.5.3 If the Contractor fails to supply any of the Goods in accordance with the provisions of the Contract and such failure is capable of remedy, then the Customer shall instruct the Contractor to remedy the failure and the Contractor shall at its own cost and expense

remedy such failure (and any damage resulting from such failure) within three (3) Working Days of the Customer's instructions or such other period of time as the Customer may direct.

7.5.4 In the event that the Contractor:-

- (a) fails to comply with Clause 7.5.3 above and the failure is materially adverse to the interests of the Customer or prevents the Customer from discharging a statutory duty; or
- (b) persistently fails to comply with Clause 7.5.3 above;

the Customer may terminate the Contract with immediate effect by giving the Contractor notice in writing.

7.5.5 Without prejudice to any other right or remedy which the Customer may have, if any Goods are not supplied in accordance with, or the Contractor fails to comply with any of the terms of, the Contract the Customer shall be entitled to avail itself of any one or more of the following remedies at its discretion whether or not any part of the Goods have been accepted by the Customer:-

- (a) to rescind the Order;
- (b) to reject the Goods (in whole or in part) and return them to the Contractor at the risk and cost of the Contractor on the basis that a full refund for the Goods so returned shall be paid forthwith by the Contractor;
- (c) at the Customer's option to give the Contractor the opportunity at the Contractor's expense to either remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
- (d) to refuse to accept any further deliveries of the Goods but without any liability to the Customer;
- (e) to carry out at the Contractor's expense any work necessary to make the Goods comply with the Contract; and
- (f) to claim such damages as may have been sustained in consequence of the Contractor's breach or breaches of the Contract.

7.6 Cumulative Remedies

Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

7.7 Monitoring of Contract Performance

The Contractor shall comply with the monitoring arrangements set out in the Order Form including, but not limited to, providing such data and information as the Contractor may be required to produce under the Contract (Schedule 6).

8. LIABILITIES

8.1 Liability, Indemnity and Insurance

8.1.1 Nothing in the Contract shall be construed to limit or exclude either Party's liability for:-

- (a) death or personal injury caused by its negligence or that of its Staff;
- (b) Fraud or fraudulent misrepresentation by it or its Staff; or
- (c) any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982;

- 8.1.2 Subject to Clause 8.1.3 the Contractor shall indemnify and keep indemnified the Customer in full from and against all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of, or in consequence of, the supply, or late or purported supply, of the Goods or the performance or non-performance by the Contractor of its obligations under the Contract or the presence of the Contractor or any Staff on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly or indirectly by any act or omission of the Contractor. The Contractor shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Contract.
- 8.1.3 Subject to Clause 8.1.1, in no event shall either Party be liable to the other for any:-
- (a) loss of profits;
 - (b) loss of business;
 - (c) loss of revenue;
 - (d) loss of or damage to goodwill;
 - (e) loss of savings (whether anticipated or otherwise); and/or
 - (f) any indirect or consequential loss or damage.
- 8.1.4 The Customer may, amongst other things, recover as a direct loss:-
- (a) any additional operational and/or administrative expenses arising from the Contractor's Default;
 - (b) any wasted expenditure or charges rendered unnecessary and/or incurred by the Customer arising from the Contractor's Default; and
 - (c) the additional cost of procuring replacement Goods following termination of the Contract as a result of a Default by the Contractor.
- 8.1.5 Nothing in the Contract shall impose any liability on the Customer in respect of any liability incurred by the Contractor to any other person, but this shall not be taken to exclude or limit any liability of the Customer to the Contractor that may arise by virtue of either a breach of the Contract or by negligence on the part of the Customer, or the Customer's employees, servants or agents.
- 8.1.6 The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor. Such insurance shall be maintained during the period over which the contract is performed and for a minimum of 6 (six) years following the expiration or earlier termination of the Contract.
- 8.1.7 The Contractor shall hold employer's liability insurance in respect of Staff in accordance with any legal requirement from time to time in force.
- 8.1.8 The Contractor shall give the Customer, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 8.1.9 If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required by the provisions of the Contract the Customer may make alternative

arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.

- 8.1.10 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract. It shall be the responsibility of the Contractor to determine the amount of insurance cover that will be adequate to enable the Contractor to satisfy any liability referred to in Clause 8.1.2.

