



Department  
for Environment  
Food & Rural Affairs

[www.gov.uk/defra](http://www.gov.uk/defra)

# **Contract for the Provision of Services**

## **WasteDataFlow Administration and Management**

**December 2022**

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[procurement@defra.gsi.gov.uk](mailto:procurement@defra.gsi.gov.uk)

# SECTION 1

## FORM OF CONTRACT

### PARTIES:

- (1) THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS of Nobel House, 17 Smith Square, London, SW1P 3JR (the “**Authority**”);

### AND

- (2) Jacobs U.K. Limited (registered in England and Wales under number 2594504 whose registered office is situated at 1180 Eskdale Road, Winnersh, Wokingham, RG41 5TU, and (the Contractor”)

(each a “**Party**” and together the “**Parties**”).

### WHEREAS

- a) The Authority requires the provision of the Services detailed in the attached Specification Schedule.
- b) The Authority wishes to appoint the Contractor to provide certain services and the Contractor agrees to provide these services in accordance with these terms and conditions.

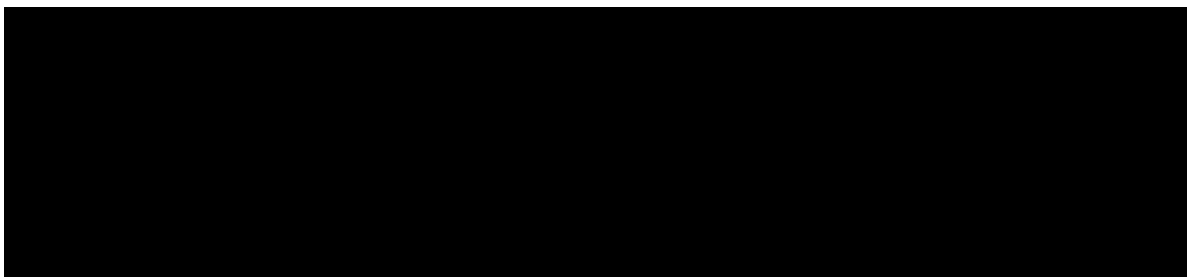
### NOW IT IS HEREBY AGREED as follows:

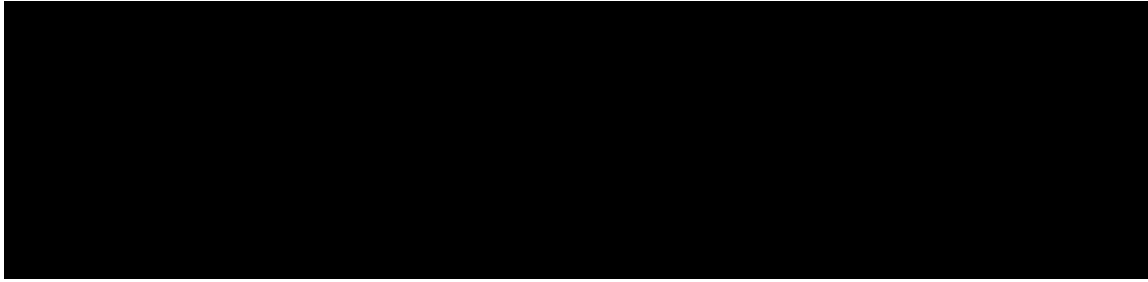
#### 1. TERMS OF CONTRACT

- 1.1 The “**Contract**” comprises the following:

Section 1: Form of Contract  
Section 2: Terms and Conditions  
Schedule 1A: Specification – Waste Data Flow  
Schedule 1B: Specification – Fly Tipping  
Schedule 2: Prices  
Schedule 3: Change Control  
Schedule 4: Processing, Personal Data and Data Subjects  
Schedule 5: Exit Plan  
Schedule 6: Key Performance Framework including Key Performance Indicators (KPI's)  
Schedule 7: Security Requirements Policy

- 1.2 Execution of the Contract is carried out in accordance with EU Directive 99/93 (Community framework for electronic signatures) and the Electronic Communications Act 2000. The Contract is formed on the date on which both Parties communicate acceptance of its terms on the Authority’s electronic contract management system (“**Bravo**”).





- 1.3 The Contract starts on 7<sup>th</sup> January 2023 (the “**Commencement Date**”) and ends on 6<sup>th</sup> January 2026 (the “**End Date**”) unless it is terminated early or extended in accordance with the Contract.
- 1.4 The Authority may extend the term of the Contract until 6<sup>th</sup> January 2027 (“**Extension**”). The terms of the Contract will apply throughout the period of any Extension.

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# SECTION 2

## TERMS AND CONDITIONS

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## A GENERAL PROVISIONS

### A1 Definitions and Interpretation

Unless the context otherwise requires the following terms shall have the meanings given to them below:

“**Affected Party**” means the Party seeking to claim relief in respect of a Force Majeure Event.

“**Affiliate**” means in relation to a body corporate, any other entity which directly or indirectly Controls is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time.

“**Approval**” and “**Approved**” means the prior written consent of the Authority.

“**Authorised Representative**” means the Authority representative named in the CCN as authorised to approve agreed Variations.

“**Authority Data**” means:

- (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (i) supplied to the Contractor by or on behalf of the Authority; or (ii) which the Contractor is required to generate, process, store or transmit pursuant to the Contract; or
- (b) any Personal Data for which the Authority is the Controller.

“**Authority Premises**” means any premises owned, occupied or controlled by the Authority or any other Crown Body which are made available for use by the Contractor or its Sub-Contractors for provision of the Services.

“**Authority Software**” means software which is owned by or licensed to the Authority (other than under or pursuant to the Contract) and which is or will be used by the Contractor for the purposes of providing the Services.

**“Authority System”** means the Authority’s computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Contractor in connection with the Contract which is owned by or licensed to the Authority by a third party and which interfaces with the Contractor System or which is necessary for the Authority to receive the Services.

**“BPSS”** means the HMG Baseline Personnel Security Standard for Government employees.

**“Bravo”** has the meaning given in paragraph 1.2 of the Form of Contract.

**“CCN”** means a change control notice in the form set out in Schedule 3.

**“Commencement Date”** means the date set out in paragraph 1.3 of the Form of Contract.

**“Commercially Sensitive Information”** means information of a commercially sensitive nature relating to:

- (a) the Price;
- (b) details of the Contractor’s Intellectual Property Rights; and
- (c) the Contractor’s business and investment plans

which the Contractor has indicated to the Authority that, if disclosed by the Authority, would cause the Contractor significant commercial disadvantage or material financial loss.

**“Confidential Information”** means 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 or trade secrets or Intellectual Property Rights of either Party and all Personal Data. Confidential Information shall not include information which:

- (a) was public knowledge at the time of disclosure otherwise than by breach of clause E4;
- (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information.

**“Contract”** has the meaning given in paragraph 1.1 of the Form of Contract.

**“Contract Period”** means the period from the Commencement Date to:

- (a) the End Date; or
- (b) following an Extension, the end date of the Extension

or such earlier date of termination or partial termination of the Contract in accordance with the Law or the Contract.

**“Contracting Authority”** means any contracting authority (other than the Authority) as defined in regulation 3 of the Regulations.



**“Contractor Software”** means software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services.

**“Contractor System”** means the information and communications technology system used by the Contractor in performing the Services including the Software, the Contractor Equipment and related cabling (but excluding the Authority System).

**“Control”** means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **“Controls”** and **“Controlled”** shall be interpreted accordingly.

**“Controller”** has the meaning given in the GDPR.

**“Copyright”** means as it is defined in s.1 of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.

**“Crown”** means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government offices and government agencies and **“Crown Body”** is an emanation of the foregoing.

**“Data Loss Event”** means any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach.

**“Data 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 GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 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 Protection Officer”** has the meaning given in the GDPR.

**“Data Subject”** has the meaning given in the GDPR.

**“Data Subject 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.

**“Database Rights”** means as rights in databases are defined in s.3A of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.

**“Default”** means any breach of the obligations of the relevant Party (including abandonment of the Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party or the Staff in connection with the subject-matter of the Contract and in respect of which such Party is liable to the other.

**“DOTAS”** means the Disclosure of Tax Avoidance Schemes rules which require a promotor of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act and as extended to NICs by the National Insurance (Application of Part 7 of the Finance Act 2004) regulations 2012, SI 2012/1868 made under section 132A of the Social Security Administration Act 1992.

**“DPA 2018”** means the Data Protection Act 2018.

**“EIR”** means the Environmental Information Regulations 2004 (SI 2004/3391) and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

**“End Date”** means the date set out in paragraph 1.3 of the Form of Contract.

**“Equipment”** means the Contractor’s equipment, consumables, plant, materials and such other items supplied and used by the Contractor in the delivery of the Services.

**“Extension”** has the meaning given in paragraph 1.4 of the Form of Contract.

**“FOIA”** means the Freedom of Information Act 2000 and any subordinate legislation made under that 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 Event”** means any event outside the reasonable control of either Party affecting its performance of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including but not limited to acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, for flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Contractor or the Staff or any other failure in the Contractor’s supply chain.

**“Form of Contract”** means Section 1 of the Contract.

**“GDPR”** means the General Data Protection Regulation (Regulation (EU) 2016/679).

**“General Anti-Abuse Rule”** means:

- (a) the legislation in Part 5 of the Finance Act 2013; and
- (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid NICs;

**“Good Industry Practice”** means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.

**“Halifax Abuse Principle”** means the principle explained in the CJEU Case C-255/02 Halifax and others.

**“HMRC”** means HM Revenue & Customs.

**“ICT Environment”** means the Authority System and the Contractor System.

**“Information”** has the meaning given under section 84 of the FOIA.

**“Initial Contract Period”** means the period from the Commencement Date to the End Date.

**“Intellectual Property Rights”** means patents, utility models, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, plant variety rights, Know-How, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

**“ITEPA”** means the Income Tax (Earnings and Pensions) Act 2003.

**“Key Personnel”** mean those persons named in the Specification as key personnel.

**“Know-How”** means all information not in the public domain held in any form (including without limitation that comprised in or derived from drawings, data formulae, patterns, specifications, notes, samples, chemical compounds, biological materials, computer software, component lists, instructions, manuals, brochures, catalogues and process descriptions and scientific approaches and methods).

**“Law”** means any law, statute, 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 of any Regulatory Body with which the relevant Party is bound to comply.

**“LED”** means Law Enforcement Directive (Directive (EU) 2016/680).

**“Malicious Software”** means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.

**“Material Breach”** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Authority would otherwise derive from:

- (a) a substantial portion of the Contract; or
- (b) any of the obligations set out in clauses A6, D1, E1, E2, E3, E4, E7, E8 or E10.

**“Month”** means calendar month.

**“NICs”** means National Insurance Contributions.

**“Occasion of Tax Non-Compliance”** means:

- (a) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:
  - i) a Relevant Tax Authority successfully challenging the Contractor under the General Anti-Abuse Rule or the Halifax Abuse principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
  - ii) the failure of an avoidance scheme which the Contractor was involved in, and which was, or should have been, notified to the Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
- (b) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a civil penalty for fraud or evasion.

**“Personal Data”** has the meaning given in the GDPR.

**“Personal Data Breach”** has the meaning given in the GDPR.

**“Premises”** means the location where the Services are to be supplied as set out in the Specification.

**“Price”** means the price (excluding any applicable VAT) payable to the Contractor by the Authority under the Contract, as set out in Schedule 2 for the full and proper performance by the Contractor of its obligations under the Contract.

**“Processor”** has the meaning given in the GDPR.

**“Prohibited Act”** means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
  - i) induce that person to perform improperly a relevant function or activity; or
  - ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;
- (c) an offence:
  - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act;
  - ii) under legislation or common law concerning fraudulent acts; or
  - iii) the defrauding, attempting to defraud or conspiring to defraud the Authority;
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK.

**“Protective Measures”** means appropriate technical and organisational measures which may include: 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 the such measures adopted by it including those outlined in Schedule 7

**“Property”** means the property, other than real property, issued or made available to the Contractor by the Authority in connection with the Contract.

**“Purchase Order”** means the document in which the Authority specifies the Services which are to be supplied by the Contractor under the Contract.

**“Quality Standards”** refers to ISO 9001

**“Receipt”** means the physical or electronic arrival of the invoice at the address specified in clause A4.4 or at any other address given by the Authority to the Contractor for the submission of invoices from time to time.

**“Regulations”** means the Public Contract Regulations 2015 (SI 2015/102).

**“Regulatory Body”** means a government department 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 Authority.

**"Relevant Conviction"** means a conviction that is relevant to the nature of the Services or as listed by the Authority and/or relevant to the work of the Authority.

**"Relevant Requirements"** means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.

**"Relevant Tax Authority"** means HMRC or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.

**"Replacement Contractor"** means any third party supplier appointed by the Authority to supply any services which are substantially similar to any of the Services in substitution for any of the Services following the expiry, termination or partial termination of the Contract.

**"Request for Information"** means a request for information under the FOIA or the EIR.

**"Results"** means any guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is:

- a) prepared by or for the Contractor for use in relation to the performance of its obligations under the Contract; or
- b) the result of any work done by the Contractor, the Staff or any Sub-Contractor in relation to the provision of the Services.

**"Returning Employees"** means those persons agreed by the Parties to be employed by the Contractor (and/or any Sub-Contractor) wholly or mainly in the supply of the Services immediately before the end of the Contract Period.

**"Security Policy Framework"** means the HMG Security Policy Framework (available from the Cabinet Office's Government Security Secretariat) as updated from time to time.

**"Services"** means the services set out in Schedule 1 including any modified or alternative services.

**"Specification"** means the description of the Services to be supplied under the Contract as set out in Schedule 1 including, where appropriate, the Key Personnel, the Premises and the Quality Standards.

**"SSCBA"** means the Social Security Contributions and Benefits Act 1992.

**"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.

**"Sub-Contract"** means a contract between 2 or more suppliers, at any stage of remoteness from the Authority in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of the Contract and **"Sub-Contractor"** shall be construed accordingly.

**"Sub-processor"** means any third party appointed to process Personal Data on behalf of the Contractor related to this Contract.

**"Tender"** means the document submitted by the Contractor to the Authority in response to the Authority's invitation to suppliers for formal offers to supply the Services.

**“TFEU”** means the Treaty on the Functioning of the European Union.

**“Third Party”** A person or party who is not a party to the agreement but whose information is used within the delivery of the services.

**“Third Party IP Claim”** has the meaning given to it in clause E8.7 (Intellectual Property Rights).

**“Third Party Software”** means software which is proprietary to any third party which is or will be used by the Contractor to provide the Services including the software and which is specified as such in Schedule 2.

**“Treaties”** means the Treaty on European Union and the TFEU.

**“TUPE”** means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

**“TUPE Information”** means the information set out in clause B17.1.

**“Valid Invoice”** means an invoice containing the information set out in clause C2.5.

**“Variation”** means a variation to the Specification, the Price or any of the terms or conditions of the Contract.

**“VAT”** means value added tax charged or regulated in accordance with the provisions of the Value Added Tax Act 1994.

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

*In the Contract, unless the context implies otherwise:*

- (a) the singular includes the plural and vice versa;
- (b) words importing the masculine include the feminine and the neuter;
- (c) reference to a clause is a reference to the whole of that clause unless stated otherwise;
- (d) references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or central Government body;
- (e) the words “other”, “in particular”, “for example”, “including” and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words “without limitation”;
- (f) headings are included for ease of reference only and shall not affect the interpretation or construction of the Contract;
- (g) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time; and
- (h) references to the Contract are references to the Contract as amended from time to time.

## **A2 The Authority's Obligations**

- A2.1 Save as otherwise expressly provided, the obligations of the Authority under the Contract are obligations of the Authority 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 Authority in any other capacity, and the exercise by the Authority of its duties and powers in any other capacity shall not lead to any liability (howsoever arising) on the part of the Authority to the Contractor.

## **A3 Contractor's Status**

- A3.1 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.
- A3.2 The Contractor shall not (and shall ensure that any other person engaged in relation to the Contract shall not) say or do anything that might lead any other person to believe that the Contractor is acting as the agent or employee of the Authority.

## **A4 Notices and Communications**

- A4.1 Subject to clause A4.3, where the Contract states that a notice or communication between the Parties must be "written" or "in writing" it is not valid unless it is made by letter (sent by hand, first class post, recorded delivery or special delivery) or by email or by communication via Bravo.
- A4.2 If it is not returned as undelivered a notice served:
- (a) in a letter is deemed to have been received 2 Working Days after the day it was sent; and
  - (b) in an email is deemed to have been received 4 hours after the time it was sent provided it was sent on a Working Day
- or when the other Party acknowledges receipt, whichever is the earlier.
- A4.3 Notices pursuant to clauses G3 (Force Majeure), I2 (Dispute Resolution) or to terminate the Contract or any part of the Services are valid only if served in a letter by hand, recorded delivery or special delivery.
- A4.4 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under the Contract:

■ [REDACTED]

[REDACTED]

[REDACTED]

■

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## **A5 Mistakes in Information**

- A5.1 Subject to Clause A5.2, the Contractor is responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Contractor in connection with the Services but limited to the drawings, documentation and information supplied within the scope of work undertaken and shall pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein.
- A5.2 The Contractor is not responsible for the accuracy of drawings, documentation and information supplied to the Authority where the information has been collected from third parties.

## **A6 Conflicts of Interest**

- A6.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff is placed in a position where, in the reasonable opinion of the Authority, 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 Authority under the provisions of the Contract. The Contractor will notify the Authority without delay giving full particulars of any such conflict of interest which may arise.
- A6.2 The Authority may terminate the Contract immediately by notice and/or take or require the Contractor to take such other steps it deems necessary if, in the Authority's reasonable opinion, 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 Authority under the provisions of the Contract. The actions of the Authority pursuant to this clause A6 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.



## **B. THE SERVICES**

### **B1 Specification**

- B1.1 In consideration of the Contractor supplying the Services the Contractor shall be paid the Price.

