



Professional Service Short Contract

Contract Data Forms

June 2017

(with amendments January 2019)

Short Contract

A contract between

**The Environment Agency
Horizon House
Deanery Road
Bristol
BS1 5AH**

and

**The Community Forest Trust
6 Kansas Avenue, Salford,
Greater Manchester
M50 2GL**

On behalf of the White Rose Forest

for

**Provision of Landowner Engagement Services and
Potential Supervision in the River Aire Catchment.**

Contract Forms

Contract Data

The *Consultant's Offer* and *Client's Acceptance*

Price List

Scope

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

Contract Data

The *Client's* Contract Data

The *Client's*

Name

Address for communications

Address for electronic communications

The *services*

The *starting dates*

The *completion dates*

The *delay damages* are per day

The *law of the contract* is

The *period for replies* weeks

The *defects dates* weeks after Completion

The *assessment days* the of each month

Works not to be carried out on a time charge basis.

The United Kingdom Housing Grants, Construction and Regeneration Act (1996) does not apply

The *Adjudicator's*

Name

Address for communications

Address for electronic communications

Contract Data

The *Client's* Contract Data

The interest rate on late payments is % per complete week of delay.

The *Client* provides this insurance

None

The *Consultant* provides the following insurance cover

| INSURANCE AGAINST | MINIMUM AMOUNT OF COVER | PERIOD FOLLOWING COMPLETION OR EARLIER TERMINATION |
|---|---|--|
| Liability of the <i>Consultant</i> for claims made against it arising out of the <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the service | £1,000,000 in respect of each claim, without limit to the number of claims | Six Years |
| Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the <i>Consultant</i>) arising from or in connection with the <i>Consultant</i> providing the Service. | £1,000,000 in respect of each event, without limit to the number of events | Six years |
| Liability for death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of the employment in connection with the contract | £5,000,000 in respect of each event, without limit to the number of events | Six years |

The *Consultant's* total liability to the *Client* which arises under or in connection with the contract is limited to

£1,000,000

The *Adjudicator* nominating body is

TBC

The *tribunal* is

TBC

If the *tribunal* arbitrates, the arbitration procedure is

TBC

Contract Data

The *Client's* Contract Data

The *conditions of contract* are the NEC4 Professional Service Short Contract June 2017 (with amendments January 2019) and the following additional conditions

Only enter details here if additional conditions are required.

Contract Data

The *Consultant's* Contract Data

The *Consultant's*

Name

Address for communication

Address for electronic communication

The *fee percentage's* %

The *people rates* are

| category of person | unit | rate |
|----------------------|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
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If the work is to be carried out on a time charge basis the *Consultant* includes *people rates* for its own people and people provided by a subcontractor

The *key persons* are

Name (1)

Job

Responsibilities

Qualifications

Experience

Name (2)

Job

Respons b tes

| |
|--|
| |
|--|

Qua f cat ons

| |
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Exper ence

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The Consultant's Offer and Client's Acceptance

The *Consultant* offers to Provide the Service in accordance with these *conditions of contract* for an amount to be determined in accordance with these *conditions of contract*.

The offered total of the Prices is

407,060

Enter the total of the Prices from the Price List. If all work is to be carried out on a time charge basis, enter 'Not Applicable'

Signed on behalf of the *Consultant*

Name

Position

Signature

Date

13/11/20

The *Client* accepts the *Consultant's* Offer to Provide the Service

Signed on behalf of the *Client*

Name

Position

Signature

Date

01/12/2020

Price List

Entries in the first four columns are made either by the *Client* or the tenderer

For each row:

- If the *Consultant* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tenderer enters the amount in the Price column only.
- If the *Consultant* is to be paid an amount for the item of work and which is the rate for the work multiplied by the quantity completed, the tenderer enters the rate which is then multiplied by the expected quantity to produce the Price, which is also entered.
- If the work is to be paid on a time charge basis, only expenses should be included.

Costs incurred by the *Consultant* other than the listed expenses are included in the Rates and Prices and the People Rates. If expenses are paid at cost, then 'at cost' should be entered into the Rate column.