8.2 Warranties and Representations

8.2.1 The Contractor warrants and represents that:-

- (a) it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its Parent Company) to enter into and perform its obligations under the Contract;
- (b) the Contract is executed by a duly authorised representative of the Contractor;
- (c) in entering the Contract it has not committed any Fraud;
- (d) as at the Commencement Date, all information, statements and representations contained in the Tender and the PQQ Response are true, accurate and not misleading save as may have been specifically disclosed in writing to the Customer prior to execution of the Contract and it will advise the Customer of any fact, matter or circumstance of which it may become aware which would render any such information, statement or representation to be false or misleading;
- (e) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or its assets which will or might affect its ability to perform its obligations under the Contract;
- (f) it is not subject to any contractual obligation, compliance with which is likely to have an adverse affect on its ability to perform its obligations under the Contract;
- (g) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue;
- (h) it owns, has obtained or is able to obtain valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- (i) the obligations undertaken by the Contractor shall be discharged and carried out by appropriately experienced, qualified and trained Staff with all due skill, care and diligence;
- (j) in the three (3) years prior to the date of the Contract:-
 - (i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts; and
 - (ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and

- (k) it has not done or omitted to do anything which could have an adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract.

9. DEFAULT, DISRUPTION AND TERMINATION

9.1 Termination on insolvency and change of control

9.1.1 The Customer may terminate the Contract with immediate effect by giving notice in writing where the Contractor is a company and in respect of the Contractor:-

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
- (b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
- (c) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to Section 98 of the Insolvency Act 1986; or
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
- (e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
- (f) it is or becomes insolvent within the meaning of Section 123 of the Insolvency Act 1986; or
- (g) being a "small company" within the meaning of Section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- (h) any event similar to those listed in Clause 9.1.1(a) - (g) occurs under the law of any other jurisdiction.

9.1.2 The Customer may terminate the Contract with immediate effect by notice in writing where the Contractor is an individual and:-

- (a) an application for an interim order is made pursuant to Sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Contractor's creditors; or
- (b) a petition is presented and not dismissed within 14 days or order made for the Contractor's bankruptcy; or
- (c) a receiver, or similar officer is appointed over the whole or any part of the Contractor's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets; or
- (d) the Contractor is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of Section 268 of the Insolvency Act 1986; or

- (e) a creditor or encumbrancer 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 Contractor's assets and such attachment or process is not discharged within 14 days; or
- (f) being an individual, dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983; or
- (g) the Contractor suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business.

9.1.3 The Contractor shall notify the Customer immediately if the Contractor undergoes a change of control within the meaning of Section 416 of the Income and Corporation Taxes Act 1988 ("**Change of Control**"). The Customer may terminate the Contract by notice in writing with immediate effect within six months of:-

- (a) being notified that a Change of Control has occurred; or
- (b) where no notification has been made, the date that the Customer becomes aware of the Change of Control;

but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.

9.2 Termination on Default

9.2.1 The Customer may terminate the Contract by giving written notice to the Contractor with immediate effect if the Contractor commits a Default and if:-

- (a) the Contractor has not remedied the Default to the satisfaction of the Customer within three (3) Working Days, or such other period as may be specified by the Customer, after issue of a written notice specifying the Default and requesting it to be remedied; or
- (b) the Default is not, in the opinion of the Customer, capable of remedy; or
- (c) the Default is a material breach of the Contract.

9.2.2 If the Customer fails to pay the Contractor undisputed sums of money when due, the Contractor shall notify the Customer in writing of such failure to pay. If the Customer fails to pay such undisputed sums within ninety (90) Working Days of the date of such written notice, the Contractor may terminate the Contract in writing with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Customer exercising its rights under Clause 4.3.1 (Recovery of Sums Due).

9.3 Break

The Customer shall have the right to terminate the Contract at any time by giving ninety (90) days written notice to the Contractor.

9.4 Framework Agreement

The Customer may terminate the Contract by giving written notice to the Contractor with immediate effect if the Framework Agreement is terminated for any reason whatsoever.

9.5 Consequences of Expiry or Termination

9.5.1 Where the Customer terminates the Contract under Clause 9.2 (Termination on Default) and then makes other arrangements for the supply of Goods, the Customer may recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Customer throughout the remainder of the Contract Period. The Customer shall take all reasonable steps to mitigate such additional

expenditure. Where the Contract is terminated under Clause 9.2 (Termination on Default), no further payments shall be payable by the Customer to the Contractor until the Customer has established the final cost of making those other arrangements.

9.5.2 Subject to Clause 8 where the Customer terminates the Contract under Clause 9.3 (Break), the Customer shall indemnify the Contractor against any commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract, provided that the Contractor takes all reasonable steps to mitigate such loss. Where the Contractor holds insurance, the Contractor shall reduce its unavoidable costs by any insurance sums available. The Contractor shall submit a fully itemised and costed list of such loss, with supporting evidence, of losses reasonably and actually incurred by the Contractor as a result of termination under Clause 9.3 (Break).