### **B2 Provision and Removal of Equipment**

- B2.1 The Contractor shall provide all the Equipment and resource necessary for the supply of the Services.
- B2.2 The Contractor shall not deliver any Equipment to nor begin any work on the Premises without obtaining Approval.
- B2.3 All Equipment brought onto the Premises shall be at the Contractor's own risk and the Authority shall have no liability for any loss of or damage to any Equipment unless the Contractor is able to demonstrate that such loss or damage was caused or contributed to by the Authority's Default. The Contractor shall provide for the haulage or carriage thereof to the Premises and the removal of Equipment when no longer required at its sole cost.
- B2.4 Unless otherwise agreed, Equipment brought onto the Premises will remain the property of the Contractor.
- B2.5 If the cost of any Equipment is reimbursed to the Contractor such Equipment shall be the property of the Authority and shall on request be delivered to the Authority as directed by the Authority. The Contractor will keep a full and accurate inventory of such Equipment and will deliver that inventory to the Authority on request and on completion of the Services.
- B2.6 The Contractor shall maintain all Equipment in a safe, serviceable and clean condition.
- B2.7 The Contractor shall, at the Authority's written request, at its own expense and as soon as reasonably practicable:
- (a) remove immediately from the Premises Equipment which is, in the Authority's opinion, hazardous, noxious or not supplied in accordance with the Contract; and
  - (b) replace such item with a suitable substitute item of Equipment.
- B2.8 Within 20 Working Days following the end of the Contract Period, the Contractor shall remove the Equipment together with any other materials used by the Contractor to supply the Services and shall leave the Premises in a clean, safe and tidy condition. The Contractor shall make good any damage to those Premises and any fixtures and fitting in the Premises which is caused by the Contractor or Staff.

### **B3 Delivery**

- B3.1 The Contractor shall at all times comply with the Quality Standards and, where applicable, shall maintain accreditation with the relevant Quality Standards authorisation body. and, in any event, the Contractor shall perform its obligations under the Contract in accordance with the Law.
- B3.2 The Contractor shall ensure that all Staff supplying the Services do so with reasonable skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services. The Contractor shall ensure that those Staff are properly managed and supervised.

## **B4 Key Personnel**

- B4.1 The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Services.
- B4.2 The Key Personnel shall not be released from supplying the Services without the agreement of the Authority, except by reason of long-term sickness, maternity leave, paternity leave or termination of employment or other similar extenuating circumstances.
- B4.3 Any replacements to the Key Personnel shall be subject to Approval. Such replacements shall be of at least equal status, experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
- B4.4 The Authority shall not unreasonably withhold its agreement under clauses B11.2 or B11.3. Such agreement shall be conditional on appropriate arrangements being made by the Contractor to minimise any adverse effect on the Services which could be caused by a change in Key Personnel.
- B4.5 The Authority may, by notice to the Contractor, ask it to remove any Staff whose presence is, in the Authority's reasonable opinion, undesirable. The Contractor shall comply with any such request immediately.

## **B5 Contractor's Staff**

- B5.1 The Authority may, by notice to the Contractor, refuse to admit onto, or withdraw permission to remain on, the Authority's Premises:
- (a) any member of the Staff; or
  - (b) any person employed or engaged by any member of the Staff,
- whose admission or continued presence would, in the Authority's reasonable opinion, be undesirable.
- B5.2 At the Authority's written request, the Contractor shall provide a list of the names and addresses of all persons who may require admission in to the Authority's Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably request.
- B5.3 The decision of the Authority as to whether any person is to be refused access to the Authority's Premises and as to whether the Contractor has failed to comply with clause B5.2 shall be final.
- B5.4 The Contractor shall ensure that all Staff who have access to the Authority's Premises, the Authority System or the Authority Data have been cleared in accordance with the BPSS.

## **B6 Inspection of Premises**

- B6.1 Save as the Authority may otherwise direct, the Contractor is deemed to have inspected the Premises before submitting its Tender and to have complete due diligence in relation to all matters connected with the performance of its obligations under the Contract.

## **B7      Licence to Occupy Premises**

- B7.1      Any land or Premises made available from time to time to the Contractor by the Authority in connection with the Contract shall be on a non-exclusive licence basis free of charge and shall be used by the Contractor solely for the purpose of performing its obligations under the Contract. The Contractor shall have the use of such land or Premises as licensee and shall vacate the same on termination of the Contract.
- B7.2      The Contractor shall limit access to the land or Premises to such Staff as is necessary for it to perform its obligations under the Contract and the Contractor shall co-operate (and ensure that its Staff co-operate) with such other persons working concurrently on such land or Premises as the Authority may reasonably request.
- B7.3      Should the Contractor require modifications to the Authority's Premises, such modifications shall be subject to Approval and shall be carried out by the Authority at the Contractor's expense. The Authority shall undertake approved modification work without undue delay.
- B7.4      The Contractor shall (and shall ensure that any Staff on the Authority's Premises shall) observe and comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when on the Authority's Premises as determined by the Authority.
- B7.5      The Contract does not create a tenancy of any nature whatsoever in favour of the Contractor or its Staff and no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Contract, the Authority retains the right at any time to use the Premises owned or occupied by it in any manner it sees fit.

## **B8      Property**

- B8.1      All Property is and shall remain the property of the Authority and the Contractor irrevocably licenses the Authority and its agents to enter any Premises of the Contractor during normal business hours on reasonable notice to recover any such Property. The Contractor shall not in any circumstances have a lien or any other interest on the Property and the Contractor shall at all times possess the Property as fiduciary agent and bailee of the Authority. The Contractor shall take all reasonable steps to ensure that the title of the Authority to the Property and the exclusion of any such lien or other interest are brought to the notice of all Sub-Contractors and other appropriate persons and shall, at the Authority's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Authority.
- B8.2      The Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless the Contractor notifies the Authority otherwise within 5 Working Days of receipt.
- B8.3      The Contractor shall maintain the Property in good order and condition (excluding fair wear and tear), and shall use the Property solely in connection with the Contract and for no other purpose without Approval.
- B8.4      The Contractor shall ensure the security of all the Property whilst in its possession, either on the Premises or elsewhere during the supply of the Services, in accordance with the Authority's reasonable security requirements as required from time to time.
- B8.5      The Contractor shall be liable for all loss of or damage to the Property, unless such loss or damage was caused by the Authority's negligence. The Contractor shall inform the Authority immediately of becoming aware of any defects appearing in, or losses or damage occurring to, the Property. Please see Schedule 1 for 'property details'.

- B8.6 The Contractor shall only be liable from the point of commencement of services and for 6 years after completion of services for the discovery of any defect with property that can be attributed to the Contractor and not as a result of damage caused by the Authority's negligence.

## **B9 Offers of Employment**

- B9.1 Except in respect of any transfer of Staff under TUPE, for the Contract Period and for 12 Months thereafter the Contractor shall not employ or offer employment to any of the Authority's staff who have been associated with the Services and/or the Contract without Approval.

## **B10 Employment Provisions**

- B10.1 Not later than 12 Months prior to the end of the Contract Period, the Contractor shall disclose (in accordance with the GDPR) to the Authority all information that the Authority may reasonably request in relation to the Staff including the following:
- (a) the total number of Staff whose employment/engagement shall terminate at the end of the Contract Period, save for any operation of Law;
  - (b) the age, gender, salary or other remuneration, future pay settlements and redundancy and pensions entitlement of the Staff referred to in clause B10.1 (a);
  - (c) the terms and conditions of employment/engagement of the Staff referred to in clause B10.1 (a), their job titles and qualifications;
  - (d) details of any current disciplinary or grievance proceedings ongoing or circumstances likely to give rise to such proceedings and details of any claims current or threatened; and
  - (e) details of all collective agreements with a brief summary of the current state of negotiations with any such bodies and with details of any current industrial disputes and claims for recognition by any trade union.
- B10.2 If TUPE applies, following on from the Contractor's action at 10.1, at intervals determined by the Authority (which shall not be more frequent than once every 90 days) the Contractor shall give the Authority updated TUPE Information The Authority agrees to cover reasonable costs for the continued update of TUPE information supplied.
- B10.3 Each time the Contractor supplies TUPE Information to the Authority it shall warrant its completeness and accuracy and the Authority may assign the benefit of this warranty to any Replacement Contractor.
- B10.4 The Authority may use TUPE Information it receives from the Contractor for the purposes of TUPE and/or any retendering process in order to ensure an effective handover of all work in progress at the end of the Contract Period. The Contractor shall provide the Replacement Contractor with such assistance as it shall reasonably request.
- B10.5 If TUPE applies to the transfer of the Services on termination of the Contract, the Contractor shall indemnify and keep indemnified the Authority, the Crown and any Replacement Contractor against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority or the Crown or any Replacement Contractor may suffer or incur up to the date of the relevant transfer as a result of or in connection with:
- (a) the provision of TUPE Information;

- (b) any claim or demand by any Returning Employee (whether in contract, tort, under statute, pursuant to EU Law or otherwise) in each case arising directly or indirectly from any act, fault or omission of the Contractor or any Sub-Contractor in respect of any Returning Employee on or before the end of the Contract Period;
- (c) any failure by the Contractor or any Sub-Contractor to comply with its obligations under regulations 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE save where such failure arises from the failure of the Authority or a Replacement Contractor to comply with its duties under regulation 13 of TUPE;
- (d) any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing any Returning Employees arising from or connected with any failure by the Contractor or any Sub-Contractor to comply with any legal obligation to such trade union, body or person; and
- (e) any claim by any person who is transferred by the Contractor to the Authority and/or a Replacement Contractor whose name is not included in the list of Returning Employees.

B10.6 If the Contractor becomes aware that TUPE Information it provided has become inaccurate or misleading, it shall notify the Authority and provide the Authority with up to date TUPE Information.

B10.7 This clause B10 applies during the Contract Period and indefinitely thereafter but the Contractor's liabilities are limited to cover the period up to the point of the relevant Transfer

B10.8 The Contractor undertakes to the Authority that, during the 12 Months prior to the end of the Contract Period the Contractor shall not (and shall procure that any Sub-Contractor shall not) without Approval (such Approval not to be unreasonably withheld or delayed):

- (a) amend or vary (or purport to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay) of any Staff (other than where such amendment or variation has previously been agreed between the Contractor and the Staff in the normal course of business and where any such amendment or variation is not in any way related to the transfer of the Services);
- (b) terminate or give notice to terminate the employment or engagement of any Staff (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);
- (c) transfer away, remove, reduce or vary the involvement of any other Staff from or in the provision of the Services (other than where such transfer or removal: (i) was planned as part of the individual's career development; (ii) takes place in the normal course of business; and (iii) will not have any adverse impact upon the delivery of the Services by the Contractor, (provided that any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services); or
- (d) recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services prior to the relevant period.

## **C PAYMENT**

### **C1 Price**

- C1.1 In consideration of the Contractor's performance of its obligations under the Contract, the Authority shall pay the Price in accordance with clause C2.
- C1.2 The Authority shall, in addition to the Contract Price and following Receipt of a valid VAT invoice raised monthly in arrears, pay the Contractor a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Contract

### **C2 Payment and VAT**

- C2.1 The Contractor shall submit invoices to the Authority monthly in arrears.
- C2.2 The Authority shall, in addition to the Price and following Receipt of a Valid Invoice, pay the Contractor a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Contract.
- C2.3 The Contractor shall add VAT to the Price at the prevailing rate as applicable and shall show the amount of VAT payable separately on all invoices as an extra charge. If the Contractor fails to show VAT on an invoice, the Authority will not, at any later date, be liable to pay the Contractor any additional VAT.
- C2.4 All Contractor invoices shall be expressed in sterling or such other currency as shall be permitted by the Authority in writing.
- C2.5 Valid Invoices shall include:
- (a) the Contractor's full name, address and title of the Contract;
  - (b) the Purchase Order number
- C2.16 If the Authority pays the Contractor prior to the submission of a Valid Invoice this payment shall be on account of and deductible from the next payment to be made.
- C2.17 If any overpayment has been made or the payment or any part is not supported by a Valid Invoice the Authority may recover this payment against future invoices raised or directly from the Contractor. All payments made by the Authority to the Contractor shall be on an interim basis pending final resolution of an account with the Contractor in accordance with the terms of this clause C2.
- C2.18 The Authority shall pay all sums due to the Contractor within 30 days of Receipt of a Valid Invoice. Valid Invoices should be submitted for payment to the following address:
- ssd.apdefra@defra.gov.uk (the Authority's preferred option); or SSCL AP, Defra, PO Box 790, Newport Gwent, NP10 8FZ.
- C2.19 If a payment of an undisputed amount is not made by the Authority by the due date, then the Authority shall pay the Contractor interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- C2.20 The Contractor shall ensure that a provision is included in all Sub-Contracts which requires payment to be made of all sums due to Sub-Contractors within 30 days from the receipt of a valid invoice.

- C2.21 The Contractor shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Authority 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 C2.21 shall be paid by the Contractor to the Authority not less than 5 Working Days before the date upon which the tax or other liability is payable by the Authority.
- C2.22 The Contractor shall not suspend the Services unless the Contractor is entitled to terminate the Contract under clause H2.3 for failure to pay undisputed sums of money.
- C2.23 The Authority shall not pay an invoice which is not Valid Invoice.

### **C3 Recovery of Sums Due**

- C3.1 If under the Contract any sum of money is recoverable from or payable by the Contractor to the Authority (including any sum which the Contractor is liable to pay to the Authority in respect of any breach of the Contract), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor from the Authority under the Contract or under any other agreement with the Authority or the Crown.
- C3.2 Any overpayment by either Party, whether of the 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.
- C3.3 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.

### **C4 Price during Extension**

- C4.1 Subject to Schedule 2 and clause F6, the Price shall apply for the Initial Contract Period and until the end date of any Extension or such earlier date of termination or partial termination of the Contract in accordance with the Law or the Contract.

## **D. STATUTORY OBLIGATIONS**

### **D1 Prevention of Fraud and Bribery**

- D1.1 The Contractor represents and warrants that neither it, nor to the best of its knowledge any Staff, have at any time prior to the Commencement Date:
- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
  - (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- D1.2 The Contractor shall not during the Contract Period:
- (a) commit a Prohibited Act; and/or

- (b) do or suffer anything to be done which would cause the Authority or any of its employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

D1.3 The Contractor shall, during the Contract Period:

- (a) establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and
- (b) keep appropriate records of its compliance with its obligations under clause D1.3 (a) and make such records available to the Authority on request.

D1.4 The Contractor shall immediately notify the Authority in writing if it becomes aware of any breach of clauses D1.1 and/or D1.2, or has reason to believe that it has or any of the Staff have:

- (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
- (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the Contract or otherwise suspects that any person directly or indirectly connected with the Contract has committed or attempted to commit a Prohibited Act.

D1.5 If the Contractor notifies the Authority pursuant to clause D1.4, the Contractor shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation.

D1.6 If the Contractor is in Default under clauses D1.1 and/or D1.2, the Authority may by notice:

- (a) require the Contractor to remove from performance of the Contract any Staff whose acts or omissions have caused the Default; or
- (b) immediately terminate the Contract.

D1.7 Any notice served by the Authority under clause D1.6 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has taken (including, where relevant, the date on which the Contract shall terminate).

## **D2 Discrimination**

D2.1 The Contractor shall:

- (a) perform its obligations under the Contract in accordance with:



- i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy maternity or otherwise);
  - ii) the Authority's equality and diversity policy as given to the Contractor from time to time;
  - iii) any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law; and
- (b) take all necessary steps and inform the Authority of the steps taken to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation).

### **D3 Rights of Third Parties**

- D3.1 The provisions of clauses B10.5 and E8.3 confer benefits on persons named in such provisions (together "**Third Party Provisions**") other than the Parties (each person a "**Third Party Beneficiary**") and are intended to be enforceable by Third Party Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act 1999 ("**CRTPA**").
- D3.2 Subject to clause D3.1, a person who is not a Party has no right under the CRTPA to enforce any provisions of the Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the CRTPA and does not apply to the Crown
- D3.3 No Third Party Beneficiary may enforce or take steps to enforce any Third Party Provision without Approval.
- D3.4 Any amendments to the Contract may be made by the Parties without the consent of any Third Party Beneficiary.

### **D4 Health and Safety**

- D4.1 The Contractor shall perform its obligations under the Contract in accordance with:
- (a) all applicable Law regarding health and safety; and
  - (b) the Authority's health and safety policy while at the Authority's Premises.
- D4.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Authority's Premises of which it becomes aware and which relate to or arise in connection with the performance of the Contract. The Contractor shall instruct Staff to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

### **D5 Environmental Requirements**

- D5.1 The Contractor shall in the performance of the Contract have due regard to the Authority's environmental, sustainable and ethical procurement policies ("**Environmental Policies**") which require the Authority through its procurement and management of suppliers:
- (a) conserve energy, water, wood, paper and other resources and reduce waste;
  - (b) phase out the use of ozone depleting substances;

- (c) minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment;
- (d) minimise the use of products harmful to health and the environment such as hazardous substances and solvents, replacing them with more benign substances where feasible and, where such substances are necessary, to ensure that they are stored in properly labelled containers, used and disposed of in compliance with legal and regulatory requirements and any instructions from the Authority;
- (e) reduce fuel emissions wherever possible;
- (f) maximise the use of recovered materials and, if recycled materials are not suitable or not readily available, to maximise the use of materials taken from renewable sources; and
- (g) promote the design of products that are capable of reuse or remanufacture or easily separable into recyclable parts consisting of one material (e.g. steel, plastic, textile).

D5.2 The Contractor shall ensure that any equipment and materials used in the provision of the Services do not contain:

- (a) ozone depleting substances such as hydrochlorofluorocarbons (HCFCs), halons, carbon tetrachloride, 111 trichloroethane, bromochloromethane or any other damaging substances; and/or
- (b) HFCs and other gaseous and non-gaseous substances with a high global warming potential;

unless given written permission by the Authority to do so.

D5.3 The Contractor shall conserve energy and water; reduce carbon emissions and other greenhouse gases; minimise the use of substances damaging or hazardous to health and the environment and reduce waste by, for example, using resources more efficiently and reusing, recycling and composting and respecting biodiversity.

D5.4 If required by the Authority the Contractor shall provide the Authority with information about its compliance with its obligations under clause D5.3.

D5.5 The Contractor shall ensure that its Staff are aware of the Authority's Environmental Policies.

D5.6 The Contractor shall:

- (a) identify any risks arising from climate change and variable weather such as higher temperatures, droughts, flooding, sea and river level rises, coastal and riparian erosion, water scarcity, and loss of water quality which may disrupt and/or affect the supply of the Services; and
- (b) if such risks have been identified, enhance the resilience of its organisation to enable it to adapt and deal with the effects of such extreme events, including by having the necessary awareness-raising, evaluation, preventive, preparatory, recovery

measures and support systems in place in order to minimise any disruption to the supply of the Services.