Delete or strike through unused rows.

| ITEM NUMBER | DESCRIPTION | UNIT | EXPECTED QUANTITY | RATE | PRICE |
|-------------|--|------|-------------------|------|-------|
| 1 | Project In t at on P an | | | | |
| 2 | Year 1 Market ng P an | | | | |
| 3 | Year 1 ABCD Ana ys s | | | | |
| 4 | Year 1 ABCD Act v t es Report | | | | |
| 5 | Year 1 Engagement P an | | | | |
| 6 | Year 1 M d Year Report | | | | |
| 7 | End of year 1 report | | | | |
| 8 | Year 2 Engagement P an | | | | |
| 9 | Year 2 Market ng P an | | | | |
| 10 | Year 2 ABCD Report | | | | |
| 11 | Year 2 M d Year Report | | | | |
| 12 | End of Year 2 Report | | | | |
| 13 | Purchase project manager IT and Equ pment | | | | |
| 14 | Purchase IT and equ pment (pad, ARC GIS censes and 360 camera) for each approved LET member | ITEM | 15 | | |
| 15 | Year 1 Landowner agreement s gned for a m n mum of 3Ha Tree p ant ng | ITEM | 32 | | |
| 16 | Year 1 Landowner agreement s gned for a m n mum of 4Ha Tree p ant ng | ITEM | 1 | | |

| | | | | | |
|----|--|------|----|---|--|
| 17 | Year 1 Landowner agreement signed for a minimum of a minimum of 100m hedgerow | ITEM | 30 | | |
| 18 | Year 2 Landowner agreement signed for a minimum of 3Ha Tree planting | ITEM | 32 | | |
| 19 | Year 2 Landowner agreement signed for a minimum of 4Ha Tree planting | ITEM | 1 | | |
| 20 | Year 2 Landowner agreement signed for a minimum of a minimum of 100m hedgerow | ITEM | 30 | | |
| 21 | Delivery Supervision as per the Scope of this contract | DAY | 14 | | |
| 22 | Landowner agreement signed for an additional 3Ha Tree planting over and above the minimum 3 Ha Tree Planting achieved as per items 15 and 18 | ITEM | 34 | | |
| 23 | Signed landowner agreement for a minimum of 10Ha So Aeration | ITEM | 5 | | |
| 24 | Signed landowner agreement for a minimum of 2 Ha Moor and Restoration | ITEM | 10 | | |
| 25 | Signed landowner agreement for a minimum of 25M River Morphology | ITEM | 5 | | |
| 26 | Signed landowner agreement for a minimum of 0.5Ha Foodplan Reconnected | ITEM | 10 | | |
| 27 | Signed landowner agreement for a minimum of 2Ha Storage | ITEM | 10 | 1 | |
| 28 | Signed landowner agreement for a minimum of 10no. Leaky Barrers | ITEM | 10 | | |
| 29 | Signed landowner agreements for a minimum of 200sqM Buffer Strip | ITEM | 10 | | |
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The total of the Prices 407,060.00

EXPENSES

| | | | | | |
|--|--|--|--|--|--|
| | | | | | |
| | | | | | |
| | | | | | |

The method and rules used to compute the Price List are



Scope

The Scope should be a complete and precise statement of the *Client's* requirements. If it is incomplete or imprecise, there is a risk that the *Consultant* will interpret it differently from the *Client's* intention. Information provided by the *Consultant* should be listed in the Scope only if the *Client* is satisfied that it is required, is part of a complete statement of the *Client's* requirements and is consistent with other parts of the Scope.

1 Purpose of the service

Provide a brief summary of why the service is being commissioned and what it will be used for.

See Appendix A – Version 1 Scope Landowner Engagement WRF

2 Description of the service

Give a complete and precise description of what the *Consultant* is required to do.

Appendix A – Version 1 Scope Landowner Engagement WRF
Appendix B – NFM Definitions
Appendix C – River Aire Catchment Boundary
Appendix D – Target sub-catchments
Appendix E – Landowner Agreement

Scope

3 Existing information

List existing information which is relevant to the *service*. This can include documents which the *Consultant* is to further develop.