9.5.3 The Customer shall not be liable under Clause 9.5.2 to pay any sum which:-

- (a) was claimable under insurance held by the Contractor, and the Contractor has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or
- (b) when added to any sums paid or due to the Contractor under the Contract, exceeds the total sum that would have been payable to the Contractor if the Contract had not been terminated prior to the expiry of the Contract Period.

9.5.4 Save as otherwise expressly provided in the Contract:-

- (a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
- (b) termination of the Contract shall not affect the continuing rights, remedies or obligations of the Customer or the Contractor under Clauses 4.2 (Payment and VAT), 4.3 (Recovery of Sums Due), 5.1 (Prevention of Corruption), 6.2 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989), 6.3 (Confidential Information), 6.4 (Freedom of Information), 6.7 (Records and Audit Access), 7.6 Cumulative Remedies), 8.1 (Liability, Indemnity and Insurance), 9.5 (Consequences of Expiry or Termination), and 10.1 (Governing Law and Jurisdiction).

9.6 Disruption

9.6.1 The Contractor shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Customer, its employees or any other contractor employed by the Customer.

9.6.2 The Contractor shall immediately inform the Customer of any actual or potential industrial action, whether such action be by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.

9.6.3 In the event of industrial action by the Staff, the Contractor shall seek the Customer's Approval to its proposals for the continuance of the supply of the Goods in accordance with its obligations under the Contract.

9.6.4 If the Contractor's proposals referred to in Clause 9.6.3 are considered insufficient or unacceptable by the Customer acting reasonably then the Contract may be terminated with immediate effect by the Customer by notice in writing.

9.6.5 If the Contractor is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business by direction of the Customer, an appropriate allowance by way of extension of time will be approved by the Customer. In addition, the Customer will

reimburse any additional expense reasonably incurred by the Contractor as a direct result of such disruption.

9.7 Recovery upon Termination

9.7.1 On the termination of the Contract for any reason, the Contractor shall:

- (a) immediately return to the Customer all Confidential Information and any IPRs belonging to the Customer, in its possession or in the possession or under the control of any permitted suppliers or sub-contractors, which was obtained or produced in the course of providing the Services;
- (b) immediately deliver to the Customer all property (including materials, documents, information and access keys) that may have been provided to the Contractor by the Customer. Such property shall be handed back in good working order (allowance shall be made for reasonable wear and tear);
- (c) assist and co-operate with the Customer to ensure an orderly transition of the provision of the Services to the Replacement Contractor and/or the completion of any work in progress.
- (d) promptly provide all information concerning the provision of the Services which may reasonably be requested by the Customer for the purposes of adequately understanding the manner in which the Services have been provided or for the purpose of allowing the Customer or the Replacement Contractor to conduct due diligence.

9.7.2 If the Contractor fails to comply with clause 9.7.1 (a) and (b), the Client may recover possession thereof and the Contractor grants a licence to the Client or its appointed agents to enter (for the purposes of such recovery) any premises of the Contractor or its permitted suppliers or sub-contractors where any such items may be held.

9.7.3 Where the end of the Contract Period arises due to the Contractor's Default, the Contractor shall provide all assistance under clause 9.7.1 (c) and (d) free of charge. Otherwise, the Customer shall pay the Contractor's reasonable costs of providing the assistance and the Contractor shall take all reasonable steps to mitigate such costs.

9.8 Force Majeure

9.8.1 Neither Party shall be liable to the other Party for any delay in performing, or failure to perform, its obligations under the Contract (other than a payment of money) to the extent that such delay or failure is a result of Force Majeure. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations under the Contract for the duration of such Force Majeure. However, if such Force Majeure prevents either Party from performing its material obligations under the Contract for a period in excess of 6 Months, either Party may terminate the Contract with immediate effect by notice in writing.

9.8.2 Any failure or delay by the Contractor in performing its obligations under the Contract which results from any failure or delay by an agent, sub-contractor or supplier shall be regarded as due to Force Majeure only if that agent, sub-contractor or supplier is itself impeded by Force Majeure from complying with an obligation to the Contractor.

9.8.3 If either Party becomes aware of a Force Majeure event or occurrence which gives rise to or which is likely to give rise to any such failure or delay on its part as described in Clause 9.8.1 it shall immediately notify the other by the most expeditious method then available and shall inform the other of the period during which it is estimated that such failure or delay shall continue.

10. DISPUTES AND LAW

10.1 Governing Law and Jurisdiction

The Contract shall be governed by and interpreted in accordance with English law and the Parties submit to the exclusive jurisdiction of the English courts and agree that the Contract is to be governed exclusively by and construed under English law.

10.2 Dispute Resolution

10.2.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the finance director (or equivalent) of each Party.