## **E PROTECTION OF INFORMATION**

### **E1 Authority Data**

- E1.1 The Contractor shall not delete or remove any proprietary notices contained within or relating to the Authority Data.
- E1.2 The Contractor shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Contractor of its obligations under this Contract or as otherwise expressly authorised in writing by the Authority.
- E1.3 To the extent that Authority Data is held and/or processed by the Contractor, the Contractor shall supply Authority Data to the Authority as requested by the Authority in the format specified in the Specification.
- E1.4 The Contractor shall preserve the integrity of Authority Data and prevent the corruption or loss of Authority Data.
- E1.5 The Contractor shall perform secure back-ups of all Authority Data and shall ensure that up-to-date back-ups are stored securely off-site. The Contractor shall work to ensure that such back-ups are made available to the Authority within three (3) working days. Where the back-ups are not available within three (3) working days they must notify the Authority and agree any extension to the time frame and mitigation arrangements to avoid data loss.
- E1.6 The Contractor shall ensure that any system on which the Contractor holds any Authority Data, including back-up data, is a secure system that complies with the Security requirements detailed within Schedule 7.
- E1.7 If Authority Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Authority may:
  - (a) require the Contractor (at the Contractor's expense) to restore or procure the restoration of Authority Data and the Contractor shall do so promptly; and/or
  - (b) itself restore or procure the restoration of Authority Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so.
- E1.8 If at any time the Contractor suspects or has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.

### **E2 Data Protection**

- E2.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor unless otherwise specified in Schedule 4. The only processing that the Contractor is authorised to do is listed in Schedule 4 by the Authority and may not be determined by the Contractor.
- E2.2 The Contractor shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.

- E2.3 The Contractor shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
  - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
  - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- E2.4 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
- (a) process that Personal Data only in accordance with Schedule 4 unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;
  - (b) ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event, which the Authority may reasonably reject (but failure to reject shall not amount to approval by the Authority of the adequacy of the Protective Measures), having taken account of the:
    - (i) nature of the data to be protected;
    - (ii) harm that might result from a Data Loss Event;
    - (iii) state of technological development; and
    - (iv) cost of implementing any measures;
  - (c) ensure that :
    - (i) the Staff do not process Personal Data except in accordance with this Contract (and in particular Schedule 4);
    - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:
      - (A) are aware of and comply with the Contractor's duties under this clause;
      - (B) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;
      - (C) 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 Authority or as otherwise permitted by this Contract; and
      - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
  - (d) not transfer Personal Data outside of the European Union unless the prior written

consent of the Authority has been obtained and the following conditions are fulfilled:

- (i) the Authority or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with the GDPR Article 46 or LED Article 37) as determined by the Authority;
  - (ii) the Data Subject has enforceable rights and effective legal remedies;
  - (iii) the Contractor 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 Authority in meeting its obligations); and
  - (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;
- (e) at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Contract unless the Contractor is required by Law to retain the Personal Data.

E2.5 Subject to clause E2.6 the Contractor shall notify the Authority immediately if, in relation to any Personal Data processed in connection with its obligations under this Contract, 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;
- (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.

E2.6 The Contractor's obligation to notify under clause E2.5 shall include the provision of further information to the Authority in phases, as details become available.

E2.7 Taking into account the nature of the processing, the Contractor shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation in relation to any Personal Data processed in connection with its obligations under this Contract and any complaint, communication or request made under Clause E2.5 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

- (a) the Authority with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;

- (d) assistance as requested by the Authority following any Data Loss Event;
  - (e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.
- E2.8 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:
  - (a) the Authority determines that the processing is not occasional;
  - (b) the Authority determines 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 Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- E2.9 The Contractor shall allow for audits of its Personal Data processing activity by the Authority or the Authority's designated auditor.
- E2.10 Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
- E2.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Contractor must:
  - (a) notify the Authority in writing of the intended Sub-processor and processing;
  - (b) obtain the written consent of the Authority;
  - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause E2 such that they apply to the Sub-processor; and
  - (d) provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.
- E2.12 The Contractor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- E2.13 The Authority may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
- E2.14 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Officer.
- E2.15 This clause E2 shall apply during the Contract Period and indefinitely after its expiry.
- E2.16 Where the Parties include two or more Joint Controllers as identified in Schedule 4, in accordance with GDPR Article 26 those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Schedule 4 in replacement of Clauses E2.1 to E2.14 for the Personal Data in respect of which they are Joint Controllers.

### **E3 Official Secrets Acts and Finance Act**

E3.1 The Contractor shall comply with the provisions of:

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

### **E4 Confidential Information**

E4.1 Except to the extent set out in this clause E4 or if disclosure or publication is expressly permitted elsewhere in the Contract each Party shall treat all Confidential Information belonging to the other Party as confidential and shall not disclose any Confidential Information belonging to the other Party to any other person without the other party's consent, except to such persons and to such extent as may be necessary for the performance of the Party's obligations under the Contract.

E4.2 The Contractor hereby gives its consent for the Authority to publish the whole Contract (but with any information which is Confidential Information belonging to the Authority redacted) including from time to time agreed changes to the Contract, to the general public.

E4.3 If required by the Authority, the Contractor shall ensure that, professional advisors and consultants sign a non-disclosure agreement prior to commencing any work in connection with the Contract, incorporating the requirements of clause E2.11. The Contractor shall maintain a list of the non-disclosure agreements completed in accordance with this clause E4.3.

E4.4 If requested by the Authority, the Contractor shall give the Authority a copy of the list and, subsequently upon request by the Authority, copies of such of the listed non-disclosure agreements as required by the Authority. The Contractor shall ensure that its Staff, professional advisors and consultants are aware of the Contractor's confidentiality obligations under the Contract.

E4.5 The Contractor may only disclose the Authority's Confidential Information to the 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.

E4.6 The Contractor shall not, and shall procure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of this Contract.

E4.7 Clause E4.1 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 EIR;
- (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 the Contract; or
- (e) it is independently developed without access to the other Party's Confidential Information.

- E4.8 Nothing in clause E4.1 shall prevent the Authority disclosing any Confidential Information obtained from the Contractor:
- (a) for the purpose of the examination and certification of the Authority's accounts;
  - (b) for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
  - (c) to any Crown Body or any Contracting Authority and the Contractor hereby acknowledges that all government departments or Contracting Authorities receiving such Confidential Information may further disclose the Confidential Information to other government departments 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 government department or any Contracting Authority;
  - (d) to any consultant, contractor or other person engaged by the Authority
- provided that in disclosing information under clauses E4.8 (c) and (d) the Authority discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.
- E4.9 Nothing in clauses E4.1 to E4.6 shall prevent either Party from using any techniques, ideas or Know-How gained during the performance of its obligations under the Contract in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.
- E4.10 The Authority shall use all reasonable endeavors 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 E4.6 is made aware of the Authority's obligations of confidentiality.
- E4.11 If the Contractor does not comply with clauses E4.1 to E4.6 the Authority may terminate the Contract immediately on written notice to the Contractor.
- E4.12 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Services, the Contractor shall maintain adequate security arrangements that meet the requirements of professional standards and best practice.
- E4.13 The Contractor will immediately notify the Authority of any breach of security in relation to Confidential Information and all data obtained in the supply of the Services and will keep a record of such breaches. The Contractor will use its best endeavours to recover such Confidential Information or data however it may be recorded. The Contractor will co-operate with the Authority in any investigation as a result of any breach of security in relation to Confidential Information or data.
- E4.14 The Contractor shall, at its own expense, alter any security systems at any time during the Contract Period at the Authority's request if the Authority reasonably believes the Contractor has failed to comply with clause E4.12.



## **E5 Freedom of Information**

- E5.1 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the EIR.
- E5.2 The Contractor shall use best endeavors to transfer to the Authority all Requests for Information that it receives within 1 Working Days of receipt:
- E5.3 In relation to any FOIA or EIR The Contractor shall:
- (a) Give the Authority a copy of all Information in connection with the Contract in its possession or control in a reasonable and agreed form that the Authority requires within 5 Working Days (or such other period as the Authority may specify) of the Authority's request;
  - (b) Where the information requested cannot be provided within 5 working days, the Contractor will inform the Authority within 1 working day of receipt of the request and agree with the Authority a reasonable revised timeframe for provision of the information requested
  - (c) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIR;
  - (d) not respond to directly to a Request for Information unless authorised to do so in writing by the Authority.
- E5.4 The Authority shall determine in its absolute discretion and notwithstanding any other provision in the Contract or any other agreement whether the Commercially Sensitive Information and any other Information is exempt from disclosure in accordance with the provisions of the FOIA and/or the EIR.

## **E6 Publicity, Media and Official Enquiries**

- E6.1 Without prejudice to the Authority's obligations under the FOIA, the EIR or any obligations under the Regulations, or any policy requirements as to transparency, neither Party shall make any press announcement or publicise the Contract or any part thereof in any way, except with the written consent of the other Party.
- E6.2 The Contractor shall use its reasonable endeavours to ensure that its Staff, professional advisors and consultants comply with clause E6.1.

## **E7 Security**

- E7.1 The Authority shall be responsible for maintaining the security of the Authority's Premises in accordance with its standard security requirements. The Contractor shall comply with all security requirements of the Authority while on the Authority's Premises, and shall ensure that all Staff comply with such requirements.
- E7.2 The Contractor shall, as an enduring obligation during the Contract Period, use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the ICT Environment.
- E7.3 Notwithstanding clause E7.2, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes

loss of operational efficiency or loss or corruption of the Authority Data, assist each other to mitigate any losses and to restore the provision of Services to their desired operating efficiency.

E7.4 Any cost arising out of the actions of the Parties taken in compliance with clause E7.3 shall be borne by the Parties as follows:

- (a) by the Contractor where the Malicious Software originates from the Contractor Software, the Third Party Software or the Authority Data (whilst the Authority Data was under the control of the Contractor); and
- (b) by the Authority if the Malicious Software originates from the Authority Software or Authority Data (whilst the Authority Data was under the control of the Authority).

## **E8 Intellectual Property Rights**

E8.1 All Intellectual Property Rights in:

- (a) the Results of any work done by the Contractor, the staff or any Sub-Contractor in relation to the provision of the Services (together with (b))
- (b) any guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is prepared as part of the delivery of Services by the Contractor by or on behalf of the Authority (together with the Results, the "**IP Materials**")

shall vest in the Authority (save for Copyright and Database Rights which shall vest in Her Majesty the Queen) and the Contractor shall not, and shall ensure that the Staff shall not, use or disclose any IP Materials without Approval save to the extent necessary for performance by the Contractor of its obligations under the Contract.

E8.2 The Contractor shall have no liability in respect of any use of any Results or IP Materials other than for the purposes for which they were prepared and shall have no liability in respect of use by Third Parties.

E8.3 The Contractor hereby assigns:

- (a) to the Authority, with full title guarantee, all Intellectual Property Rights (save for Copyright and Database Rights) which may subsist in the IP Materials prepared in accordance with clauses E8.1 (a) and (b). This assignment shall take effect on the date of the Contract or (in the case of rights arising after the date of the Contract) as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Contractor; and
- (b) to Her Majesty the Queen, with full title guarantee, all Copyright and Database Rights which may subsist in the IP Materials prepared in accordance with clauses E8.1 (a) and (b),

and shall execute all documents and do all acts as are necessary to execute these assignments.

E8.4 The Contractor shall:

- (a) waive or procure a waiver of any moral rights held by it or any third party in copyright material arising as a result of the Contract or the performance of its obligations under the Contract;
- (b) Use reasonable endeavours to ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Services grants to the Authority a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same.
- (c) not infringe any Intellectual Property Rights of any third party in supplying the Services; and
- (d) during and after the Contract Period, indemnify and keep indemnified the Authority and the Indemnified Persons from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority or Indemnified Persons may suffer or incur as a result of or in connection with any breach of this clause E8.4, except to the extent that any such claim results directly from:
  - i) items or materials based upon designs supplied by the Authority; or
  - ii) the use of data supplied by the Authority which is not required to be verified by the Contractor under any provision of the Contract.

E8.5 The Authority shall notify the Contractor in writing of any claim or demand brought against the Authority for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Contractor to the Authority.

E8.6 The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim, demand or action by any third party for infringement of any third party Intellectual Property Rights (whether by the Authority, the Contractor or Indemnified Person) arising from the performance of the Contractor's obligations under the Contract ("**Third Party IP Claim**"), provided that the Contractor shall at all times:

- (a) consult the Authority on all material issues which arise during the conduct of such litigation and negotiations;
- (b) take due and proper account of the interests of the Authority; and
- (c) not settle or compromise any claim without Approval (not to be unreasonably withheld or delayed).

E8.7 The Authority shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any Third Party IP Claim and the Contractor shall indemnify the Authority for costs and reasonable expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Contractor shall not be required to indemnify the Authority under this clause E8.7 in relation to any costs and expenses to the extent that such arise directly from the matters referred to in clauses E8.4 (d) i) and ii).

E8.8 The Authority shall not, without the Contractor's consent, make any admissions which may be prejudicial to the defence or settlement of any Third Party IP Claim.

E8.9 If any Third Party IP Claim, the Contractor shall notify the Authority and any relevant Indemnified Person, at its own expense and subject to Approval (not to be unreasonably withheld or delayed), shall (without prejudice to the rights of the Authority under clauses E8.4(b) and G2.1(g)) use its best endeavours to:

- (a) modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative services of equivalent performance and functionality, so as to avoid the infringement; or
- (b) procure a licence to use the Intellectual Property Rights and supply the Services which are the subject of the infringement, on terms which are acceptable to the Authority

and if the Contractor is unable to comply with clauses E8.9 (a) or (b) within 20 Working Days of receipt by the Authority of the Contractor's notification the Authority may terminate the Contract immediately by notice to the Contractor.

- E8.10 The Contractor grants to the Authority and, if requested by the Authority, to a Replacement Contractor, a royalty-free, irrevocable, worldwide, non-exclusive licence (with a right to sub-license) to use any Intellectual Property Rights that the Contractor owned or developed prior to the Commencement Date and to the extent necessary in order for the Authority to use the Results.

## **E9 Audit**

- E9.1 The Contractor shall keep and maintain until 6 years after the end of the Contract Period, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services supplied under it, all expenditure reimbursed by the Authority, and all payments made by the Authority. The Contractor shall on request afford the Authority or the Authority's representatives such access to those records and processes as may be requested by the Authority in connection with the Contract.
- E9.2 The Contractor agrees to make available to the Authority, free of charge, whenever requested, copies of audit reports obtained by the Contractor in relation to the Services.
- E9.3 The Contractor shall permit duly authorised representatives of the Authority and/or the National Audit Office to examine the Contractor's records and documents relating to the Contract and to provide such copies and oral or written explanations as may reasonably be required.
- E9.4 The Contractor (and its agents) shall permit the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the Authority and for carrying out examinations into the economy, efficiency and effectiveness with which the Authority has used its resources. The Contractor shall provide such explanations as are reasonably required for these purposes.

## **E10 Tax Compliance**

- E10.1 If, during the Contract Period, an Occasion of Tax Non-Compliance occurs, the Contractor shall:
- (a) notify the Authority in writing of such fact within 5 Working Days of its occurrence; and
  - (b) promptly give the Authority:
    - i) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
    - ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.
- E10.2 If the Contractor or any Staff are liable to be taxed in the UK or to pay NICs in respect of consideration received under the Contract, the Contractor shall:

- (a) at all times comply with ITEPA and all other statutes and regulations relating to income tax, and SSCBA and all other statutes and regulations relating to NICS, in respect of that consideration; and
- (b) indemnify the Authority against any income tax, NICs and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Contractor or any Staff.

## F. CONTROL OF THE CONTRACT

### F1 Failure to meet Requirements

- F1.1 If the Authority informs the Contractor in writing that the Authority reasonably believes that any part of the Services do not meet the requirements of the Contract or differs in any way from those requirements, and this is not as a result of a default by the Authority or as a result of a Force Majeure event, the Contractor shall at its own expense re-schedule and carry out the Services in accordance with the requirements of the Contract within such reasonable time as may be specified by the Authority.

### F2 Monitoring of Contract Performance

- F2.1 The Contractor shall immediately inform the Authority if any of the Services are not being or are unable to be performed, the reasons for non-performance, any corrective action and the date by which that action will be completed.
- F2.2 At or around 6 Months from the Commencement Date and each anniversary of the Commencement Date thereafter (each being a "**Review Date**"), the Authority shall carry out a review of the performance of the Contractor ("**Checkpoint Review**"). Without prejudice to the generality of the foregoing, the Authority may in respect of the period under review consider such items as (but not limited to): the Contractor's delivery of the Services; the Contractor's contribution to innovation in the Authority; whether the Services provide the Authority with best value for money; consideration of any changes which may need to be made to the Services; a review of future requirements in relation to the Services and progress against key milestones.
- F2.3 The Contractor shall provide at its own cost any assistance reasonably required by the Authority to perform such Checkpoint Review including the provision of data and information.
- F2.4 The Authority may produce a report (a "**Checkpoint Review Report**") of the results of each Checkpoint Review stating any areas of exceptional performance and areas for improvement in the provision of the Services and where there is any shortfall in any aspect of performance reviewed as against the Authority's expectations and the Contractor's obligations under this Contract.
- F2.5 The Authority shall give the Contractor a copy of the Checkpoint Review Report (if applicable). The Authority shall consider any Contractor comments and may produce a revised Checkpoint Review Report.
- F2.6 The Contractor shall, within 10 Working Days of receipt of the Checkpoint Review Report (revised as appropriate) provide the Authority with a plan to address resolution of any shortcomings and implementation of improvements identified by the Checkpoint Review Report.

- F2.7 Actions required to resolve shortcomings and implement improvements (either as a consequence of the Contractor's failure to meet its obligations under this Contract identified by the Checkpoint Review Report, or those which result from the Contractor's failure to meet the Authority's expectations notified to the Contractor or of which the Contractor ought reasonably to have been aware) shall be implemented at no extra charge to the Authority.

### **F3 Remedies for inadequate performance**

- F3.1 If the Authority reasonably believes the Contractor has committed a Material Breach it may, without prejudice to its rights under clause H2 (Termination on Default), do any of the following:

- (a) the Authority will seek to firstly remedy inadequate performance by notifying the Contractor of shortcomings with the delivery of the service and ask that the Contractor provide the Authority with a plan, agreed by the Authority to resolve any shortcomings within 10 working days which will be implemented within a reasonable timeframe agreed with the Authority.

Where the remedy is not agreed or fails to resolve inadequate performance:

- (b) without terminating the Contract, itself supply or procure the supply of all or part of the Services until such time as the Contractor has demonstrated to the Authority's reasonable satisfaction that the Contractor will be able to supply the Services in accordance with the Specification;
- (c) without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Services;
- (d) withhold or reduce payments to the Contractor in such amount as the Authority reasonably deems appropriate in each particular case; and/or
- (e) terminate the Contract in accordance with clause H2.

- F3.2 Without prejudice to its right under clause C3 (Recovery of Sums Due), the Authority may charge the Contractor for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Authority 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 Services.