See Appendix A – Version 1 Scope Landowner Engagement WRF

4 Specifications and standards

List the specifications and standards that apply to the contract.

See Appendix A – Version 1 Scope Landowner Engagement WRF

Scope

5 Constraints on how the *Consultant* Provides the Service

State any constraints on sequence and timing of work and on method and conduct of work including the requirements for any work by the *Client*.

See Appendix A – Version 1 Scope Landowner Engagement WRF

Scope

6 Requirements for the programme

State whether a programme is required and, if it is, state what form it is to be in, what information is to be shown on it, when it is to be submitted and when it is to be updated.

See Appendix A – Version 1 Scope Landowner Engagement WRF

Scope

7 Information and other things provided by the *Client*

Describe what information and other things the *Client* is to provide and by when. Information is that which is not currently available, but will become available during the contract. Other things could include access to a person, place (such as office space or a site) or the *Client's* information technology systems.

| ITEM | DATE BY WHICH IT WILL BE PROVIDED |
|---|-----------------------------------|
| See Appendix A – Version 1 Scope Landowner Engagement WRF | |
| | |
| | |
| | |
| | |

Appendix A – Version 1 Scope Landowner Engagement WRF

Environment Agency

NEC4 professional services contract (PSC)

Scope

Project / contract Information

| | |
|-----------------------|-------------------------------------|
| Project name | Leeds FAS Natural Flood Management |
| Project SOP reference | ENV0001395C |
| Contract reference | Landowner Engagement (Year 1 and 2) |
| Date | August 2020 |
| Version number | Final (V1) |
| Author | [REDACTED] |

Revision history

| Revision date | Summary of changes | Version number |
|---------------|--------------------|----------------|
| | First issue | |

Details of the Scope

Details of the Scope are as follows.

1. Description of the work:

1.1. Objective

1.1.1. The Leeds Flood Alleviation Scheme (FAS) Natural Flood Management (NFM) Project aims to reduce Flood Risk in Leeds by delivering NFM measures within the River Aire Catchment. The objective of the project is to reduce the peak flood flows in Leeds by 5% in a 1 in 200 year event in 2069.

1.1.2. NFM measures that will be considered for delivery in this project are described in Appendix A.

1.1.3. The objective of this contract is to engage landowners within specified sub catchments within River Aire Catchment, in order to secure landowner agreement for the delivery of NFM measures. The River Aire Catchment Area is shown in Appendix B. The Sub Catchment's to be targeted are shown in appendix C and are:

- 1.1.3.1. 23- River Aire from Malham Tarn (inc. Gordale Beck to source) to Otterburn Beck
- 1.1.3.2. 22- River Aire from Otterburn Beck (inc. Otterburn Beck to source) to Eshton Beck
- 1.1.3.3. 21- Eshton Beck from source (inc. Flasby Beck to source) to River Aire
- 1.1.3.4. 20- Earby Beck from source (inc. Langber Beck to source) to River Aire
- 1.1.3.5. 19- Eller Beck from source (inc. Haw Beck to source) to River Aire
- 1.1.3.6. 18 - River Aire from Eshton Beck to Snaygill
- 1.1.3.7. 16- Eastburn Beck from source (inc. Lothersdale Beck to source) to River Aire

1.1.3.8. 13- River Worth from source (inc. North Beck and Bridgehouse Beck) to River Aire

1.1.4. The *Client* may change the priority sub catchments within the duration of this contract. This will be notified to the *Consultant* in writing 8 working weeks before the change is required. If any geographical areas are removed, any sites being developed will still be accepted, provided they were started prior to notification of the changed priority sub catchments.

1.2. Outcome Specification

1.2.1. The *Consultant* shall:

1.2.1.1. By April 2021, secure signed landowner agreement and site plans, to deliver a minimum of 100ha of Woodland Creation and 3000m of hedgerow.

1.2.1.2. By April 2022, secure signed landowner agreement and site plans, to deliver a minimum of 200ha of Woodland Creation and 6000m of hedgerow.