10.2.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

10.2.3 If the dispute cannot be resolved by the Parties pursuant to Clause 10.2.1 the Parties shall refer it to mediation pursuant to the procedure set out in Clause 10.2.5 unless:-

- (a) the Customer considers that the dispute is not suitable for resolution by mediation; or
- (b) the Contractor does not agree to mediation.

10.2.4 The obligations of the Parties under the Contract shall not be suspended, cease or be delayed by the reference of a dispute to mediation (or arbitration) and the Contractor and the Staff shall comply fully with the requirements of the Contract at all times.

10.2.5 The procedure for mediation and consequential provisions relating to mediation are as follows:-

- (a) a neutral adviser or mediator ("**the Mediator**") shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution ("CEDR") to appoint a Mediator;
- (b) the Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from CEDR to provide guidance on a suitable procedure;
- (c) unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
- (d) if the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
- (e) failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties; and

- (f) if the Parties fail to reach agreement in the structured negotiations within sixty (60) Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the courts.

APPENDIX 1

SUPPLY CHAIN AGREEMENTS

They will include the following points as a minimum:

- All deliveries must be made by personnel wearing clean, protective clothing and an identification badge bearing the company name and the person's name.
- Vehicles must be clean, to food standard, well maintained and be suitable for the category being delivered.
- Speed limits at sites must be observed and if no speed limits are shown then 5 miles per hour must not be exceeded.
- Vehicles must have their engines switched off whilst parked or making a delivery.
- Deliveries must be accompanied by a delivery note showing quantity, description and order number.
- The delivery note must be given to the receiving officer at the beginning of the delivery so that goods can be checked at the time of the delivery.
- All deliveries must be palletised. Multi-product pallets will be accepted where an additional pallet is used to separate each and every product line.

APPENDIX 2
VARIATION FORM
CALL-OFF TERMS AND CONDITIONS FOR GOODS

Lot Number: 12

No of Order Form being varied:

Variation Form No:

BETWEEN:

Environment Agency (“the Customer”)

and

St Johns Ambulance (“the Contractor”)

1. The Order is varied as follows; [list details of the Variation].
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Authorised to sign for and on behalf of the Customer

Signature:

Date:

Name:

Position:

Authorised to sign for and on behalf of the Contractor

Signature:

Date:

Name:

Position:

SCHEDULE 2: THE SERVICES

1: Background to requirement

The Environment Agency was established in 1996 to protect and improve the environment. We have around 10,600 employees. Our head office is in Bristol and we have another office in London. We have offices across England, divided into [14 areas](#). Within England we're responsible for:

- regulating major industry and waste
- Treatment of contaminated land
- Water quality and resources
- Fisheries
- Inland river, estuary and harbour navigations
- Conservation and ecology
- managing the risk of flooding

We help people and wildlife adapt to climate change and reduce its impacts, including flooding, drought, sea level rise and coastal erosion. We improve the quality of our water, land and air by tackling pollution. We work with businesses to help them comply with environmental regulations. A healthy and diverse environment enhances people's lives and contributes to economic growth. We work as part of the Defra group (Department for Environment, Food & Rural Affairs), with the rest of government, local councils, businesses, civil society groups and local communities to create a better place for people and wildlife.

We are continually striving to be the best, focused on outcomes and constantly challenging our self. We are committed to an inclusive, professional workforce where leaders recognise the contribution of people, and build capability to deliver better outcomes

Contract Strategy

We currently have about 220 staff trained as physical first aiders and want to equip at least 50% of them with the skills to respond to both physical and mental health first aid incidents.

In addition we have about 60 Wellbeing Supporters who are employees, who are not trained first aiders, but have volunteered to form part of a listening service for colleagues experiencing emotional distress.

We aim to source a single supplier to deliver first aid training to the relevant employees within the Environment Agency.

We will let this requirement as two separate contracts:

1. Physical First Aid Training
2. Mental Health First Aid Training

Each contract will be let to a single supplier, or supplier with subcontracting arrangements, that demonstrates they have the necessary skills and capacity to complete all aspects of the requirement. We will tender for 2 contracts but would prefer a single supplier for both requirements from the framework. However, a single supplier must provide the same, or better, value for money as the two best bidders for physical and mental health provision.

The contract will be for an initial 12 months with 2 further extension periods of 12 months subject to business requirements, excellent performance and cost. All extension requests will be issued by Defra Group Commercial on behalf of the Environment Agency.

2: Generic Objectives/Deliverables

2.1 Single Point Contact

A single point of contact is required to provide the Environment Agency contract lead with expert advice on an occasional basis. The supplier will be expected to provide updates on changes to legislation and other requirements in relation to first aid and first aid training. Participation in, and contribution to, our quarterly

webinars will be required. We have a First Aider community of practice and each quarter they hold a 1 hour long webinar. The webinar includes an approximately 20 minute slot for the First Aid training supplier to provide an update on any recent changes and to cover a quick refresher on a contemporary First Aid “topic”. Any cost for this should be included in the wrapped course delivery price.