- F3.3 If the Authority reasonably believes the Contractor has failed to supply all or any part of the Services in accordance with the Contract, professional or industry practice which could reasonably be expected of a competent and suitably qualified person, or any legislative or regulatory requirement, the Authority may give the Contractor notice specifying the way in which its performance falls short of the requirements of the Contract or is otherwise unsatisfactory.

- F3.4 If the Contractor has been notified of a failure in accordance with clause F3.3 the Authority may:

- (a) direct the Contractor to identify and remedy the failure within such time as may be specified by the Authority and to apply all such additional resources as are necessary to remedy that failure at no additional charge to the Authority within the specified timescale; and/or

- (b) withhold or reduce payments to the Contractor in such amount as the Authority deems appropriate in each particular case until such failure has been remedied to the satisfaction of the Authority.

F3.5 If the Contractor has been notified of a failure in accordance with clause F3.3, it shall:

- (a) use all reasonable endeavours to immediately minimise the impact of such failure to the Authority and to prevent such failure from recurring; and
- (b) immediately give the Authority such information as the Authority may request regarding what measures are being taken to comply with the obligations in this clause F3.5 and the progress of those measures until resolved to the satisfaction of the Authority.

F3.6 If, having been notified of any failure, the Contractor fails to remedy it in accordance with clause F3.5 within the time specified by the Authority, the Authority may treat the continuing failure as a Material Breach and may terminate the Contract immediately on notice to the Contractor.

#### **F4 Transfer and Sub-Contracting**

F4.1 Except where clauses F4.6 and F4.7 both apply, the Contractor shall not transfer, charge, assign, sub-contract or in any other way dispose of the Contract or any part of it without Approval. All such documents shall be evidenced in writing and shown to the Authority on request. Sub-contracting any part of the Contract shall not relieve the Contractor of any of its obligations or duties under the Contract.

F4.2 The Contractor shall be responsible for the acts and/or omissions of its Sub-Contractors as though they are its own. If it is appropriate, the Contractor shall provide each Sub-Contractor with a copy of the Contract and obtain written confirmation from them that they will provide the Services fully in accordance with the Contract.

F4.3 The Contractor shall ensure that its Sub-Contractors and suppliers retain all records relating to the Services for at least 6 years from the date of their creation and make them available to the Authority on request in accordance with the provisions of clause E9 (Audit). If any Sub-Contractor or supplier does not allow the Authority access to the records then the Authority shall have no obligation to pay any claim or invoice made by the Contractor on the basis of such documents or work carried out by the Sub-Contractor or supplier.

F4.4 If the Authority has consented to the award of a Sub-Contract, the Contractor shall ensure that:

- (a) the Sub-Contract contains a right for the Contractor to terminate the Sub-Contract if the relevant Sub-Contractor does not comply in the performance of its contract with legal obligations in environmental, social or labour law;
- (b) the Sub-Contract includes a provision having the same effect as set out in clause F4.4 (a) in any Sub-Contract which it awards; and
- (c) copies of each Sub-Contract shall, at the request of the Authority, be sent by the Contractor to the Authority immediately.

F4.5 If the Authority believes there are:

- (a) compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Contractor shall replace or not appoint the Sub-Contractor; or

- (b) non-compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Authority may require the Contractor to replace or not appoint the Sub-Contractor and the Contractor shall comply with such requirement.

F4.6 Notwithstanding clause F4.1, the Contractor may assign to a third party (the “**Assignee**”) the right to receive payment of the Price or any part thereof due to the Contractor (including any interest which the Authority incurs under clause C2 (Payment and VAT)). Any assignment under this clause F4.6 shall be subject to:

- (a) reduction of any sums in respect of which the Authority exercises its right of recovery under clause C3 (Recovery of Sums Due);
- (b) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
- (c) the Authority receiving notification under both clauses F4.7 and F4.8.

F4.7 If the Contractor assigns the right to receive the Price under clause F4.6, the Contractor or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

F4.8 The Contractor shall ensure that the Assignee notifies the Authority of the Assignee’s contact information and bank account details to which the Authority shall make payment.

F4.9 The provisions of clause C2 shall continue to apply in all other respects after the assignment and shall not be amended without Approval.

F4.10 Subject to clause F4.11, the Authority may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

- (a) any Contracting Authority;
- (b) any other body established or authorised by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or

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

F4.11 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to clause F4.12, affect the validity of the Contract and the Contract shall bind and inure to the benefit of any successor body to the Authority.

F4.12 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause F4.10 to a body which is not a Contracting Authority or if there is a change in the legal status of the Authority 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 Authority in clauses H1 and H2 shall be available to the Contractor in respect 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 prior consent in writing of the Contractor.



F4.13 The Authority 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 Authority 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 purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

F4.14 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.

## **F5 Waiver**

F5.1 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.

F5.2 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 A4 (Notices and Communications).

F5.3 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.

## **F6 Variation**

F6.1 If, after the Commencement Date, the Authority's requirements change, the Authority may request a Variation subject to the terms of this clause 6.

F6.2 The Authority may request a Variation by notifying the Contractor in writing of the Variation and giving the Contractor sufficient information to assess the extent of the Variation and consider whether any change to the Price is required in order to implement the Variation within a reasonable time limit specified by the Authority. If the Contractor accepts the Variation it shall confirm it in writing.

F6.3 If the Contractor is unable to accept the Variation or where the Parties are unable to agree a change to the Price, the Authority may:

- (a) allow the Contractor to fulfil its obligations under the Contract without the Variation to the Specification; or
- (b) terminate the Contract immediately except where the Contractor has already delivered all or part of the Services or where the Contractor can show evidence of substantial work being carried out to fulfil the requirements of the Specification; and in such case the Parties shall attempt to agree upon a resolution to the matter. If a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed in clause I2 (Dispute Resolution).

F6.4 No Variation will take effect unless and until it is recorded in a validly executed CCN. Execution of a CCN is made via electronic signature as described in clause 1.2 of Section 1 of the Contract.

F6.5 A CCN takes effect on the date on which both Parties communicate acceptance of the CCN via Bravo. On the date it communicates acceptance of the CCN in this way the Contractor is deemed to warrant and represent that the CCN has been executed by a duly authorised

representative of the Contractor in addition to the warranties and representations set out in clause G2.

- F6.6 The provisions of clauses F6.4 and F6.5 may be varied in an emergency if it is not practicable to obtain the Authorised Representative's approval within the time necessary to make the Variation in order to address the emergency. In an emergency, Variations may be approved by a different representative of the Authority. However, the Authorised Representative shall have the right to review such a Variation and require a CCN to be entered into on a retrospective basis which may itself vary the emergency Variation.
- F6.7 The Contractor may request a Variation by notifying the Authority in writing of the Variation and giving the Authority sufficient information to assess the extent of the Variation and consider whether any change to the Price or extension of time is required in order to implement the Variation within a reasonable time limit specified by the Authority. If the Authority accepts the Variation it shall confirm it in writing.

## **F7 Severability**

- F7.1 If any provision of the Contract which is not of a fundamental nature is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Contract shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

## **F8 Remedies Cumulative**

- F8.1 Except as expressly provided in 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.

## **F9 Entire Agreement**

- F9.1 The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause shall not exclude liability in respect of any fraudulent misrepresentation.

## **F10 Counterparts**

- F10.1 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.

# **G LIABILITIES**

## **G1 Liability, Indemnity and Insurance**

- G1.1 Neither Party excludes or limits its liability for:
- (a) death or personal injury caused by its negligence;
  - (b) fraud or fraudulent misrepresentation;

- (c) any breach of any obligations implied by section 2 of the Supply of Goods and Services Act 1982;

- G1.2 Subject to clauses G1.3 and G1.4, the Contractor shall indemnify the Authority and keep the Authority indemnified fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of the Contractor's negligence during the performance of its obligations under the Contract. The indemnity shall be limited to the costs resulting from the negligence.
- G1.3 Subject to clause G1.1, the Contractor's aggregate liability arising under or in connection with the Contract shall not exceed the Price.
- G1.4 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 Authority or by breach by the Authority of its obligations under the Contract.
- G1.5 Subject to the agreed liability in G1.3, The Authority may recover from the Contractor the following losses, which shall be reasonable and properly mitigated, incurred by the Authority to the extent they arise as a result of a Default by the Contractor:
  - (a) the additional costs of procuring a Replacement Contractor for the remainder of the Contract Period and or replacement deliverables which shall include any incremental costs associated with the Replacement Contractor and/or replacement deliverables above those which would have been payable under the Contract;
  - (b) any compensation or interest paid to a third party by the Authority; and
  - (c) any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty.
- G1.6 Subject to clauses G1.1 and G1.5, neither Party shall be liable to the other for any:
  - (a) loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect); or
  - (b) indirect, special or consequential loss.
- G1.7 Unless otherwise specified by the Authority, the Contractor shall, with effect from the Commencement Date for such period as necessary to enable the Contractor to comply with its obligations herein, take out 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 for the duration of the Contract Period and for a minimum of 6 years following the end of the Contract.
- G1.8 The Contractor shall hold employer's liability insurance in respect of Staff and such insurance shall be in accordance with any legal requirement from time to time in force.
- G1.9 The Contractor shall give the Authority, on request, 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.

- G1.10 If the Contractor does not give effect to and maintain the insurances required by the provisions of the Contract, the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.
- G1.11 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract.
- G1.12 The Contractor shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Contractor, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Contractor is an insured, a co-insured or additional insured person.

## **G2 Warranties and Representations**

- G2.1 The Contractor warrants and represents on the Commencement Date and for the Contract Period that:
- (a) it has full capacity and authority and all necessary consents to enter into and perform the Contract and that the Contract is executed by a duly authorised representative of the Contractor;
  - (b) in entering the Contract it has not committed any fraud;
  - (c) as at the Commencement Date, all information contained in the Tender or other offer made by the Contractor to the Authority remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract and in addition, that it will advise the Authority of any fact, matter or circumstance of which it may become aware which would render such information to be false or misleading;
  - (d) 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 any of its assets which will or might have an adverse effect on its ability to perform its obligations under the Contract;
  - (e) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
  - (f) 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;
  - (g) it owns, or 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;
  - (h) any person engaged by the Contractor shall be engaged on terms which do not entitle them to any Intellectual Property Right in any IP Materials;
  - (i) in the 3 years (or period of existence where the Contractor has not been in existence for 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;

- 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
- iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract;
- (j) it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform its obligations under the Contract; and
- (k) it has notified the Authority in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.

### **G3 Force Majeure**

- G3.1 Subject to the remaining provisions of this clause G3, a Party may claim relief under this clause G3 from liability for failure to meet its obligations under the Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Contractor in performing its obligations under the Contract which results from a failure or delay by an agent, Sub-Contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Contractor.
- G3.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- G3.3 If the Contractor is the Affected Party, it shall not be entitled to claim relief under this clause G3 to the extent that consequences of the relevant Force Majeure Event:
- (a) are capable of being mitigated by any of the Services, but the Contractor has failed to do so; and/or
  - (b) should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by the Contract.
- G3.4 Subject to clause G3.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- G3.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Contractor is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- G3.6 If, as a result of a Force Majeure Event:
- (a) an Affected Party fails to perform its obligations in accordance with the Contract, then during the continuance of the Force Majeure Event:

- i) the other Party shall not be entitled to exercise its rights to terminate the Contract in whole or in part as a result of such failure pursuant to clause H2.1 or H2.3; and
    - ii) neither Party shall be liable for any Default arising as a result of such failure;
  - (b) the Contractor fails to perform its obligations in accordance with the Contract it shall be entitled to receive payment of the Price (or a proportional payment of it) only to the extent that the Services (or part of the Services) continue to be performed in accordance with the terms of the Contract during the occurrence of the Force Majeure Event.
- G3.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under the Contract.
- G3.8 Relief from liability for the Affected Party under this clause G3 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under the Contract and shall not be dependent on the serving of notice under clause G3.7.

## H DEFAULT, DISRUPTION AND TERMINATION

### H1 Termination on Insolvency and Change of Control

- H1.1 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Contractor 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;
  - (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);
  - (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;
  - (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;
  - (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;
  - (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
  - (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 H1.1 (a)-(g) occurs under the law of any other jurisdiction.

H1.2 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Contractor 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;
- (b) a petition is presented and not dismissed within 14 days or order made for the Contractor's bankruptcy;
- (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;
- (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;
- (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;
- (f) he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005;
- (g) he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business; or
- (h) any event similar to those listed in clauses H1.2 (a) to (g) occurs under the law of any other jurisdiction.

H1.3 The Contractor shall notify the Authority immediately in writing of any proposal or negotiations which will or may result in a merger, take-over, change of control, change of name or status including where the Contractor undergoes a change of control within the meaning of section 1124 of the Corporation Taxes Act 2010 ("**Change of Control**"). The Authority may terminate the Contract with immediate effect by notice and without compensation to the Contractor within 6 Months of:

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

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

H1.4 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Contractor where the Contractor is a partnership and:

- (a) a proposal is made for a voluntary arrangement within Article 4 of the Insolvent Partnerships Order 1994 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors; or

- (b) it is for any reason dissolved; or
- (c) a petition is presented for its winding up or for the making of any administration order, or an application is made for the appointment of a provisional liquidator; or
- (d) a receiver, or similar officer is appointed over the whole or any part of its assets; or
- (e) the partnership is deemed unable to pay its debts within the meaning of section 222 or 223 of the Insolvency Act 1986 as applied and modified by the Insolvent Partnerships Order 1994; or
- (f) any of the following occurs in relation to any of its partners:
  - (i) 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, his creditors;
  - (ii) a petition is presented for his bankruptcy; or
  - (iii) a receiver, or similar officer is appointed over the whole or any part of his assets;
- (g) any event similar to those listed in clauses H1.4 (a) to (f) occurs under the law of any other jurisdiction .

H1.5 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Contractor where the Contractor is a limited liability partnership and:

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors;
- (b) it is for any reason dissolved;
- (c) an application 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 within Part II of the Insolvency Act 1986;
- (d) any step is taken with a view to it being determined that it be wound up (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation) within Part IV of the Insolvency Act 1986;
- (e) 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 within Part IV of the Insolvency Act 1986;
- (f) a receiver, or similar officer is appointed over the whole or any part of its assets; or
- (g) it is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (h) a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- (i) any event similar to those listed in clauses H1.5 (a) to (h) occurs under the law of any other jurisdiction.



- H1.6 References to the Insolvency Act 1986 in clause H1.5 (a) shall be construed as being references to that Act as applied under the Limited Liability Partnerships Act 2000 subordinate legislation.

## **H2 Termination on Default**

- H2.1 The Authority may terminate the Contract with immediate effect by notice if the Contractor commits a Default and:
- (a) the Contractor has not remedied the Default to the satisfaction of the Authority within 25 Working Days or such other period as may be specified by the Authority, after issue of a notice specifying the Default and requesting it to be remedied;
  - (b) the Default is not, in the opinion of the Authority, capable of remedy; or
  - (c) the Default is a Material Breach.
- H2.2 If, through any Default of the Contractor, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Contractor shall be liable for the cost of reconstitution of that data and shall reimburse the Authority in respect of any charge levied for its transmission and any other costs charged in connection with such Default.
- H2.3 If the Authority fails to pay the Contractor undisputed sums of money when due, the Contractor shall give notice to the Authority of its failure to pay. If the Authority fails to pay such undisputed sums within 90 Working Days of the date of such 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 Authority exercising its rights under clause C3.1 (Recovery of Sums Due) or to a Force Majeure Event.

## **H3 Termination on Notice**

- H3.1 The Authority may terminate the Contract at any time by giving thirty (30) days written notice to the Contractor.

## **H4 Other Termination Grounds**

- H4.1 The Authority may terminate the Contract on written notice to the Contractor if:
- (a) the Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;
  - (b) the Contractor was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57 (2), and should therefore have been excluded from the procurement procedure which resulted in its award of the Contract;
  - (c) the Contract should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties and the Regulations that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU; or
  - (d) the Contractor has not, in performing the Services, complied with its legal obligations in respect of environmental, social or labour law.

## **H5 Consequences of Expiry or Termination**

- H5.1 If the Authority terminates the Contract under clauses H2 or H4 and makes other arrangements for the supply of the Services the Authority may recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period.
- H5.2 If Contract is terminated under clauses H2 or H4 the Authority shall make no further payments to the Contractor (for Services supplied by the Contractor prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of making the other arrangements envisaged under this clause.
- H5.3 If the Authority terminates the Contract under clause H3 the Authority shall make no further payments to the Contractor except for Services supplied by the Contractor prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority.
- H5.4 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 Authority or the Contractor under clauses C2 (Payment and VAT), C3 (Recovery of Sums Due), D1 (Prevention of Fraud and Bribery), E2 (Data Protection), E3 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989), E4 (Confidential Information), E5 (Freedom of Information), E8 (Intellectual Property Rights), E9 (Audit), F9 (Remedies Cumulative), G1 (Liability, Indemnity and Insurance), H5 (Consequences of Expiry or Termination), H7 (Recovery upon Termination) and I1 (Governing Law and Jurisdiction).

## **H6 Disruption**

- H6.1 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 Authority, its employees or any other contractor employed by the Authority.
- H6.2 The Contractor shall immediately inform the Authority of any actual or potential industrial action, whether such action be by its own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- H6.3 If there is industrial action by the Staff, the Contractor shall seek Approval to its proposals to continue to perform its obligations under the Contract.
- H6.4 If the Contractor's proposals referred to in clause H6.3 are considered insufficient or unacceptable by the Authority acting reasonably, then the Contract may be terminated with immediate effect by the Authority by notice.
- H6.5 If the Contractor is unable to deliver the Services owing to disruption of the Authority's normal business, the Contractor may request a reasonable allowance of time, and, in addition, the Authority will reimburse any additional expense reasonably incurred by the Contractor as a direct result of such disruption.

## **H7 Recovery upon Termination**

- H7.1 On termination of the Contract for any reason, the Contractor shall at its cost:
- (a) Subject to H7.3 below, immediately return to the Authority all Confidential Information, Personal Data and IP Materials 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 Authority all Property (including materials, documents, information and access keys) provided to the Contractor in good working order;
  - (c) immediately vacate any Authority Premises occupied by the Contractor;
  - (d) assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to the Replacement Contractor and/or the completion of any work in progress; and
  - (e) promptly provide all information concerning the provision of the Services which may reasonably be requested by the Authority for the purposes of adequately understanding the manner in which the Services have been provided and/or for the purpose of allowing the Authority and/or the Replacement Contractor to conduct due diligence.
- H7.2 If the Contractor does not comply with clauses H7.1(a) and (b), the Authority may recover possession thereof and the Contractor grants a licence to the Authority 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.
- H7.3. The Contractor is entitled to retain one copy of all documentation relating to the delivery of the contract and this documentation will be managed in line with Section E.