1.2.1.3. Secure signed landowner agreement and site plans, to deliver any other NFM measure where appropriate.

1.2.1.4. Produce the following deliverables:

- Outline sketch proposal and red line boundary for each site;
- Signed Landowner Agreement for delivery;
- Delivery Plan (Programme) for year 1;
- Marketing and Engagement Plan for year 1;
- Mid-Year Report for year 1;
- End Year Report for year 1;
- Delivery Plan (Programme) for year 2;
- Marketing and Engagement Plan for year 2;
- Mid-Year Report for year 2;
- End Year Report for year 2, and
- Monthly progress report.

1.2.1.5. The signed landowner agreement shall be between the landowner and the Client, in the form of the model agreement (Appendix X), with no variations

1.2.1.6. The mid-year report shall include:

- Progress against programme;
- Breakdown of spend to date, and forecast of spend moving forwards;
- List of sites visited and to be visited;
- Summary of trends and feedback from landowners and tenants;
- Risks and opportunities;
- Identify any training or information required;
- Summary of lessons learned to date, and
- Any health and safety matters.

1.2.1.7. The end of year report shall include:

- Progress against programme;
- Breakdown of spend to date, and forecast of spend moving forwards;
- List of sites visited and to be visited;
- Summary of trends and feedback from landowners and tenants;
- Risks and opportunities,
- Identify any training or information required;
- Summary of lessons learned to date, and
- Any health and safety matters.

- 1.2.1.8. The monthly progress report shall include:
- Progress against programme;
 - Breakdown of spend to date, and forecast of spend moving forwards;
 - List of sites visited and to be visited;
 - Summary of trends and feedback from landowners and tenants;
 - Risks and opportunities, and
 - Any health and safety matters.
- 1.2.1.9. Record the following information:
- Outline Sketch Proposal of the Site, including commentary on the physical characteristics of the site and any items that could be relevant to the delivery of the Site;
 - Number of sites visited;
 - Number of sites interested;
 - Any future opportunities;
 - How the landowner was identified;
 - Contact made to date with landowner;
 - Mileage of landowner engagement teams;
 - Details of press releases and engagement activities, and
 - Any other information requested by the Client.
- 1.2.1.10. If a site is accepted for delivery, the Consultant may be asked to supervise the works. Where the Consultant is supervising the works, the Consultant shall:
- Act as the single point of contact for the Landowner / Tenant and co-ordinate flow of information from the Contractor and the Client for the delivery of the works.
 - Report progress on delivery to the Client.
 - Monitor the Delivery works and ensure the works are delivered to the agreed specification.
 - Complete a site close out and completion report.
- 1.2.1.11. When the Client makes the GIS platform available, if the works are identified as to receive funding from one of the following sources, the Consultant shall use the GIS platform to input the required information prompted by the GIS platform:
- Countryside Stewardship;
 - Peatland Carbon Code, and
 - Woodland Carbon Fund.
- 1.2.1.12. Attend the project board and progress meetings, both held once a month.
- 1.2.1.13. Input into the development of the project GIS platform.
- 1.2.1.14. Review the first draft of the project GIS platform and provide feedback to the Client.

2. Constraints on how the *Consultant* provides the services

- 2.1. Health and Safety is the number one priority of the *Employer*. The *Consultant* will promote and adopt safe working methods and shall strive to deliver solutions that provide optimum safety to all.
- 2.2. Whereby the Site is tenanted, the *Consultant* shall ensure that the landowner agreements are signed by both the tenant and the landowner.
- 2.3. When the *Client* makes the GIS Platform available, the *Consultant* shall use the *Client's* GIS platform to propose an appropriate Solution for the site, considering the following:
- Providing a flood risk benefit to Leeds;

- Creating a better place and maximising environmental outcomes for people and wildlife, which includes landscape character, aesthetics, recreation, education, green infrastructure, habitat creation and heritage;
- Minimising detrimental environmental impact, and
- Using NFM measures that are acceptable to the landowner.

2.4. Whereby the *Consultant* proposes woodland creation as the solution; the area of proposed woodland created should be a minimum of 0.5ha with a proposed planting density of between 1,100 and 2,250 stems per hectare. Unless otherwise agreed with the *Client*.