2.2 Delivery

National coverage for all courses is expected

The delivery model will be direct training delivered by the supplier, or their nominated sub-contractor. Training will be delivered at an instructor to student ratio of 1:15. First aid training courses shall meet the requirements of the HSE Guidance referenced in 2.3. First Aid Training is required to be delivered during the working week of Monday to Friday, normally between the hours of 0900 -1700. No training will be required on bank holidays or at weekends.

Any change in course content must be communicated to, and be mutually agreed by, us before use.

The following service levels will be expected as minimum performance levels. Failure to meet these levels will invoke service credits being applied proportional to impact.

- 95% of all course requests to have a confirmed booking within 5 working days.
- 95% of all courses to be completed within 3 calendar months of initial request.
- Average pass rate for First Aid at Work initial and requalification courses to exceed 85%
- End of course feedback to be in excess of 80% satisfactory or better
- 97% of invoices to be provided within 10 working days of the end of invoice period.
- Rescheduled courses due to EA cancellation to be confirmed within 3 calendar months of cancellation notification.
- Rescheduled courses due to supplier cancellation to be made available to the EA within 4 weeks of the original date.

2.3 Accreditation

For physical first aid courses your courses must meet one of the following requirements below as specified in [L74 Guidance on Regulations](#) and [associated guidance](#).

- offer regulated qualifications, regulated by an Awarding Organisation; or
- operate under voluntary accreditation schemes; or
- listed as a Voluntary Aid Society in above guidance

You will be asked to confirm under which of the above your training is provided and be expected to provide evidence to support it.

For mental health courses all trainers need to be a licensed Mental Health First Aid (MHFA) England Instructor and course content reflect contemporary topics.

2.4 Course Cancellation

The supplier will work in partnership with us and be flexible with regards to the postponement or cancellation of courses.

We will not pay any cancellation charges for courses cancelled up to four weeks (20 working days) before the course date. We will try to reschedule any booking made.

In the event that courses are cancelled less than four weeks before the course date, you will endeavour to reschedule the booking without us incurring any additional costs. Where this is not possible, the following cancellation fee schedule shall apply:

Time before course date	Percentage of course price paid
Between 3 - 4 weeks	10%

Between 2 - 3 weeks	25%
Between 1 - 2 weeks	50%
Less than 1 week	100%

We are a Category 1 emergency responder and the majority of our staff have an important role in responding to incidents. As a result, course attendance may have to be cancelled at short notice if an incident occurs. In this instance, we will not pay cancellation charges except for reasonable out of pocket expenses - for example, if a trainer has set off to site and incurs non-refundable expenses for accommodation or travel.

If you have to cancel at short notice, you will be expected to reschedule the course as soon as possible with no extra charges passed on to the Environment Agency.

2.5 Provision of venues for training:

See table 1 and 2 and our [14 areas](#). Other venues may be required if our Defra partners choose to use this contract. These will be discussed and agreed as necessary. We would expect a discounted price from the public rate when our own locations are used.

2.6 Provision of Equipment & Adjustments

All equipment for delivering the training must be provided by you. You are required to provide details of the equipment you will use and how this equipment is maintained.

Where our candidates for training have learning or communication difficulties these will be communicated to the training provider. The training provider should then make reasonable adjustments to accommodate their learning needs, e.g. provision of additional learning support.

Where candidates have a disability, training providers should make reasonable adjustments during the period of training. However, at the formal (summative) assessment stages the candidate must demonstrate their first-aid competence without assistance of any kind.

2.7 Monitoring performance

You will supply quarterly management information within 2 weeks of the quarterly anniversary of the contract start date. This should include feedback from course evaluation including any recommendations for course improvements/required updates and any issues identified. Information should include but not be limited to:

- Number of courses requested
- Number of courses arranged
- Time to confirm courses booked
- Time from booking request to initial course date
- Time from initial course to rescheduled date, where applicable
- Number of courses cancelled/rescheduled due to EA
- Number of courses cancelled/rescheduled due to Supplier
- Number of courses passed.
- Average pass rate %
- Number and value of invoices by month in previous Quarter
- Summary of course satisfaction survey results.

The above data will need to be aggregated for annual review summary. These will be used to inform contract review meetings on a quarterly and annual basis and to ensure that course content remains current.

Any issues raised by either party will be resolved in a timely manner by discussion with the contract manager and colleagues.