## **H8 Retendering and Handover**

- H8.1 Within a fair and reasonable timeframe of being requested by the Authority, the Contractor shall provide reasonable assistance to enable the Authority to issue tender documents for the future provision of the Services.
- H8.2 The Authority shall take all necessary precautions to ensure that the information referred to in clause H8.1 is given only to potential providers who have qualified to tender for the future provision of the Services.
- H8.3 The Authority shall require that all potential providers treat the information in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the Authority; and that they shall not use it for any other purpose.
- H8.4 The Contractor shall indemnify the Authority against any claim made against the Authority by any person in respect of liability incurred by the Authority arising from any deficiency or inaccuracy in information which the Contractor provides under clause H8.1 time limited to twelve (12) months from the point of the information being provided to potential providers as referred into clause H8.2.
- H8.5 The Contractor shall in with the agreed Exit Plan co-operate fully with the Authority during any handover at the end of the Contract. This co-operation shall include allowing full access to, and providing copies of, all documents, reports, summaries and any other information

necessary in order to achieve an effective transition without disruption to routine operational requirements.

- H8.6 The Contractor shall transfer to the Authority, or any person designated by the Authority, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the provision of the Services. The transfer shall be made in a format used by the Authority.

## **H9 Exit Management**

- H9.1 Upon termination the Contractor shall render reasonable assistance to the Authority to the extent necessary to effect an orderly assumption by a Replacement Contractor in accordance with the procedure set out in clause H10.

## **H10 Exit Procedures**

- H10.1 Where the Authority requires a continuation of all or any of the Services on expiry or termination of this Contract, either by performing them itself or by engaging a third party to perform them, the Contractor shall co-operate fully with the Authority and any such third party and shall take all reasonable steps to ensure the timely and effective transfer of the Services without disruption to routine operational requirements.

- H10.2 The following commercial approach shall apply to the transfer of the Services if the Contractor:

- (a) does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Price; or
- (b) reasonably incurs additional costs, the Parties shall agree a Variation to the Price based on the Contractor's rates either set out in Schedule 2 or forming the basis for the Price.

- H10.3 When requested to do so by the Authority through the process and timescales agreed within the Exit Plan and pursuant to Clause E8.3 (b), the Contractor shall deliver to the Authority details of all licences for software used in the provision of the Services including the software licence agreements.

- H10.4 Within one Month of receiving the software licence information described above, the Authority shall notify the Contractor of the licences it wishes to be transferred, and the Contractor shall provide for the approval of the Authority a plan for licence transfer.

## **H11 Knowledge Retention**

- H11.1 The Contractor shall co-operate with the Authority in order to enable an efficient and detailed knowledge transfer from the Contractor to the Authority on the completion or earlier termination of the Contract and in addition, to minimise any disruption to routine operational requirements. To facilitate this transfer, the Contractor shall in accordance with the Exit Plan provide the Authority copies of all documents, reports, summaries and any other information requested by the Authority. The Contractor shall comply with the Authority's request for information in accordance the Exit Plan.

# I DISPUTES AND LAW

## I1 Governing Law and Jurisdiction

- I1.1 Subject to the provisions of clause I2 the Contract, including any matters arising out of or in connection with it, shall be governed by and interpreted in accordance with English Law and shall be subject to the jurisdiction of the Courts of England and Wales. The submission to such jurisdiction shall not limit the right of the Authority to take proceedings against the Contractor in any other court of competent jurisdiction, and the taking of proceedings in any other court of competent jurisdiction shall not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

## I2 Dispute Resolution

- I2.1 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 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 of the Contractor and the commercial director of the Authority.
- I2.2 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.
- I2.3 If the dispute cannot be resolved by the Parties pursuant to clause I2.1 either Party may refer it to mediation pursuant to the procedure set out in clause I2.5.
- I2.4 The obligations of the Parties under the Contract shall not cease, or be suspended or 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.
- I2.5 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 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. If appropriate, the Parties may at any stage seek assistance from the Centre for Effective Dispute Resolution 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 recorded in 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 written opinion. 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 within 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 unless the dispute is referred to arbitration pursuant to the procedures set out in clause 12.6.

12.6 Subject to clause 12.2, the Parties shall not institute court proceedings until the procedures set out in clauses 12.1 and 12.3 have been completed save that:

- (a) The Authority may at any time before court proceedings are commenced, serve a notice on the Contractor requiring the dispute to be referred to and resolved by arbitration in accordance with clause 12.7;
- (b) if the Contractor intends to commence court proceedings, it shall serve notice on the Authority of its intentions and the Authority shall have 21 days following receipt of such notice to serve a reply on the Contractor requiring the dispute to be referred to and resolved by arbitration in accordance with clause 12.7; and
- (c) the Contractor may request by notice to the Authority that any dispute be referred and resolved by arbitration in accordance with clause 12.7, to which the Authority may consent as it sees fit.

12.7 If any arbitration proceedings are commenced pursuant to clause 12.6,

- (a) the arbitration shall be governed by the provisions of the Arbitration Act 1996 and the Authority shall give a notice of arbitration to the Contractor (the “**Arbitration Notice**”) stating:
  - (i) that the dispute is referred to arbitration; and
  - (ii) providing details of the issues to be resolved;
- (b) the London Court of International Arbitration (“**LCIA**”) procedural rules in force at the date that the dispute was referred to arbitration in accordance with 12.7 (b) shall be applied and are deemed to be incorporated by reference to the Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
- (c) the tribunal shall consist of a sole arbitrator to be agreed by the Parties;
- (d) if the Parties fail to agree the appointment of the arbitrator within 10 days of the Arbitration Notice being issued by the Authority under clause 12.7 (a) or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- (e) the arbitration proceedings shall take place in London and in the English language; and
- (f) the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law.

# J EXIT PLANNING

## J1 General

- J1.1. The Contractor is required to ensure the orderly transition of the Services from the Contractor to the Authority and/or a Replacement Contractor in the event of Termination (including partial termination) or the expiry of this Contract. This sets out the principles of the exit and service transfer arrangements that are intended to achieve such orderly transition and which shall form the basis of the exit plan.
- J1.2. This provision shall apply both to the termination or expiry of the Contract as a whole (however arising) and also to each and every partial termination (if any), save as expressly stated otherwise.

## J2 Exit Plan

- J2.1. Each party will appoint an Exit Manager and provide written notification of such appointment to the other party within three (3) months of the Commencement Date. The Contractor's Exit Manager will be responsible for ensuring that the Contractor, its Staff and any Sub-Contractors will comply. The Contractor will ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Contractor as are reasonably necessary to enable the Contractor to comply with the requirements of the Exit Plan. The parties' Exit Managers will liaise with one another in the relation to all issues relevant to the termination of this Contract and all matters connected with the Exit Plan (Schedule 5) and each party's compliance with it.
- J2.2. The Contractor will, no more than three (3) months after the Commencement Date, deliver to the Authority an Exit Plan which sets out the Contractor's proposed methodology for achieving an orderly transition of Services from the Contractor to the Authority and/or its Replacement Contractor on the expiry or termination of this Contract and which complies with the requirements set out in Clause J2.3 (the 'Exit Plan'). Within thirty (30) days after the submission of the Exit Plan, the parties will use their respective reasonable endeavours to agree the contents of the Exit Plan. If the parties are unable to agree the contents of the Exit Plan then such dispute shall be resolved in accordance with clause I2 (Dispute Resolution).
- J2.3. The Exit Plan will contain, as a minimum:
- (a) the management structure to be employed during both transfer and cessation of the Services; and
  - (b) a detailed description of the transfer and cessation processes, including timetable, documentation, data transfer, systems migration, security and any other details of how the Contractor will ensure that the Service will be transferred effectively, efficiently and in an orderly manner that will enable the Authority and the Replacement Contractor to continue with the Service from the Transfer Date in a manner and form that is mutually agreed.
- J2.4. The Contractor will review and (if appropriate) update the Exit Plan in the first month of each Contract Year (commencing with the Second Contract Year) to reflect any changes to the Services. Following such update the Contractor will submit the revised Exit Plan to the Authority for review. Within thirty (30) days following the submission of the revised Exit Plan, the parties shall meet and use reasonable endeavours to agree the contents of the revised Exit Plan, based on the principles set out in and the changes that have occurred in the Services since the Exit Plan was last agreed. If the parties are unable to agree the contents of the revised Exit Plan within that thirty (30) day period, such dispute shall be resolved in accordance with procedure set out at clause I2 (Dispute Resolution).

- J2.5. Within thirty (30) days after the service of a notice of termination by either party and no less than six (6) months prior to the Expiry Date, the Contractor shall submit for the Authority's approval the Exit Plan in a final form that can be implemented immediately.
- J2.6. The parties will meet and use their respective reasonable endeavours to agree the contents of the final Exit Plan. If the parties are unable to agree the contents of the Exit Plan within thirty (30) days following its delivery to the Authority then such dispute shall be resolved in accordance with procedure set out at clause I2 (Dispute Resolution). Until the agreement of the final Exit Plan, the Contractor shall continue to provide the Services in accordance with the Contract.

### **J3. CO-OPERATION AND ASSISTANCE**

- J3.1. Subject to clause J3.5, during the Termination Assistance Period the Contractor shall provide the Authority and/or Replacement Contractor reasonable co-operation in connection with the transfer of responsibility for the Services and so as to assist the Authority to resume the operation of Services.
- J3.2. For the purpose of J3.1, the meaning of the term 'reasonable cooperation' shall include:
- (a) Liaising with the Authority and/or a Replacement Contractor, and providing reasonable assistance and advice concerning the Services and the transfer of the responsibility for their performance to the Authority or to such Replacement Contractor;
  - (b) If required the Contractor will afford access for any Replacement Contractor at reasonable times and on reasonable advance written notice to the Premises where any Services are performed or provided only to the extent relevant and necessary for the purposes of taking over the Services.
- J3.3. During the Termination Assistance Period the Contractor shall provide to the Authority or, if requested by the Authority, any Replacement Contractor:
- (a) in accordance with clause H8 of the Contract, all information the Contractor has in its possession or control or is able to produce relating to the Services that is reasonably necessary to enable the Authority or a Replacement Contractor to take over the provision of the Services. Such information shall include details of all licences for software used in the provision of Services including the software licence agreements;
  - (b) up to date copies of all Authority Data
  - (c) any reasonable assistance, expertise and advice requested by the Authority in connection with any proposed or envisaged transfer of Services or to facilitate the transfer of Services to the Authority or a Replacement Contractor; and
  - (d) all reasonable assistance in connection with its preparation of any request for proposal or other similar to some or all of the Services,
- J3.4. For avoidance of doubt the Contractor will, unless otherwise agreed in writing between the parties, continue to provide the Service under this Contract throughout the Termination Assistance Period and any extension thereof pursuant to paragraph J3.4, at no detriment to the service levels.
- J3.5. Without prejudice to the Contractor's obligations under paragraph J3.1 and subject to the terms of Clause H (Default, Disruption and Termination) of the Contract, in consideration of the continued payment by the Authority of the charges in accordance with the relevant provisions of the Contract, the Contractor shall continue to provide such Services as the



Authority shall request from time to time following termination of this Contract, for as long as it is reasonably requested to do so by the Authority and for period not exceeding the Termination Assistance Period (unless otherwise agreed by the parties).

- J3.6. The Contractor shall not be held liable or responsible for any damage, loss or defect arising as a direct result of any act or omission by the Authority or any Replacement Contractor appointed by the Authority in the provision of this Service.

#### **J4 EXIT PLAN - TERMINATION OBLIGATIONS**

- J4.1. The Contractor shall comply with all of its obligations contained within the Exit Plan.
- J4.2. The Contractor will use all reasonable endeavours to ensure that the transfer of Authority Data will not disrupt or inconvenience the Authority.
- J4.3. Upon the Expiry Date or the Termination Date (or earlier if this does not adversely affect the Contractor's performance of the Services and its compliance with the other provisions of Section J);
- (a) the Contractor will use all reasonable endeavours to erase from any computers, storage devices and storage media (including removal from any hard disk) all Authority Data not required to be retained by the Contractor for statutory compliance purposes, and confirm in writing that such destruction has taken place;
  - (b) the Contractor will deliver to the Authority all materials created by the Contractor under this Contract including the Intellectual Property Rights in which are owned by the Authority;
  - (c) after having carried out the procedure set out in paragraph J4.3(b) above, the Contractor will use all reasonable endeavours to erase from any computers, storage devices and storage media (including removal from any hard disk) that are to be retained by the Contractor after termination or expiry, any software containing the Intellectual Property Rights owned by the Authority;
  - (d) each party will return to the other party all Confidential Information of the other party and will certify that it does not retain the other party's Confidential Information save to the extent (and for a limited period) that such information needs to be retained by the party in question for the purposes of providing or receiving any Services and for any legal or archival purposes.

# SCHEDULE 1A – Local Authority Waste Collection and Treatment Specification

## Overall aims and purpose

This contract is to manage the collection of data through an existing online survey system known as WasteDataFlow (WDF) and host the web and database servers for the online system. The purpose of WDF is to provide good quality timely data on the collection and treatment of LA waste.

WDF delivers the statistical evidence for developing and monitoring government waste policies and programmes. The survey itself and its results serve a number of purposes described below.

WDF is required to supply data to monitor the Waste (Circular Economy) (Amendment) Regulations 2020. These require Waste Management Plans to include measures to be taken to ensure that the preparing for reuse and the recycling of municipal waste is a minimum of 65% by weight by 2035 and to ensure the amount of municipal waste landfilled is reduced to 10% or less of the total amount of municipal waste generated (by weight) by 2035.

WDF enables LAs to benchmark their recycling and waste management performances with similar and neighbouring authorities along with them being able to monitor their own performances.

## Scope of the service

WDF as a whole comprises the website <https://www.wastedataflow.org> and the associated survey database which lies behind it. The service comprises the main elements of:

- a) Online website survey questionnaire and associated web pages for data entry and authorisation.
- b) Online website reporting section which allows users to query the survey database and produce predefined reports for download in Microsoft Excel format.
- c) Online website guidance section which contains survey documentation and other information including extensive guidance on data entry, outputs and country specific information publically available in this section (<https://www.wastedataflow.org/html/datasets.aspx>).
- d) Provision of training for Local Authorities (LA's) in England on data entry, validation and data or report outputs
- e) Guidance (static written and interactive verbal/e-mail) and helpdesk provision for enquiries from local authorities and other users
- f) Data entry reminders for LA's and data validation (Note: This applies to England LA data only)
- g) Provision of reports to assist with the compilation of the local authority statistics (England only)
- h) User Group meetings with local authorities (England only)
- i) Operational Group governance meetings with the service owners

- j) System (website and database) and information maintenance, including user registration
- k) Commissioned development work
- l) Project management

This information is captured by a core set of questions, now incorporating 'Q100' with the exception of Northern Ireland. Spreadsheets documenting the questions and answer frameworks are available for download under the 'Core Dataset' section of <https://www.wastedataflow.org/htm/datasets.aspx>.

In many cases the required response to a question is a matrix of data, such as tonnages of many different material types collected for recycling, rather than a single number answer. In many cases questions have associated comment fields to allow users to clarify their responses. There are some regional differences to the questions which need to be retained. LAs in Wales complete additional questions on the financial aspects of collection and disposal.

### **Regional requirements**

The services to be provided shall cover the overall administration and operation of WasteDataFlow for the data collection across the UK and in addition the validation of data for LAs in England. LAs enter information on waste management into WasteDataFlow on a monthly, quarterly or annual basis.

LAs submit data quarterly, except in Scotland where submissions are made annually. Where Scottish LAs enter data quarterly, the data should be available in an aggregated annual dataset.

Although WasteDataFlow is jointly owned by the Authority, Welsh Government (WG), Northern Ireland Environment Agency (NIEA) and Scottish Environment Protection Agency (SEPA), this contract is with the Authority, the majority partner taking responsibility for coordinating this project at the UK level.

The WDF system is not fully harmonised across the countries. Each country has different requirements in terms of data collection and the type of reports generated so there must be provision to accommodate regional differences in requirements for data entry, reporting outputs and guidance. There may be system enhancements instigated by one country and adopted by other countries.

### **LA Responsibilities:**

To enable the Contractor to effectively deliver the requirements laid out in Schedules 1A and 1B, LA's are required to submit data and respond to data validation queries to enable requirements to be met. LA's are required to provide data returns in line with reporting deadlines detailed within Schedule 1A and 1B.

When data returns or responses to validation queries are delayed, both Schedule 1A and 1B detail actions that the Contractor needs to undertake to mitigate and resolve such delays and ensure returns and responses are provided. This includes (when required) the Authority to work collaboratively with the Contractor (as per the detailed processes) to enable the

Contractor to produce validated and approved data. It is accepted that there are limits to the extent to which the Contractor can encourage complete and timely returns by LA's and that the LA's and not the Contractor are responsible for the submission of returns.

## **1 WDF website and database**

### **1.1 High level description and specification**

The WasteDataFlow (WDF) system is an n-tier application which has two (2) dedicated servers, one (1) for the website/application and one (1) for the database. WDF does not require these to be physical; a virtual environment would be an option. Details are given below.

The dedicated database server is used to host a Microsoft SQL database for data storage and the stored procedures that form part of the business layer (the "rules" of WDF). The dedicated website/application server hosts the C#/ASP.net business and user interface layer (the page layout, list presentation) of the application and the HTML web page elements of the application. The web server also hosts the standard HTML website that sits in front of the application providing home page, news page and guidance document storage. The servers' specifications are:

Web and database servers – specifications
1 x SOLO   Dell R230 Intel E3-1230v5 (3.4 GHz, 4 Core) 16GB RAM 2 x 500GB SSD RAID1 – Web
1 x SOLO   Dell R230 Intel E3-1230v5 (3.4 GHz, 4 Core) 32GB RAM 4 x 500GB SSD RAID10 – Database
4 x Windows Server 2012 64-bit Standard 2-core pack
4 x Windows Server 2012 64-bit Standard 2-core pack
1 x Dedicated Cisco ASA 5506-X Firewall
1 x 1TB Dedicated ANS Back-up Server
2 x Microsoft SQL 2016 64-Bit Standard 2-core pack (Service Pack 2)
1 x 16GB RAM

On the physical servers there are installed two versions of the WDF application, the live addressed through [www.wastedataflow.org](http://www.wastedataflow.org) and the test addressed through [test.wastedataflow.org](http://test.wastedataflow.org).