2.5. If the *Client* has not made the GIS Platform Available, the *Consultant* shall provide a PDF of the proposed concept plan for the site taking account of the considerations identified in section 2.3 and 2.4 of this Scope, showing proposed measures and relevant site information.

2.6. The *Consultant* shall provide a programme each month that shows all Sites that will be visited. The *Consultant* shall not visit any site unless it has been shown on an accepted programme by the *Client*.

2.7. The *Consultant* shall provide a detailed project plan meeting all requirements the *conditions of contract*. The *Consultant* shows on each programme which they submit for acceptance (in form of Gantt chart showing the critical path, proposed order and timing to undertake the *services* and proposed plant and labour resources) the following:

- Period required for mobilisation/ planning & post contract award
- starting date
- Each of the activities listed within the Price List
- Any key third party interfaces: lead in periods for materials and sub-contractors; time required to obtain consents/waste permits; stated constraints; *Contractor's* risks.
- Completion date

2.8. The *Consultant* shall promote:

- The use of Natural Flood Management Measures;
- The Leeds Flood Alleviation Scheme, and
- Good Land Use.

2.9. The *Consultant* will sign post landowners to information and regulations about how to best manage their land, this may include, but is not limited to:

- Farming Rules for Water;
- Hydro Power;
- Environmental Permitting;
- Clough woodland principles;
- Cross Compliance;
- Protecting our Water, Soil and Air: A Code of Good Agricultural Practice for farmers, growers and land managers
- Moorland Restoration, and
- Other projects.

2.10. The *Consultant* shall ensure all *services* align with:

- The UK Forest Standards;
- Farming Rules for Water;
- Yorkshire Dales National Park Authority Natural Flood Management Guidance for Farmers;
- Yorkshire Dales Woodland Siting Guide;
- Leeds FAS NFM Standard Designs;
- Woodlands for Water Design Guidance, and
- The Environment Agency's Safety, Health, Environment and Wellbeing Code of Practice.

2.11. The *Consultant* shall consider minimising the amount of travel required while providing the *Services*.

- 2.12. If the *Consultant* notices anything on a site that could contravene the guidance contained in the Farming rules for Water, they shall advise it to the *Client*.
- 2.13. The *Consultant* should record any Tree Health related issues identified on sites to the Forest Research Tree Alert system: <https://treealert.forestresearch.gov.uk/>.
- 2.14. If a landowner chooses not to participate after the landowner agreement is signed, for reasons related to inappropriate actions taken by the *Consultant*, the money paid for completion of that site, will be repaid to the *Client*.
- 2.15. If any of the information provided by the *Consultant* proves to be false, the *Consultant* will not be paid, or the *Consultant* will repay any money received to date for that site. Except in the instance where the *Consultant* has received information from the landowner in good faith and demonstrated that they acted to ensure the quality of information collected.
- 2.16. The *Consultant* shall provide all project members working on this project, access to ARC ESRI online; to be able to access and use the Project GIS Platform.
- 2.17. The *Consultant* shall take Geo-Tagged 360 photos of sites, and store them in the GIS Platform.
- 2.18. The *Consultant* shall record Geo-Spatially the locations of proposed NFM measures on a site.
- 2.19. The *Consultant* shall obtain access to the following applications:
 - 2.19.1. Collector for ARC GIS
- 2.20. Whereby works are located within a designated area, the *Consultant* shall ensure works meet any relevant requirements.
- 2.21. The *Consultant* shall comply with General Data Protection Regulations as set out in Appendix D.
- 2.22. The *Consultant* shall identify if there are any additional stakeholders, other than the landowner or the tenant, who have an interest in any site.
- 2.23. It is anticipated that the *Consultant* shall visit a number of sites while undertaking the services. The *Consultant* shall take account of the bio-security risk when moving between sites, and make sure necessary measures are put in place to minimise this risk.
- 2.24. If the *Consultant* finds a protected species or an invasive species on site, the *Consultant* shall report it to the *Client*.
- 2.25. The *Consultant* shall notify the *Client* if they intend to approach Yorkshire Water to discuss their land.
- 2.26. The *Consultant* shall agree all the format of all marketing materials, publicity and press releases before they are published with the *Client*. Materials shall include the logos of Leeds City Council and the Environment Agency unless otherwise agreed with the *Client*.
- 2.27. The *Consultant* shall acknowledge in all publications that the work is funded by Leeds City Council, the Environment Agency and the Woodlands Trust.
- 2.28. The *Consultant* shall provide the *Client* with notice
- 2.29. The *Consultant* shall not prevent the *Contractor* delivering NFM measures.
- 2.30. The *Consultant* shall share the Project Privacy Notice with prospective landowners when collecting personal information.
- 2.31. The *Consultant* shall not record personal information in the GIS platform. The *Consultant shall ensure all personal information is stored in an encrypted spreadsheet.*