Any complaints or negative feedback arising from any course should be immediately passed to our shared services provider (SSCL) and the contract manager for investigation. Following this the contract manager will engage with the supplier to reach a satisfactory outcome and avoid future issues.

2.8 Sustainability and the Environment

We are committed to sustainable procurement. It not only contributes to a number of our environmental goals, but also helps reduce our costs and makes us more efficient.

We work to create better places for people and wildlife, and support sustainable development. This extends into our supply chain through the purchases we make, and the goods and services that others provide on our behalf. We aim to consistently achieve the highest environmental standards, going beyond legal compliance to maintain and enhance habitats and biodiversity.

We protect people and communities so that people can enjoy the environment and the benefit it brings and we always seek to continually improve.

Our environmental plan e:Mission outlines how we will improve the environmental impact of our own operations and that of our suppliers and supply chain by 2020. The targets that make up our plan can be found in e:Mission. You will ensure that all services provided under this contract will help us achieve and where possible exceed the targets and aims set out in this document. As part of this you may be required to check and supply environmental data linked to the annual analysis of our supply chain impacts. This data will be provided to our specified supplier within an agreed time frame and enables us to monitor and report on its progress against the e:Mission targets.

In addition to this, you must ensure that you:

- Remain fully compliant with all relevant environmental legislation at all times including any amendments to existing legislation or any new legislation that may come into force during the life of this contract;
- Consider and reduce the environmental impacts of the service over the lifecycle of the contract to include but not limited to:
 - The booking of training;
 - The location of the training in reducing the carbon impact from travel;
 - The location of the training in reducing the energy use and waste management of the building for class room based programmes;
 - The resources required to deliver the training;
 - The timing of training in relation to minimising the disruption caused to the local environment and communities.
- You will be expected to promote the best practical environmental options;
- Include environmental risks in your risk assessment process to cover specific risks relating to the type of work being carried out and specific site risks where training is provided;
- Report all environmental incidents and near misses that occur if training is delivered on an EA site to the Site Responsible Officer at the earliest opportunity;
- Communicate our sustainability requirements throughout your supply chain to those who will be involved in delivering the services under this contract; and
- Share and communicate best practice, lessons learned and new innovations with us in all areas that are relevant to this contract.

All practical non classroom based training shall be booked in at times that is least disruptive and most suitable to the environment in which they are to be carried out. Training venues should be booked where there is demand for courses, minimising the need for learners to travel.

2.9 Equality, Diversity and Inclusion

We expect the very highest standards of behaviour and positive attitudes to diversity and inclusion. We are committed to equal opportunities and we expect a work environment free from bullying and harassment. We expect the same standards from our suppliers; training providers must make all reasonable adjustments to ensure learning at all levels. The prime supplier will be responsible for behaviours of their supply chain.

We have a clear vision of our culture and how we do things:

Yes if – We will take this action in all that we do

Think big – act early, be visible

Seek Partnership, show leadership

Focus on outcomes – not processes

Embrace Difference: include everyone

One Team: support and trust each other to do the right thing

Stay safe and grow; we will invest in the wellbeing and development of all our staff.
We expect our suppliers to support us and understand our culture.

2.10 Value of contract

The Value of the contract will be weighted to the first year due to a backlog of courses needed and new starters. The overall value is estimated based on predicted numbers but should not be considered as any commitment to these numbers – there will be no guaranteed level of work under this agreement.

- Mental Health First Aid 2 day course – [REDACTED]
- Mental Health First Aid 1 day course – [REDACTED]

2.11 Pricing strategy

Inclusive Pricing - please refer to the pricing schedule for a definition of each pricing element and the schedule which requires full completion.

In summary we are adopting an inclusive pricing approach which includes accommodation and travel costs and all trainer expenses. We appreciate these will vary by delivery location however you are asked to provide one price to cover any location.

For the purposes of this tender and its evaluation we have provided you with the top courses we require for each lot. We have provided you with likely scenarios regarding equipment and sites. A detailed evaluation methodology and scoring for pricing is given in the main tender document.

2.12 Roles and management of contract

Technical Lead

Our Technical Lead will act as the subject matter expert within the business and will act as the contract manager:

- provide Subject Matter Expertise directly to the supplier, acting as an interface between business and the training provider in the development and delivery of material;
- escalate any concerns to the supplier to resolve any issues;
- Assess the quality of training and exercising received across the business;
- Ensure our Operational Instructions and ways of working are embedded;
- Consider evaluation approach and methodology.

Shared Services Connected Limited (SSCL)

We are subcontracted with Shared Services Connect Limited (SSCL) to provide administrative support for all our National training courses. This support includes:

- venue booking,
- scheduling courses,
- raising purchase orders,
- liaising with suppliers on course requirements,
- sending joining instructions and
- Tracking delegate attendance.