The servers are connected to the internet by multiple transit links from their internal 10 GB network. ANS operate 24-7-365 support through round-the-clock management and engineering staff on site at the datacentre. The Manchester datacentre, which hosts WDF servers, is served with redundancy-enabled power networks, with each hosted server

connected to both, backed up by on-site emergency generation. The datacentre is air-conditioned, has fire suppression, power surge protection and anti-flood devices. It also has physical security through 2.8m prison fencing, razor wire, CCTV, intruder alarms and photo ID for all visitors. This allows ANS to provide 100% network uptime, 15-minute engineer response times and 2-hour hardware replacement guarantee (the expected hardware replacement is 1 hour).

In addition to the Windows Server 2012 OS and Microsoft SQL 2016 database covered above the system makes use of the following.

- A product called Spreadsheet Gear is used on the server for populating Microsoft Excel files for download by users.
- There are some Telerik components used in older parts of the site (in the Report Summary menu and one in Q100).
- JQuery is used to improve the user experience in the Fly-Tipping Module.

In addition to the SQL database used to store the data entered into WasteDataFlow, guidance documents (principally PDFs, some Microsoft Excel files) are stored on the server for download through the website. Microsoft Excel files are also used as templates for the dynamic reports downloaded from WDF.

The Contractor has access to suitable documentation and desk instructions on the system and key processes and workings e.g. roll-up/down process, facility updates, validation tool, report calculations. These will be available to the Authority on request, particularly where the Authority has direct responsibilities and the Contractor will provide documentation within a reasonable timeframe

## **1.2 WDF website and database management and maintenance and system reporting**

### **1.2.1 Website domain**

The Contractor's WasteDataFlow team shall continue to be named as the technical contact for the website host (currently ANS) but Defra will maintain ownership of the website domain and take responsibility for maintaining this access.

### **1.2.2 Capacity, availability and planned maintenance**

The Contractor will ensure that the WDF service is available for ninety-nine (99) per cent of business hours (0700hours – 20.00 hours).

The MSSQL server database is configured to maintain the most efficient use of the processors through indexing and so maximise memory usage. The MSSQL logs and associated log files are regularly checked and cleaned down to preserve server space and performance.

There will be routine regular monitoring of key component systems in order to maximise system availability and reduce system failures and to enable any issues related to service availability or performance to be investigated and rectified.

The following monitoring will be carried out:

- Central Processing Unit (CPU) threshold monitoring where the CPU usage is monitored by the hosting company and who will notify the Contractor's team by email if this exceeds 80%.
- Memory threshold monitoring
- Used Disk Space threshold monitoring is carried out by the hosting company and will notify the Contractor's team by e-mail if this falls below 20% or exceeds 100%.
- Service Availability is carried out by the hosting company who monitors ping, http and sql through an automatic 'ping' check of the network and web and database servers every five minutes; a failed response triggers a second 'ping' and then an automatic email and SMS to their team (operating 24 hours) and the Contractor's Staff. The hosting company will investigate if these services fail for any longer than 15 minutes.
- Bandwidth usage is continually monitored (at the firewall) on both database and web servers and the Contractor's helpdesk staff have access to the online dashboard provided by the hosting company on breakdowns of bandwidth usage which would show any breaks in connectivity or unexpected peak usage.
- The WasteDataFlow service availability will be monitored by the helpdesk, where the first task at the start of a shift is to ensure that the WDF website is available and a user can log in to the WDF survey tool. Availability will also be checked after all planned actions by the hosting company or the Contractor's Staff.

WasteDataFlow users are encouraged to report any service or performance issues e.g. data not saving, reports not running or slow performance through either the Helpdesk (telephone or email). A reactive approach is taken to managing any issues reported. These will be logged and recorded by category, investigated and prioritised on receipt. Various logs are used to record information which may assist the investigation, including log-ins, browser types, roll-ups and their failure and some general technical diagnostics. The number of calls or emails to the helpdesk will be recorded, split by level of security and priority and included as part of the regular monthly reporting.

Any significant (more than 3 hours) outage time planned by the hosting provider will be notified and pre-agreed with the Authority and its partners at least one (1) month in advance, and the outage will where possible be constrained to periods outside of office hours (7.00 to 20.00 hours) and aim to avoid critical periods for data entry by LAs. Any planned outage during office hours would need specific justification and prior approval from the Authority and its partners. The Contractor shall liaise with the Authority as necessary and inform users of any planned downtime in advance.

The Contractor shall ensure planned maintenance (provided by the website host, currently ANS) shall not impact on the operation of WDF and that planned operating system updates occur. The Contractor shall ensure ANS carry out planned maintenance outside WDF core hours; exceptions need to be notified and agreed with the Authority and its partners in advance.

If planned maintenance cannot be conducted outside WDF core hours then the Contractor shall inform the Authority, EA, NIEA, SEPA and NRW (country representatives), and act as technical support to the Authority in understanding the issue and informing the WDF users

(via the helpdesk). Once the downtime is started the log-in process would be disabled to avoid any inadvertent access of the system and consequent data loss and the log-in reinstated upon completion. A note on the log-in page would give advance notice to users of planned downtime.

Normal SQL Server maintenance tasks are required. A custom index maintenance process has been developed that identifies and processes any indexes requiring maintenance.

WDF has extensive logging. The operating system, MSSQL and WasteDataFlow logs are checked regularly to check for potential issues and if any problems arise; any corrective action identified is carried out as part of the standard maintenance routines.

### **1.2.3 Incident management**

The Contractor's WDF development team shall manage WDF software failures (bugs). The Contractor shall record system snags/bugs in the helpdesk database and the Contractor's helpdesk and technical team shall work to identify the problem liaising with the Authority as necessary. The Contractor shall immediately deal with system issues and intend to resolve within hours issues where it is affecting data entry or accuracy of reports or relates to security risks. If the system issue is less intrusive, with minor impact on functionality and business processes, the Contractor shall record any significant points in a "bug log" to be reviewed on a weekly basis so that fixes are deployed in regular maintenance sessions (typically within 30 days). The Contractor shall ensure a development process ensuring the generic usability is maintained and users are supported in the resolution of minor IT issues.

Where there are WDF software failures, the Contractor shall evaluate the information, notify the Authority (and the other country representatives) and, if the downtime is likely to be more than two (2) hours or occurs close to a country deadline (within 3 working days of the deadline), send a notification to all registered WDF users by email. Once started the communication between the website host (currently ANS), the Contractor, country representatives and registered WDF users shall continue at a suitable frequency until the service is restored.

For incidents which cause a total loss of service an interim post-incident report will be produced within 1 working day of the service being restored. A full incident report containing remedial actions will be produced within 5 working days of the service being restored.

### **1.2.4 System Back-ups and disaster recovery**

For back-ups for the web server, a full back-up occurs automatically one (1) night each week and this is followed by six (6) daily incremental (i.e. changed files only) back-ups. Each back-up is monitored for successful completion by the WDF helpdesk. The next full back-up replaces the first. For back-ups for the database server, the Contractor shall take a copy of the full database and compress to a single MSSQL file which is backed up nightly. The Contractor shall ensure the back-up files are stored on a dedicated back-up location operated by the website host (currently ANS) which is geographically separate to the production data location and shall ensure that the back-ups are regularly restored onto the development server and confirm that they are not corrupt.

Back-up restoration shall be carried out as notified by the Contractor in conjunction with the hosting provider, and completed within three (3) working day. This is particularly important at critical times of data entry by LAs in any of the regions to avoid data loss. By exception if the Contractor is not able to achieve back-up restoration within three working days they must

notify the Authority and agree any extension to the time frame and mitigation arrangements to avoid data loss.

The Contractor shall ensure their Business Continuity and Disaster Recovery Plan are instigated where there are server hardware/operating system failures that require the invoking of these Plans. The Contractor shall ensure the disaster recovery plan covers all eventualities and include the plans for setting up new servers to maintain the WasteDataFlow service. The disaster recovery plan shall be tested on an annual basis in line with the Contractor's annual practices.

For clarity the management of Business Continuity and Disaster Recovery Plans for the delivery of the requirements fall under the Contractor's internal Business Continuity and Disaster Recovery Plans. Reference to these plans is indicated in Schedule 7.

### **1.2.5 Security, privacy and data protection**

Refer to relevant Terms and Conditions and Schedule 7

### **1.2.6 Archiving**

The Contractor will hold tables containing historic data. The tables are all indexed to optimize retrieval speeds. This has removed the need for archiving. If there is a change to this process, this will be discussed and agreed with the Authority and its partners.

Guidance documents on the server, which are available for users to download, are updated periodically as the need to update the content arises. Old versions are archived on both the web server and Jacobs' servers.

### **1.2.7 Release management and development**

The Contractor shall ensure the development of the WDF system is fully tested in a test environment to ensure no loss or impact to existing WDF data before being promoted to the 'live' environment. If there is a likelihood for a development to corrupt the system a back up will be undertaken before a development is released to enable the system to be rolled back to the previous state if required.

Where WDF service interruption cannot be avoided, the Contractor shall assess when the work can be completed and aim to complete work outside normal office hours (i.e. in evenings or weekends) and to avoid any of the country data entry, validation or reporting deadlines.

### **1.2.8 General performance requirements**

The WasteDataFlow system needs to deliver responsiveness to users which does not hinder both data entry and output production. Server load is periodic, being at its heaviest around the data entry deadlines, but peak demand is predictable given a fixed maximum number of LAs. The website must be available ninety nine (99) per cent of business hours and there must be a consistent level of service availability that avoids LAs having to repeat data entry through technical failures preventing data from being saved. Reports and other data downloads also need to run effectively and efficiently.



It is expected that any confirmed API connection failures will be investigated within 1 working day and rectified within 3 working days of receipt of enquiry. Any extension to this will require pre notification and agreement of SEPA.

All underlying software products and hardware used by the Contractor will be maintained and updated within the lifetime support provided by the respective supplier(s)). In the event of those items of software products and hardware any element being deemed 'End of Life' or equivalent during the term of the contract, the Contractor will work with the Authority to consider the risk implications and possible alternative updates..

For clarity, during the potential life of the contract, it is recognised that:

- The Windows Server 2012 64-bit Standard R2 1Proc end of life support will end in October 2023
- Microsoft SQL 2016 (Service Pack 2) end of life support will end in 2026

As a minimum, nine (9) months prior to the end date(s), the Contractor will notify the Authority of software/hardware that is due to reach it's end of life support, this will enable the alternative solutions to be considered and discussed.

#### **1.2.9 Data levels and differential access levels**

There is the requirement for the ability to differentiate data at different levels of progress and validation and also for different levels of access depending on the particular user. The Authority and its partners will have full levels of access.

The table below shows the different levels of data for the main WasteDataFlow system and when they become available to the different levels of WasteDataFlow user.

Data level	Description
Level 0	The return's questions are open to LA Data Entry users to input and amend data.
Level 10	When authorised to this level by the LA Data Entry user, data are aggregated (monthly to quarterly) and checking tools become available (validation summary and performance indicator reports).
Level 20	The Data Entry user authorises the return to this level to indicate it has been checked and is complete; the return is now outside the Data Entry user's control and becomes available to the LA Administrator user.
Level 30	<p>The LA's Administrator user authorises the return to this level to indicate it has been checked and is complete. Before doing this, the Administrator is required to respond online to queries automatically raised on the data by the validation report. Once the return has been authorised to Level 30 by the Administrator, it has left the control of the local authority and moves to National Level 1 for checking.</p> <p>National Level 1 users vary by region of the UK:</p> <ul style="list-style-type: none"> <li>• England – WasteDataFlow Contractor (Jacobs).</li> <li>• Northern Ireland – Northern Ireland Environment Agency.</li> <li>• Scotland – The Scottish Environmental Protection Agency and Scottish Executive.</li> <li>• Wales – Natural Resources Wales and the Welsh Assembly Government.</li> </ul>
Level 35	The National Level 1 user authorises the return to this level to indicate it has been checked and is complete.
Level 40	<p>The return is then checked further by regional body and national bodies. Once they have checked the data it is eventually moved to level 40. At this point the data become available to the public. The bodies responsible for approving data to Level 40 vary by region of the UK:</p> <ul style="list-style-type: none"> <li>• England – Defra.</li> <li>• Northern Ireland – Northern Ireland Environment Agency.</li> <li>• Scotland – The Scottish Environmental Protection Agency and Scottish Executive.</li> <li>• Wales – Natural Resources Wales and the Welsh Assembly Government.</li> </ul>

## 2 Project management, governance and communication

The governance structure for the WDF project consists of a Project Management Board, an Operational Group and User Groups within each UK country. The Contractor will actively be involved in this governance structure.

The Contractor shall liaise with the Project Board via the project manager and the Authority's project manager.

The Contractor shall engage with the governance, and provide monitoring data and technical support as described below.

### 2.1 Operational group meetings

Participation at OG meetings (3 in the period of the contract). The Contractor will attend these meetings in person or virtually with the Authority and devolved administrations in the Authority's offices in York. They will contribute to the agenda items, any papers or information to support discussion and active contribution to the meetings on WasteDataFlow matters which relate to relevant aspects of the contract. Typically meetings focus on performance and delivery, technical reporting guidance, including calculations, feedback from users and potential development work. The Contractor will produce a written summary

of the meeting, points discussed and actions agreed. To facilitate discussion on development items identified prior to the meeting, the Contractor is expected to provide approximate costs and resource requirements in advance of the meeting; for others identified during the meeting approximate costs and resource requirements would ideally be required within 2-3 weeks after the meeting but a timetable will be agreed at the meeting depending on the scale of the work.

## **2.2 User group meetings**

Active participation in the User Group (England) which will be held once or twice per year virtually. The Contractor will host these meetings with local authorities or representatives, draft the agenda with contributions from the Authority, write the minutes covering key points, decisions and actions, prepare presentation material and liaise with local authorities on agenda items and feedback. Feedback from local authorities is required 1-2 weeks in advance of the meeting.

In particular the Contractor shall provide updates on current issues, development items or updates including timeliness and quality of data, technical reporting queries and developments to guidance, processes, reports and tools and responses to feedback, suggestions and enquiries from local authorities.

## **2.3 Liaison with Devolved Administrations' waste statistics teams**

The Contractor can liaise with NIEA, SEPA and WG/NRW in relation to development work and responses to other ad hoc enquiries as they are made. The Authority will maintain overall oversight of development work and will need to agree and/or accept any development work requested by Devolved Administrations.

Any developments for Devolved Administrations agreed will need to be managed through this contract with the support and approval of the Authority.

## **2.4 Commercial meetings**

Commercial meeting – the Contractor will meet within 6 months of the contract inception and thereafter at least annually (up to a maximum of four meetings during the life of the contract) to discuss commercial items such as contract delivery and performance including key performance measures, budget and value for money for the contract and areas for development. The risk register should also be reviewed and updated as required as per Contractual Terms Section F2 (Monitoring of Contract Performance).

## **2.5 Regular catch-up meetings**

The Contractor shall hold regular meetings by conference call with the Authority's Waste Statistics team. This shall provide more regular updates and ongoing operational and technical matters typically on data collection and validation (including feedback from the Contractor's validation quarterly wash-ups), ad hoc queries, development work and review of the monthly contract performance report. The meetings will typically be every 3 weeks but can be increased to fortnightly at the critical time approaching deadlines for provision of annual data preceding annual statistics and during the data QA period up to publication or development activity. In general this will be by telephone conference or MS Teams but where necessary (e.g. for development work) this may be face to face. The Contractor will summarise the main points and keep a record of actions.

Face-to-face meetings may be required for development work and these can be agreed when development tasks are discussed.

## **2.6 Monthly Reports**

Written reports on activities and progress and forward plan are required. The precise structure and content can be agreed in liaison with the Contractor, but should include a time-series with key performance measures, such as: survey response rates, validation progress/status, helpline activity, training attendance and feedback, development activity and spend on a financial year basis, system exceptions/bugs, and deliverables/risks for the coming month. The reporting is to include the KPIs agreed with the Authority.

## **3 Technical guidance, advice and support to users**

The Contractor is required to provide technical guidance, advice and support to the Authority, Local Authorities and other users, including public users.

Website user and guidance maintenance tasks include making text-based changes and managing the website by:

- Making regular updates to the 'LA User Tips' on the log-in page
- Updating items on the relevant website pages, including the Authority or EA newsletters, minutes of UG meetings
- Managing the support documents on the Guidance section page, created by either the helpdesk, the Authority, NIEA, SEPA or WG/NRW. Guidance must be updated in line with any changes to policy, procedures, processes and legislation. Where there are substantive updates to content this should be updated in collaboration with the Authority, the EA and other WDF partner organisations (NIEA, SEPA and WG/NRW) as appropriate
- Preparing and issuing Newsletters with input from the Authority (England only).

### **3.1 Local authority users**

LAs must be provided with the help and support they require to access the WDF system and complete WDF returns. A wide range of queries from LAs will need to be addressed covering technical queries on correct data entry, process and procedures (e.g. data roll-up, submission, validation) and use of the site (e.g. registration, navigation, general IT issues).

Technical guidance, advice and support will be provided through either written documentation or interactive support e.g. e-mail or telephone through two-way communication, appropriate to the enquiry. Interactive support will be more appropriate for more complex or novel enquiries where it is important to discuss to help understand and define the query and where there may be different options.

### **3.2 Written guidance and FAQs for common queries**

Following updates to the WasteDataFlow system (including the Web portal, data input screens, validation workbooks or reports) the Contractor will update or produce new guidance as necessary.

For any new or additional guidance, including updates or improvements to existing guidance, the Contractor's WDF team shall work closely with stakeholders to produce easy-to-read, informative documents. The Contractor will take lead responsibility for drafting guidance relating to procedures and processes and also for technicalities of reporting but with guidance and input from the Authority or other agencies; the Authority will take the lead on matters related to policy and legislation.

Guidance and advice must be clear, consistent and concise to make it easy for users to understand, including public data users and researchers.

FAQs need to be developed and regularly updated to reflect common queries, including learning/experience from each quarterly validation.

The Contractor shall maintain a log of the title, synopsis and date of all guidance. All guidance documents must be retained and be available, including archive documents.

### **3.3 Enquiries and helpdesk**

A dedicated local phone rate telephone number and email address (helpdesk@wastedataflow.org) should be available for users until 30 September 2025. The phone line shall be staffed during normal working hours (9am to 12.30pm, 1.30pm to 5pm, Monday to Friday, excluding public holidays) with a dedicated voicemail system for off-service hours.

Where appropriate IT services should be automated so they are available 24/7 e.g. requests for password resets.