3. Exclusions

3.1. The *services* specifically excludes the following, unless otherwise agreed in writing with the *Client*:

3.1.1. Delivery of any NFM measures;

3.1.2. Securing landowner agreement for any works other than those funded by the Leeds FAS NFM Project;

3.1.3. Advertising or promoting projects other than the Leeds FAS NFM Project;

3.1.4. Engaging the following landowners:

3.1.4.1. Broughton Hall;

3.1.4.2. Elslack Estate;

3.1.4.3. National Trust (Malham Estate);

3.1.4.4. Brownlee Triathlon Centre, Leeds University;

3.1.4.5. Marfield Farm, Earby, and

3.1.4.6. Any other sites the *Client* notifies the *Consultant* not to engage with.

3.2. The *Consultant* shall not pay or offer financial reward to Landowners or Tenants for participating in the project.

3.3. The *Consultant* shall not propose features that the Landowner is already obliged to provide under the Farming Rules for Water.

3.4. The *Consultant* shall not be considered a designer for these works.

4. Specifications or standards to be used

4.1. Leeds FAS NFM Landowner Agreement Template.

4.2. Leeds FAS NFM Standard Design Principles, as available and provided by the *Client*.

4.3. Leeds FAS Funding and Landowner Information Pack.

5. Specific Project Requirements

5.1. All of the data listed as being supplied to the *Consultant* as part of this study remains the Intellectual Property (IP) of the *Client*.

5.2. Fee Notes to be submitted to the *Client* electronically.

6. Services and other things provided by the *Client*

6.1. The *Client* will provide the following:

| Document | Format | Date provided to <i>Consultant</i> |
|---------------------------------------|-----------------|------------------------------------|
| DRAFT GIS Platform (Trees Only) | ARC ESRI Online | November 2020 |
| FINAL GIS Platform (Trees Only) | ARC ESRI Online | April 2021 |
| DRAFT GIS Platform (All NFM measures) | ARC ESRI Online | April 2021 |
| FINAL GIS Platform (All NFM Measures) | ARC ESRI Online | September 2021 |
| River Aire Catchment Boundary | Shape File/ PDF | September 2020 |
| Geographical areas to target | List | September 2020 |
| Landowner Agreement Template | Word Document | September 2020 |
| Standard Design Principles | PDF | September 2020 |
| Landowner Information Pack | PDF | September 2020 |
| LFAS NFM Privacy Notice | PDF | September 2020 |

- 6.2. The *Consultant* shall provide a list of sites to be visited, a minimum of 4 weeks before a site visit is to take place. In order for the *Client* to confirm whether the site is on the Environment Agency's hostile site data base. If a site is on this data base, the *Consultant* shall not visit.
- 6.3. The *Client* shall provide a list of useful documents.
- 6.4. The data custodian for project deliverables from this commission will be the *Client*.

APPENDIX D DATA PROTECTION

1. This applies where one Party processes data on behalf of another Party within the meaning of the Data Protection Legislation. Where this Appendix applies, 'the Controller' means the Party which is the 'controller', and 'the Processor' means the Party which is the 'processor', in relation to such processing within the meaning of the GDPR.