You will have to work with SSCL to agree schedules, receive purchase orders and deal with other administrative matters relating to course delivery. In some instances, payment to suppliers may be made by Government Procurement Card.

The Learning and Development Centre of Expertise and Technical Lead are responsible for all matters relating to programme content.

Commercial lead

- Assists with biannual review with Suppliers on performance and potential for improvements.
- Provide commercial advice and guidance to Contract Manager.

Learning & Development (L&D) specialist

- Provide L&D advice and guidance to Contract Manager and the Incident Management community
- Attend supplier performance review meetings
- Work with Environment Agency subject matter/ technical leads to:
 - identify high level aims and learning objectives
 - develop further competition briefs,
 - consider evaluation approach and methodology
- Act as an escalation channel for any issues with SSCL.

2.13 DEFRA

There is the potential that some of the courses offered under this contract will be accessed by staff in other departments and other Defra organisations. The provider must be aware both the audiences and the way training is arranged varies and must be able to offer a different, separate approach.

2.14 Data Protection

Our requirement may require you to hold information and data about our delegates such as date of birth and individual training records. It is important we understand how your organisation complies with GDPR and the Data Protection Act (DPA) 2018 and how the data you are processing complies with the DPA 2018.

From a technical side we need confidence in your systems and data access protocols. We will assess:

- Who has access to this data? How is this managed?
- Where/ how will this data be stored/ accessed?
- What security measures (physical/ logical/ technical) are in place to protect this information?
- How will the data be securely transmitted from/ to any storage locations?
- Who has responsibility for the management of this information?
- Once the data has been used, what retention management arrangements are in place?
- What are your security policies/ plans relating to customer information?
- Do you hold any certifications/ accreditations relating to the DPA etc. or, for example ISO27001? Or go through supplier audits.

2.15 Training Requirements

Physical Health First Aid Requirements

We are required to comply with the Health & Safety (First Aid) Regulations 1981. The requirement for first aid training is identified in our Environment Agency Operational Instruction "First-aid provision in office and field locations". Individuals are then nominated to attend the appropriate level of training and undertake the duties of a first aider.

Table 1 below identifies the levels of physical first aid training required when we request it.

Mental Health First Aid Requirements

- Learning to be given through a mix of presentations, group discussions and workshop activities and each session based on a mutually agreed Mental Health First Aid action plan
- Courses to be In line with current and future Mental Health England best practices
- All trainers need to be a licensed MHFA England Instructor
- Class size to be 15 maximum delegates
- Any change in course content to be mutually agreed before use

Table 2 below identifies the levels of mental health first aid training required when we request it.

Indicative Outline Schedule of Courses per Individual

Qualification	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Mental Health 2 day (First Aiders)							
Mental Health 1 day (Supporters)							

Table 2: Lot b. Mental Health First Aid Training Requirements

Ref	Title	EA Ref	Duration	Requirement	People per year*	Venue
1	Mental Health First Aid (MHFA)	TBC	2 Day	<p>The course to be designed to qualify delegates to become confident in providing Mental Health first aid at work.</p> <p>Course content – A thorough understanding of mental health and the factors that can affect wellbeing</p> <ul style="list-style-type: none"> • Practical skills to spot the triggers and signs of a range of mental health issues • Confidence to step in, reassure and support a person in distress using the Mental Health First Aid action plan • Enhanced interpersonal skills such as non-judgemental listening • A good understanding on where to signpost further support – whether through internal resources and services such as EAP or external sources such as their GP or emergency services. • Understanding of how to keep themselves safe and well while performing their duties <p>Assessment – Successful delegates will receive:</p> <ul style="list-style-type: none"> • A certificate of attendance to confirm they qualify as a Mental Health First Aider • Course reference material to refer to in the future • A toolkit or reference material to support their own mental health • Reference Material to enable staff support Line Managers with advice on how to support an employee experiencing mental ill health 	■	<p><u>Preferred option</u></p> <p>EA provides venues for courses available only to EA employees (if sufficient numbers).</p> <p>If necessary, training supplier provides venue (EA employees attend course open to third parties).</p>

*Indicative

Table 2: Lot b. Mental Health First Aid Training continued

2	Mental Health Well-being Supporter (MHWS)	TBC	1 Day	<p>The course to be designed to provide delegates with an understanding of mental health and the factors that can affect wellbeing</p> <p>Course content – Knowledge and confidence to provide Mental Health support for the most common mental health issues</p> <ul style="list-style-type: none"> • An understanding of what mental health is and how to help build a mentally healthy workplace, challenge stigma and support positive wellbeing • A basic knowledge of some common mental health issues • An introduction to looking after their own mental health and maintaining wellbeing • Confidence to offer support to someone in distress or who may be experiencing a mental health issue • A good understanding on where to signpost further support • Understanding of how to keep themselves safe and well while performing their duties <p>Assessment – Successful delegates will receive:</p> <ul style="list-style-type: none"> • A certificate of attendance to confirm they have an increased awareness of Mental Health support • Course reference material to refer to in the future • A toolkit or reference material to support their own mental health 	■	As (1) above.
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Table 2: Lot b. Mental Health First Aid Training continued