Enquiries from LAs related to data entry (including registration requests) must be responded to within 1 working day of receipt. Where advice from a national authority is required to answer the query, a holding reply shall be given and the national authority contacted within one (1) working day of receipt of the query. The helpdesk shall be responsible for providing the final reply to the enquirer. The exception to this is enquiries falling under the Freedom of Information Act or Environmental Information Regulations or media enquiries whereby this request shall be passed to the relevant

national authority within one (1) working day of receipt.

For complex issues the Contractor shall provide LA users with written guidance, rather than just verbal helpdesk response.

Where there are frequent issues the Contractor shall also make this available on the website for general use, via updated guidance, updates to FAQs etc.

The Contractor shall log all calls and emails at the time they are received with a unique reference number allocated that can be quoted should resolution of the enquiry require further communication. Emails and responses shall also be stored (as per Schedule 4 (PROCESSING, PERSONAL DATA AND DATA SUBJECTS)). The logging and recording system should allow the helpdesk to see all other calls logged for that user, and previous notes on the same call if it is a continuation.

The Contractor will have appropriate processes and/or documentation in place so that new guidelines, rules or responses to frequently asked questions or other lessons learnt are readily available to the Contractor's helpdesk and validation staff. This is to maintain the effectiveness and consistency of the support provided in delivery of requirements.

### **3.4 Technical queries from the Defra WDF project team**

The Contractor will aim to answer technical queries relating to the system, or LA data within 5 working days. Where this is not possible a delivery date will be agreed.

### **3.5 Data queries from Defra and its partners**

Urgent enquiries from the Authority and its partner organisations such as those relating to Parliamentary Questions, Ministerial Briefs, media enquiries and statistical publications must be dealt with within 1 working day of receipt. If the enquiry is particularly complex the Authority will agree with the Contractor an appropriate timeframe. These are anticipated to be very occasional.

### **3.6 Other data users including consultants and members of the public**

Enquiries from other users or other non-urgent enquiries need to be acknowledged within 2 working days and the Contractor will endeavour to deal with them within 5 working days of receipt. If there are more complex enquiries that cannot be dealt with within this time period, the Contractor will discuss and agree a suitable timescale with the Authority but with the expectation that a response should be issued within 10 working days.

### **3.7 Dissemination or collection of information from stakeholders**

A Newsletter is to be issued to English LA users via email, the timing generally to be linked in with reporting periods. There will be a maximum of 6 per year.

The Contractor uses other communication channels which includes news items on the website and user groups (for England).

To gauge LA and public user feedback on WDF or views e.g. on possible development

items, the Authority may use short web surveys e.g. Survey Monkey if appropriate. The questionnaire design would be led by the Authority with opportunity for the Contractor to contribute. The Contractor will supply relevant contact information. There are no specific or obvious needs to run such a survey during the term of the contract and if the need did arise there would be no more than one survey in order to minimise burdens on LAs.

#### **4.0 User training**

The Contractor provides user training (to the Authority and LA's) until 30 September 2025. The standard training provision is for remote training solutions such as MS Teams with telephone conferencing that allows two-way communication for questions.

The training will cover all relevant aspects of the system in modules. This should cover an overview of the system and procedures for new users and more detailed modules covering data entry, validation and reporting.

The content of the training needs to be kept up to date to reflect any changes e.g. to processes, reporting requirements and guidance, legislation and be responsive to feedback from users.

Each training module is expected to be 1-2.5 hours and assumes a total of 5 sessions for each 3 month period of the contract.

Courses should be scheduled on an approximate 3-month pattern to meet the needs of LA users and give sufficient notice (3 weeks minimum) to LA users. The schedule of training needs to meet the needs of LA users and dates/times chosen to maximise availability and attendance e.g. avoid peak holiday periods.

The schedule must be published on WDF in advance with clear and easy instructions on selecting and booking a course/date. Calendar invitations must be sent within five working days of courses being booked (or ASAP in event of time to course being less than this period), along with clear instructions for joining the MS Teams meeting. This online/MS Teams training shall be free of charge to LAs

Attendance (and no-shows) to the training must be recorded and feedback on the training must be sought from attendees through an online questionnaire issued at the end of the training session.

The training presentations for each module are to be made available via the website so this is accessible to users at any time.

#### **5.0 Maintenance tasks**

Maintenance of the website, including making text-based changes, and resolution of snagging issues and bugs is covered in Section 1.

Other maintenance tasks includes management of the user registration process (email address username and password), maintenance of user accounts and appropriate permission levels, including a process to regularly review and 'lock' (and unlock) accounts which have been inactive over a period of time (6-12 months as agreed with the Authority).

The Contractor will make changes relating to LA mergers or other arrangements for joint reporting which may occur on occasion.

Core information is held within WasteDataFlow to facilitate correct data entry, data validation and/or reporting. This includes various demographic information and infrastructure data, such as the waste management facilities data.

The Authority, devolved administrations and the Contractor will take joint responsibility on notification of when core information and covering various demographic, financial and infrastructure elements require updating in WasteDataFlow.

Where these are from established published sources the Contractor will source the latest data directly and update within WasteDataFlow; in other situations, the Authority and the devolved administrations will supply the required data. The updates are as in the table below. Updates that are due will form part of the regular catch-up meetings. If the established data sources are discontinued or datasets are not available at the anticipated time, the Contractor will notify the Authority to consider alternative sources or other mitigation measures e.g. carrying forward data from previous years or use of average figures, and the Contractor will work collaboratively with the Authority to accommodate.



<b>Data</b>	<b>Frequency/timing of update</b>	<b>Established data source</b>
Local authority population (England)	Annual / timing as requested by Defra	ONS : <a href="https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesandnorthernireland">https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesandnorthernireland</a>
Local authority population (Other Regions)	As requested by Regional lead	Data supplied by regional lead
Dwelling Stock figures (England)	Annual / Generally updated in May each year, backdated to quarter 1 of that year.	VOA: <a href="https://www.gov.uk/government/statistics/council-tax-stock-of-properties-2018">https://www.gov.uk/government/statistics/council-tax-stock-of-properties-2018</a>
Dwelling Stock figures (Other Regions)	As requested by Regional lead	Data supplied by regional lead
Household Numbers	As requested by Defra / Regional lead	Mid-year estimates of the DCLG
Local Authority Area	As requested by Defra / Regional lead	Landuse database of the DCLG
Index of Deprivation	As requested by Defra / Regional lead	Department for Communities and Local Government (DCLG)
BMW%	As requested by Defra / Regional lead	Defra/regional leads to advise
Site Facilities	As requested by Defra / Regional lead	Bulk download

The site facility list within WasteDataFlow is maintained by the appropriate regional devolved environmental agencies. In circumstances where English LAs need a facility adding to WDF because it is not available from the selection list, they will need to follow the notification and request process put in place with the Environment Agency (using the template and guidance note on the England guidance page); once the Environment Agency receives this request from the LA, the Environment Agency will update the facility list accordingly. A data update tool has been developed to facilitate this process.

## **6.0 Data collection and entry**

The Contractor will publish the schedule of reporting deadlines for each quarter on the WDF website. The Contractor will send reminders to English LAs each quarter 4 weeks, 2 weeks and 1 week prior to the reporting deadline where the return has not been completed and submitted.

Where English LAs have missed the reporting deadline, they will be sent a reminder e-mail 1 working day after the deadline and 1 week after the reporting deadline. This will be followed by a telephone call 2 weeks after the reporting deadline and two additional calls a further 1-2 weeks afterwards if no contact is established after the first call.

If no response or other communication is received within 3 weeks of the official deadline with an explanation and commitment to provide the data within a reasonable timescale, a standard Defra template letter will be issued at this point with a 1 week deadline to report or otherwise explain the reason for the delay with confirmation of when the data will be provided.

The Contractor is expected to maintain good contact and relationships with the LAs and to encourage LAs to be proactive about notifying any occasional or short-term difficulties which may impact on the timely provision of data or responses to validation queries.

The Contractor is expected to work towards establishing and maintaining a 100% response rate to meet required data quality standards. This will be supported through collaborative working with the Authority. Clarity and consistency of reporting guidance and advice and ease of data entry aid correct data entry. A number of developments have been undertaken to facilitate this e.g. screen layout and scrolling, searching and routing or restrictions on data entry.

In cases of persistent non-response or non-submission for English LAs where the Contractor has made all efforts, as required in the contract, to establish contact and obtain the data as described above it would be reasonable for the Contractor in such exceptional circumstances to refer cases to the Authority for direct assistance and intervention in contacting English LAs.

Before referring cases to the Authority the Contractor is expected to have ruled out that non-response is due to changes in staff and have sought alternative contact information through the LA and will have made at least 3 telephone calls to data providers (and where these are absent speak to managers via the LA switchboard) over a 2-3 week period.

Non-response can also include failing to respond to or deal with validation queries after submission of the return (See section 7.2).

Any cases referred to the Authority to chase, the Contractor will provide contact information for the LA, dates when e-mail prompts and the Defra letter were sent, dates of telephone calls and personnel spoken to with brief notes of conversation exchanges and responses e.g. explanation for delays, commitments to resubmit and timescales, that provide relevant contextual information to assist the Authority in any direct contact.

For clarity, based on previous quarterly returns, it is anticipated that 70% of LA's will provide submissions by the required level 30 data deadline, with a majority of those missing this deadline, responding within 2 weeks of the level 30 deadline reporting deadline and a small minority still outstanding post two weeks after the reporting deadline. It is this minority that

Authority expects will need to be referred by the Contractor to the Authority and on that basis it is expected that no more than 8 referral cases will be made to the Authority each quarter. Where this figure is exceeded for referral cases made to the Authority each quarter, engagement will be had between the Authority and the Contractor to determine and understand why so many referrals are required with a view to considering amendments to the processes in place for resolving LA submissions.

It is particularly important that prompt action is taken for quarter four data so that any delays in LA data submission and/or responses to validation queries do not adversely impact on the preparation of the final annual data for the annual statistical publication.

In addition to direct data entry, there also needs to be provision for XML data upload which allows users to submit an entire return in one suitably formatted XML file.

In addition SEPA have in place their own tool and have developed an API for data transfer to their validation and reporting tools. The Contractor will ensure the uninterrupted secure access to the WasteDataFlow application programming interface (the API) via a hyperlink for Scottish local authorities and National users of the WasteDataFlow system. The API will provide:

- A list of authorities the user is authorised to view;
- Question 100 data;
- Non question 100 data;
- Periods available;
- Approval level

The Contractor will maintain records of data submissions detailing the status of the returns. This will include dates for when the return was submitted as complete by the LA, the date the return and validation sheet was checked for completeness by the Contractor, the date when any validation queries were sent to the LA and responses received and date of confirmation of completion of validation.

## **7.0 Data submission, validation and reporting**

The Contractor will maintain a process to identify data at different levels of data entry, validation and publication. The data entry process in place has a number of stages and approval levels as described below (applicable to England only):

- Data entry by a LA user including any data validation issues raised in the WasteDataFlow online validation spreadsheet tool (levels 0-10)
- A LA administrator user approves the data, and it is released for validation by the WDF data manage (level 20)
- The Contractor reviews the validation checks, and follows up any issues with the LA and once complete the data is rolled to level 30
- Once this validation is complete the data is reviewed by Defra with input from the EA as necessary
- Following this the data is approved by the Authority and is considered final and ready for publication (level 40).

Levels 0-20	Level 30	Level 35	Level 40
Local Authority Entry & Authorisation	Data Manager & Contractor Validation	Defra/EA Validation & Authorisation	Final published data (Public access)

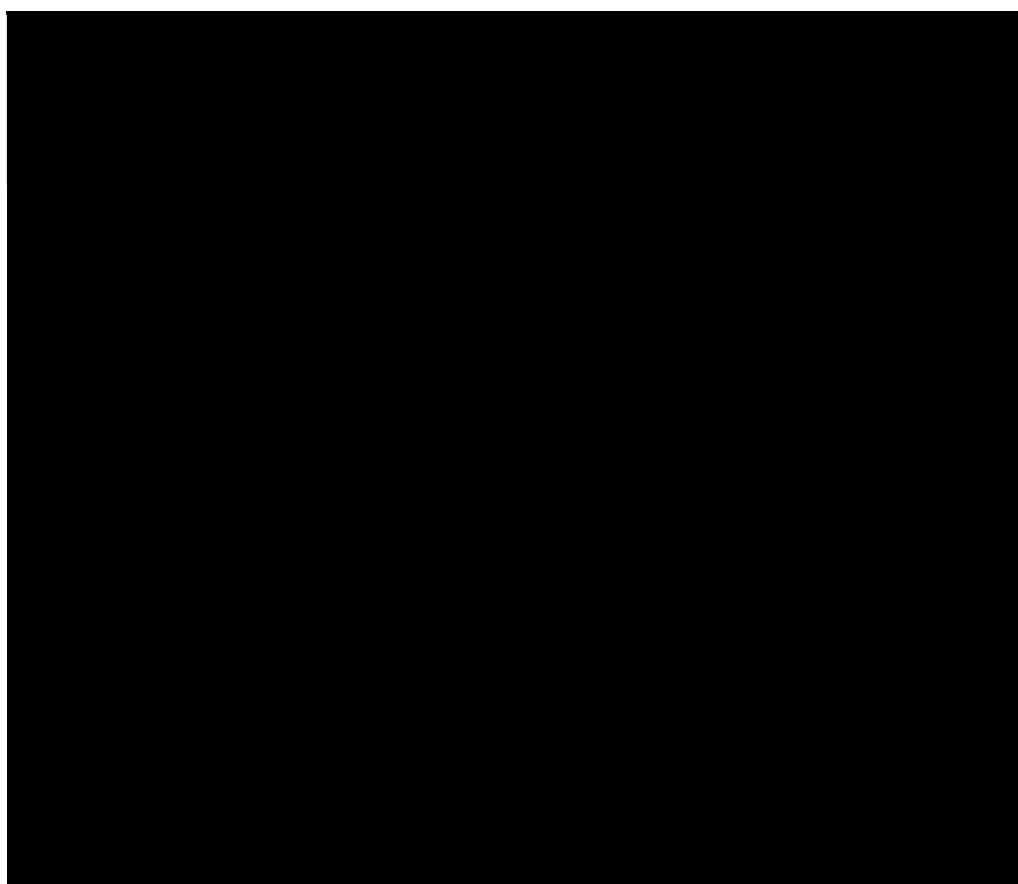
An audit log relating to data authorisation for each return can be accessed via the WasteDataFlow website. This log records information such as the date, data was received / authorised by the different users, whether the data had to be rejected back down to the LA and any data amendments made.

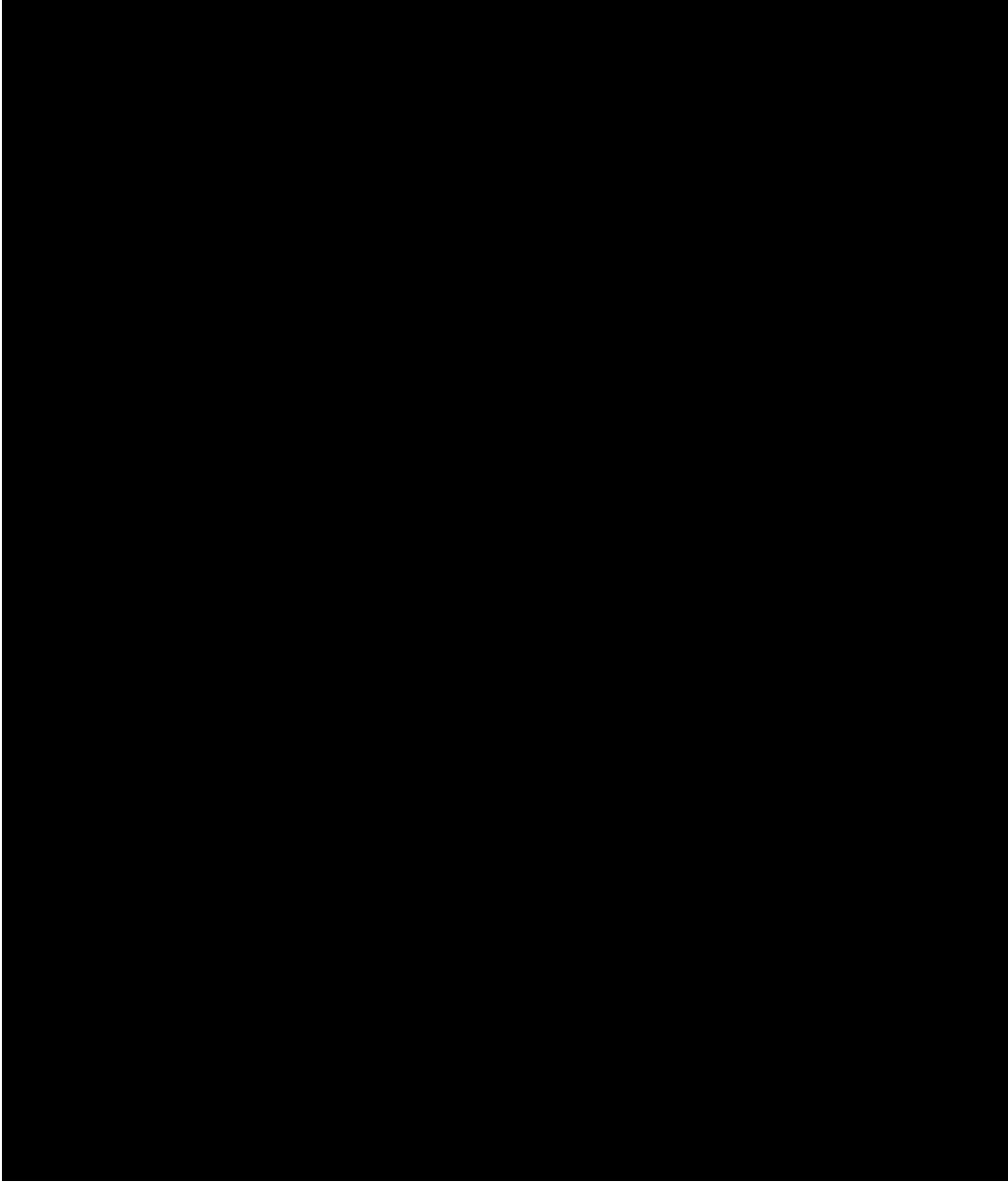


Within WDF, returns will be set at the appropriate levels. This will normally be carried out for individual LAs for individual data entry periods as they move through the relevant data entry and validation stages.

The Contractor is responsible for moving all England data to L40 on publication of the data, under instruction of the Authority using the established process; additional development to automate this process is not required. It will generally be the responsibility for the Contractor to set the levels and access but it will also be possible for the Authority to do this where appropriate.