2. In this Appendix (including its Annexes):

"Data Loss Event" means any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach

"Data Protection Impact Assessment" means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data

"Data Protection Legislation" means (i) the General Data Protection Regulation (Regulation (EU) 2016/679) or "GDPR", the Law Enforcement Directive (Directive (EU) 2016/680) ("LED") and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 1998 and/or the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; and (iii) all applicable Law about the processing of personal data and privacy

"Data Subject", "Personal Data", "Personal Data Breach", "Processing" (and cognate terms) and "Data Protection Officer" have the meanings given in the GDPR

"Data Subject Access Request" means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data

"Joint Controllers" means two or more controllers (within the meaning of the GDPR who jointly determine the purposes and means of processing (and "Joint Control" shall be construed accordingly)

"Law" means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Controller is bound to comply

"Processor Personnel" means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-processor engaged in the performance of its obligations under this Agreement

"Protective Measures" means appropriate technical and organisational measures which may include but are not limited to: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it including those outlined in Annex 1

"Sub-processor" means any third party appointed to process Personal Data on behalf of the Processor in relation to this Agreement

"Working Day" means any day which is not a Saturday, a Sunday or a public holiday in England

reference to a 'paragraph' or 'Annex' is to a paragraph of, or Annex to, this Appendix 3 (as the case may be).

3. The Processing that the Processor is authorised to do is as exhaustively set out in Annex 1 by the Controller and may not be determined by the Processor.
4. The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
5. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
 - 5.1 a systematic description of the envisaged Processing operations and the purpose of the Processing;
 - 5.2 an assessment of the necessity and proportionality of the Processing operations in relation to the purposes of such operations;
 - 5.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 5.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
6. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under this Agreement:
 - 6.1 Process that Personal Data only in accordance with Annex 1, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before Processing the Personal Data unless prohibited by Law;
 - 6.2 ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
 - (a) nature of the data to be protected;
 - (b) harm that might result from a Data Loss Event;
 - (c) state of technological development; and
 - (d) cost of implementing any measures;
 - 6.3 ensure that :
 - (a) the Processor Personnel do not Process Personal Data except in accordance with this Agreement (and in particular Annex 1);
 - (b) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (i) are aware of and comply with the Processor's duties under this paragraph 6;
 - (ii) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
 - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
 - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data;
 - 6.4 not transfer Personal Data outside of the United Kingdom and European Union unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (a) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (b) the Data Subject has enforceable rights and effective legal remedies;

- (c) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (d) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- 6.5 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination or expiry of this Agreement unless the Processor is required by Law to retain the Personal Data.
- 7. Subject to paragraph 8, the Processor shall notify the Controller immediately if it:
 - (a) receives a Data Subject Request (or purported Data Subject Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - (e) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - (f) becomes aware of a Data Loss Event.
- 8. The Processor's obligation to notify under paragraph 7 shall include the provision of further information to the Controller in phases, as details become available.
- 9. Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request relating to such obligations (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
 - (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Data Loss Event;
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 10. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Appendix 3. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
 - (a) the Controller determines that the Processing is not occasional;
 - (b) the Controller determines that the Processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
 - (c) the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 11. The Processor shall allow for audits of its Personal Data Processing activity by the Controller or the Controller's designated auditor.
- 12. Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
- 13. Before allowing any Sub-processor to Process any Personal Data related to this Agreement, the Processor must:

- (a) notify the Controller in writing of the intended Sub-processor and Processing;
 - (b) obtain the written consent of the Controller;
 - (c) enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Schedule such that they apply to the Sub-processor; and
 - (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
14. The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.
15. The Controller may, at any time on not less than 30 Working Days' notice, revise this Appendix 3 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall take effect on the expiry of such notice period).
16. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Agency may on not less than 30 Working Days' notice to the other Parties amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office (and any such amendment shall take effect on the expiry of such notice period).
17. Where the Parties include two or more Joint Controllers as identified in Annex 1 in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Annex 2 in replacement of paragraphs 1-16 for the Personal Data under Joint Control.

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| <p>Plan for return and destruction of the data once the processing is complete</p> <p>UNLESS requirement under EU or member state law to preserve that type of data</p> | <p>Any data collected will be destroyed on completion of the project.</p> |
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