				<p>Mental Health topics to be covered must include but not be limited to:</p> <p>1 Day</p> <ul style="list-style-type: none"> • What is mental health and impact of mental health issues • Non-judgemental listening skills • Symptoms of depression, anxiety, psychosis* • Impact of depression, anxiety, psychosis in the workplace • First aid for depression, anxiety, psychosis • Treatment and resources for depression, anxiety, psychosis • Crisis first aid for acute psychosis • First aid for suicidal crisis • Self-care <p>*Psychosis to include Schizophrenia and bi-polar mood disorder</p> <p>2 Day</p> <ul style="list-style-type: none"> • All of the above plus: • Risk factors for depression, anxiety, psychosis • Desirable but not essential <ul style="list-style-type: none"> ○ Eating disorders ○ Personality disorders ○ Self-harm including the impact of alcohol and drug misuse 		
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Anticipated numbers for mental health first aid training (indicative only)

Central location for training	First aiders		Wellbeing Supporters
	Confirmed Y	Potential Y	Confirmed Y
Warrington			
Leeds			
Solihull			
Peterborough			
London			
Bristol			
Total			
Grand total			

2.16 Course Customisation and Development

As the course contents and requirements are standard to many common health and safety courses, we are seeking a supplier who can provide already existing courses requiring minimal customisation to meet our needs – for example, we would require basic tailoring for on-site courses to include our internal policies and examples of the work carried out by our organisation (like electric shocks and burns outlined in Table 1). Accordingly, your tender must not include costs to cover this customisation. We do not expect the supplier to customise their public courses.

During the contract, the course materials must be regularly maintained to ensure that they are in line with the current legislation and industry advances. We will not bear the costs of any updates or development requirements that are external to the Environment Agency. We may require more significant development to the standard courses in the future and therefore the Pricing Schedule will require you to enter your overarching development day rate.

SCHEDULE 3:
PRICING MATRIX

SUPPLIER NAME:		St John Ambulance				
Lot b - Mental Health First Aid Training						
WEIGHTED PRICE						
TRAINING COURSE	UNIT	WEIGHTING %	COURSE LENGTH IN DAYS	MAXIMUM DELEGATES	TOTAL INCLUSIVE/WRAPPED PRICE £	WEIGHTED PRICE
Mental Health First Aid (for trained First Aiders, on-site)						
Mental Health First Aid (for trained First Aiders, public)						
Mental Health First Aid (for Wellbeing Supporters, on-site)						
Mental Health First Aid (for Wellbeing Supporters, public)						
TOTAL*						
*The Total Weighted Price will be used for evaluation purposes, as detailed in the Tender Pack.						135933

SUPPLIER NAME:	St John Ambulance		
Lot b - Mental Health First Aid Training			
In accordance with the Specification, please detail all other fees that will apply to this contract:			
Description / Comments	Cost £		
Overall Development Day Rate, limited use FOC offer	Free of charge for five (5) days. Five days = 35 working hours.		
Overall Development Day Rate, following FOC days			
The above prices will not form part of the price evaluation for this tender exercise.			
Development Day Description			
<p>PLEASE NOTE: As outlined in our response to Quality Question 2 for the MHFA call-off contract, we are limited in our ability to customise MHFA courses as content is licensed from MHFA England who dictate course content and development.</p> <p>Whilst our 5 days FOC offer is repeated on both pricing schedules, the total number of free development days we are proposing is 5, on the assumption we are awarded both call-off contracts.</p> <p>Five days = 35 working hours.</p> <p>Time split between discussions and development (approx. 1 day discussions and 4 days development – depending on scope of product)</p> <p>Discussions with customer (face to face or Skype)</p> <ul style="list-style-type: none"> • What are the parameters of the product scope? – session duration – is it flexible or not? • What do you need to cover/want to cover or do you need recommendations? – how much detail is needed and are there any requirements/regulations? • Use of own images/EA specific images – EA can supply, or we can outsource (additional charge) • Draft generation and review process (max of 3 times) <p>Development</p> <ul style="list-style-type: none"> • Produce product information sheet – planned content, description of what will be covered • Produce presentation materials • Produce delivery materials • Should any new resources need to be produced that have to be outsourced there will be a charge 			