Data collection frequency and schedules will apply. For England, NI and Wales, this is quarterly and for Scotland this is annual.

Details of the relevant reporting periods and associated deadlines for English LA data are given in the table below:



Data submission for quarters beyond March 2025 will be possible as WasteDataFlow will remain operational to the end of the contract. However the contractor will not be required to validate data for periods beyond March 2025. Any assistance for queries on data relating to periods after March 2025 will be at the contractor's discretion.

#### **7.1 Data validation (between Level 0 and Level 30)**

There are a number of approaches to facilitate reliable and accurate data reporting including built-in data entry routing to limit options available for data entry, on-screen prompts or warnings, the online validation tool for English LAs to view and respond to validation queries prior to submission of their return and review of the targeted validation checks carried out by the Contractor for individual returns (England only) and then quality assurance carried out by the Authority with input from the EA and the other partners (Devolved Administrations) for the other regions.

The built-in checks could relate to exceptionally high or low values and deviations or incorrect data entry e.g. waste treatment type, waste stream type, waste output type. The Authority will work with the Contractor to help define the rules and thresholds and keep these under review for possible refinement and to make suggestions for additional or different checks for possible further development.

The Contractor will provide an online validation tool for English LAs, which will raise relevant validation queries with the LAs as they are authorising data from Level 10 and require the LA to review and address these, including adding any explanation or justification prior to authorising the data to Level 20. This tool will utilise historic quarterly data for each LA. The data queried and validation comments made must be recorded within WDF. Wales and Northern Ireland have their own validation tool(s) but Jacobs provide validation spreadsheets within WDF,

Once the return is at Level 30, it is ready for validation by the Contractor. Where validation is not completed satisfactorily by the LA, the Contractor will notify the LA within 5 working days of submission of data that there are validation queries on their data return.

If the LA seeks assistance, the Contractor will offer technical advice to the LA on how to correct their figures, or explanation of the validation trigger and what issues they may need to consider to respond to the validation query.

The Contractor shall use validation learning to update online help text, FAQs, guidance and training.

## **7.2 Data validation checks for England**

There are a range of established validation checks carried out on the data for English LA's which relate to appropriate reporting for particular waste material streams and treatment/facility types, completeness of returns, tonnage imbalances or missing values and trends and changes compared to previous reporting periods. The current established checks are listed in Annex 2. These are supported by other checks built into the system which restrict invalid data entry.

For English LAs, the Contractor will check that the questions arising from the online validation have been answered satisfactorily by LAs. Where a query is "For Response", the Contractor will check that an answer has been provided which satisfactorily answers the query and is consistent with the data reported in this return and previously. The Contractor will not require further explanation if the response is affirmative e.g. "Figures ok", "Data correct" unless there is an issue with the data reported. The Contractor will check that an answer has been provided to "For Notification" queries. Where necessary the Contractor will advise the LA on what may be wrong or is triggering validation checks. The Contractor will review the validation checks and notify the LA of any outstanding points within 5 working days of submission of the data. Where data is found to be incorrect the Contractor will roll down data for the LA to revise, and check corrections and comments are valid/credible. The Contractor will keep a record of validation queries they have made to LAs, and responses given and make this available to the Authority (ideally in a spreadsheet).

The Contractor will aim have all submitted returns pass validation checks and be approved to Level 35 within thirty (30) days of submission by the LA. This will be supported through collaborative working with the Authority as outlined in section 7.0.

For a limited number of LA's, it is noted that the Contractor may not be able to achieve

the Level 35 validation requirement of approval within 30 days of submission in these cases, the Contractor will work with the Authority to manage such circumstances by:

- Once the level thirty-five (35) deadline is two (2) weeks away the Contractor's validation team leader shall provide a summary report listing each LA that may be in danger of missing the deadline.
- This report shall include the reasons for the delay, e.g. the user is on leave or is waiting a policy response from the Authority/EA, none response from the LA. It shall also include the actions the validation team are taking to resolve the situation.

Around 25 LA's may miss the nominal Level 35 deadline with a majority working with the contractor to respond passed this date. The contractor will keep the Authority informed of progress and where required refer LAs to the Authority as outlined in section 7.0. It is expected that no more than 8 LA's will be referred to the Authority for intervention.

Any unresolved validation queries or missing returns for each quarter must be drawn to the attention of the Authority. Any other particularly atypical events or circumstances impacting the data quality or data trends must also be notified to the Authority and any additional insights or exchanges with the LA are expected to be made available to the Authority. This is to avoid duplicate work and unnecessary correspondence with the LA. The information will be made available through an agreed sharing format acceptable to both the Contractor and the Authority

The Contractor will hold a brief informal internal validation wash-up session at the end of each validation reporting period to identify common issues and potential system improvements which have affected LA returns or time to use the system. This feedback will be incorporated in a brief summary in the monthly report which follows this period for discussion at the relevant regular catch-up meeting and/or Operational Group meetings as appropriate.

### **7.3 Data revisions**

LAs will be encouraged to submit accurate returns at each quarter. Where LAs find errors later in the reporting year that reveal similar errors in earlier quarters of the current data entry year the LAs may ask the Contractor or Authority to be allowed to revise their figures. The LA will need to explain and justify any requested revisions. The Contractor will ask for full details of the changes proposed in order to determine if they might have a significant effect on LAs' published indicators, headline statistics such as LA recycling rates or totals for material groups.

The Contractor will ask the Authority to authorise changes to previous returns. Any changes which will not have a significant impact are likely to be refused or the LA may be advised to make adjustments in the current reporting period to address the error if the adjustments can be accommodated. If a data revision is to go ahead, and it is overall more efficient, the Contractor may make the revisions on behalf of the LA with the agreement of the LA or under instruction by the Authority. It is anticipated that such requests would only be made by a small minority of LAs.

The Contractor is able to refer cases which they think are not significant or where any LAs make excessive requests for revisions to the Authority for their advice and decision.

Revisions may also be initiated by the Authority during their QA checks of the data for the four quarters of the year. Where the reporting errors would have significant impact on the headline figures for the LA e.g. on waste collection and treatment and recycling rates, the Contractor and the Authority will make an assessment of the likely significance of the requested change on the headline England and LA figures and the scale of work involved but the Authority will take responsibility for the decision. If revisions are deemed important, the Contractor and the Authority will work collaboratively to make any necessary changes with the authorisation of the LA with the aim of making the process of data revision and validation as straightforward and efficient as possible. The Authority will consider whether any updated offline reports are required, and may commission re-working of the reports [funded via development budget – subject to budget availability and Authority approval].

In both scenarios, the standard automated data validation tool check would apply, and the LA would have to go through this process and complete the online validation process. Any validation checks raised would need to be addressed by the LA.

It is assumed around 40 LA quarterly returns will require amendments per year (10 LA returns per quarter).

## **8.0 Data outputs and reporting**

The data reported are an extremely valuable resource that are used by multiple users and for multiple purposes. This includes benchmarking and other performance monitoring by LA's, official reporting at a national level against legislative targets, regular statistical summaries at individual LA, regional and national level, ad-hoc, regulatory investigations and bespoke analysis for policy and regulatory development and assessment, Ministerial briefing and parliamentary questions, enquiries including from the media, academia, consultants and the public.

It is important that WasteDataFlow is able to support these needs through a range of different outputs and reports.

The Contractor needs to maintain the existing range of reports (listed in Annex 1) available through WasteDataFlow. Good practice for reports are outlined below and any new reports commissioned will be expected to meet these standards.

- easily usable by competent parties,
- clear high level description of the methodology and report outputs
- data fields need to be defined and clearly and consistently described
- calculations and calculated variables within the report and assumptions must be defined
- reports must be supported by guidance documents which summarise the principles of the methodology [Authority requires more detailed documentation on the calculations e.g. fields used for the Cvars and how combined]
- reports must have the facility for different levels of user access (existing and new)

It is expected that wherever possible reports should be constructed in a way to provide flexibility of data analysis and possible modification so as to avoid or minimise additional



development. Examples include derivation or application of factors, scope of definition and materials counted as recycling or recovery, points of calculation.

Older existing reports may not have been constructed with all these standards referenced above and such standards will not be applied retrospectively but as a minimum the Authority expects there to be existing documentation on the definitions and derivations of the Cvars and their combinations that underpin the various fields and calculations in the reports and that these can be provided to the Authority on request within a reasonable timeframe.

## **8.1 Reports**

A list of the range of current reports is given in Annex 1.

## **8.2 Reports to support the statistical publication for England**

The Contractor will produce summary reports (listed below) for England to assist with the production of the regular annual statistical release which is typically published at the end of November each year. Currently the various tables are supplied by either online reports or offline Excel files and workings.

The Contractor will provide a provisional version of the quarterly “Waste from households” report each quarter once the LA data has reached level 35 for all authorities (currently provided offline).

In cases where there are exceptional delays to data submissions by a few LAs (expected to be no more than 8), with the agreement of the Authority, the Contractor may be required to produce the provisional report excluding the incomplete/missing returns or delay the delivery. The assumed timetable is summarised in the table in Section 8.

There is usually some level of flexibility in the deadlines for reporting in the provisional quarterly data but the deadlines for the final annual dataset are more critical to the timely delivery of the final data for publication according to the pre-announced deadlines in accordance with the Statistics Code of Practice.

Around six to eight weeks in advance of production of the annual LA waste statistics notice and on direction of the Authority, the Contractor will provide to the Authority the following:

- a set of updated quarterly “Waste from households” Excel workbooks for the year, in the existing established format (currently offline, includes full workings).
- the Table 2 waste treatment report, in an Excel workbook and accompanying Access database, in the existing established format (currently offline, includes full workings).

If any incomplete or missing returns remain when the final annual data are required, the Authority may ask the Contractor to produce these using data from previous quarters for any LAs where these are missing/incomplete. This has not been required in previous years.

Data for Tables 1, 3 and 4 of Defra’s statistics publication are available from the existing online reports and therefore will be downloaded when required by the Authority.

The Authority will typically plan to publish the main England annual statistical release at the end of November each year. The Authority will require the updated annual data early/mid October. The Authority will be in regular contact with the Contractor in the period up to this;

final deadlines will be established through collaborative discussion but will give two to three weeks' notice from agreement of a final dataset.

Missing data returns, any unresolved data validation issues or particularly atypical events or circumstances impacting the data quality or data trends must be notified to the Authority. Any additional insights or exchanges with the LA gathered are expected to be made available to the Authority. This is to avoid duplicate work and unnecessary correspondence with the LA. This information is required at each quarter at the time the provisional data are being completed and the provisional summary reports are being produced with an update when the final full year data are produced.

## **9.0 Development/enhancement**

The Contractor shall keep a development log and shall review it on a regular basis as agenda items at the OG and UG meetings. Development ideas may also be discussed as part of the regular liaison meetings.

It is expected that the Contractor will provide indicative costs and timescales in response to development requests for development within 2-3 weeks; a longer timescale may be agreed where development work is more complex. On this basis the Authority would decide with the Contractor whether to develop a firm specification to then obtain confirmed costs and timescales. The current proforma for commissioning and authorising development work is given in Annex 3.

The Contractor shall only commence development work once the Authority has agreed both the specification and development cost in writing.

Where Devolved Administrations require developments specific to them, these can be discussed between the Contractor and Devolved Administrations separately from the Authority. The Authority must be notified of requests by the Devolved Administrations to undertake development work and these must be agreed with the Authority and recorded before the Contractor can commence development work.

The Contractor shall carry out all development work on the "test" site and release the development to the "owner" (may be the Authority and/or devolved administration(s)) for approval after the Contractor's WDF team have tested it. The Contractor shall allow for a period of time, if necessary, to write any required guidance.

For simple developments, the Contractor shall manage the user roll out of developments by incorporating into guidance plain language instructions, screenshots for clarity and examples of the functionality use. The Contractor shall develop these in liaison with the Authority or the development owner if different. The Contractor would then incorporate the new functionality into the existing webinar training material, guidance and FAQs and reference these in the Newsletter. For any more complex developments, it may be appropriate for the Contractor to trial the new functionality with a small group of users.

Development items could relate to the data input screens (questions, layout, navigation), validation checks (in-built on screen at data entry or other validation tools), or report outputs.

SCHEDULE 1A– APPENDIX

[REDACTED]	
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# SCHEDULE 1B: Provision of Fly-Tipping Data through WasteDataFlow

## Overall aim and purpose

This part of the Contract relates to managing the collection and validation of data on fly-tipping, which is reported by all local authorities in England and Wales. The data reported by local authorities on fly-tipping will be submitted to the Fly-Tipping Module of WasteDataFlow which was created in October 2015 after the cessation of the previous Flycapture system in July 2015.

The Fly-Tipping Module is attached to the [WasteDataFlow](#) website and has an associated survey database which lies behind it. There are two main areas to the website which are for data entry (including an area to view historic returns) and the reports function. Guidance notes on reporting fly-tipping data are provided in the Guidance Section.

The reporting of fly-tipping data via the Fly-Tipping Module is mandatory for Local Authorities (LAs), who submit quarterly data on incidents, actions and the costs associated with fly-tipping incidents. Submitted datasets are then aggregated for the purposes of an annual statistical release for England published by the Authority and for Wales published by Welsh Government/Natural Resources Wales (NRW). The statistical release is currently based on a financial year's data.

## Scope of the service

The requirements specific to Fly-tipping are given in this section and in broad outline include:

- a) Online website survey questionnaire and associated web pages for data entry and authorisation, including user registration
- b) Online website reporting section which allows users to query the survey database and produce pre-defined reports for download in Microsoft Excel format
- c) Online website guidance section covering information and guidance on data entry, validation and data outputs, plus a link to 'Welsh specific guidance'
- d) Helpdesk provision for enquiries from local authorities and other users
- e) Provision of training for local authorities in England on data entry, validation and data or report outputs
- f) Data entry reminders for local authorities and data validation (England LA data only)
- g) Provision of data upload of EA National Incident Reporting System (NIRS) data and NRW Wales Incident Report System (WIRS) on large incidents
- h) Commissioned development work
- i) Project management

The reporting of fly-tipping data is through a separate module which was developed as an addition to the original WasteDataFlow system which was designed for LA waste collection and treatment data entry and reporting. The fly-tipping service uses or builds on some of the service provisions for LA waste data under WasteDataFlow. This relates to website

and database hosting, helpdesk and management and training as detailed under Schedule 1A.

## **1 WDF website and database management and maintenance and system reporting**

The reporting of fly-tipping data is through a separate module which was developed as an addition to the original existing WasteDataFlow system. Please refer to Schedule 1A of the Contract.

The XML tool will be used by NRW to upload data collected and downloaded from Flymapper.

## **2 Project management, governance and communication**

The Contractor shall provide to the Authority updates on the status of data returns against the reporting schedule, information requests and queries and progress of any commissioned development work on a regular basis through the regular catch-up meetings.

The Contractor shall submit to the Authority a written status report on a monthly basis (included as part of the main WasteDataFlow reporting as set out in Schedule 1A. This is supplemented by weekly or fortnightly reports for non-responding LAs, during business critical times i.e. a week after the local authorities' reporting deadline and at weekly intervals thereafter (typically expect for around 6 weeks) while there is collaborative activity where the Contractor and Authority are actively chasing responses from LA to secure responses.

Delivery against relevant KPIs (as set out in Schedule 4) and performance of the Fly-Tipping Module will be reported on a monthly basis within the aforementioned main WasteDataFlow reporting and will form part of the commercial and Contract review.

User Group meetings for England will also include relevant issues and topics relating to Fly-tipping, please see Schedule 1A.

## **3 Training and technical guidance, advice and support to users**

The Contractor provides LAs with effective help and support. A wide range of queries from LAs will need to be addressed covering technical fly-tipping issues (e.g. correct interpretation of the guidance and data entry and reporting, explanation of data validation queries), the process of data returns (e.g. data roll-up, submission, deadlines, and validation) and use of the site (e.g. registration, navigation, general IT issues, training requirements).

The WDF helpdesk service will facilitate queries from local authorities on fly-tipping.

The Contractor provides training which will be web-based, covering full system functionality from data entry, validation and data outputs and reports. The training slides will also be available through the website. The Contractor will provide a training course schedule which will be adjusted based on demand or around the release of new functionality but with the expectation of offering one session every 3 months, please see Schedule 1A.

The Contractor works with the Authority, the Environment Agency and Welsh Government/Natural Resources Wales (NRW) to develop and publish: support, guidance including FAQs on use of the system, data entry, validation and data outputs/reporting. Any guidance notes should be updated in line with advice from the Authority in liaison with the Environment Agency and, where required, Welsh Government/Natural Resources Wales (NRW).

Items related to Fly-tipping may also need including in the News section of the website or articles may be included in the regular Newsletters as set out in Schedule 1A.

#### **4 Core information and maintenance tasks**

There will be regular routine maintenance work which will be required on an ongoing basis as part of delivery. There are some generic features and functionality that must be retained when any maintenance or development work is undertaken.

There are some basic core features that must be provided as part of any maintenance or more fundamental development work undertaken, to include:

- A user-friendly interface to access reports by users of the data.

Maintenance of the XML upload. Where systems have been self-developed or from third party, support for these is out of scope for this Contract, beyond ensuring the upload facility is available and the chosen specification is kept up to date. The XML tool will be used by NRW to upload data collected and downloaded from Flymapper.

For general maintenance tasks for the system and database refer to Schedule 1A.

There are standard unit information within the Fly-Tipping Module, e.g. cost information relating to Fly-tipping based on average costs.

The Authority may review and update these. There needs to be facility for updated standard unit figures to be updated within the system based on updates supplied by the Authority. It is envisaged that none of these would be updated more than once in the two-year duration of this contract.

If the Contractor and Authority review and agree refinement to the thresholds related to the validation checks (see Schedule 1A, this should be carried out through system maintenance.

#### **5 Potential development tasks**

There is scope for modifying and developing the system. For future development the Contractor will work with all relevant national authorities (the Authority, the EA in England and & Wales and Welsh Government/NRW) to take forward any development requests. The Contractor shall be expected to demonstrate the capacity and flexibility to implement agreed changes to the system (**See Schedule 1A**). The type of new development work which may be commissioned in future could relate to access/permission levels, additional questions or breakdowns for existing data categories and reporting frequency or

improvements to data quality assurance checks. Development work will be commissioned and only started with the written approval of the Authority

## **6 Data collection and entry**

LAs will have the ability to enter their fly-tipping information on either a monthly or quarterly basis.

The information collected relates to:

- (a) Number of incidents broken down by land type, location and waste type; the totals for these categories should be the same and match the total value reported in the first question.
- (b) Number of incidents with a breakdown by size category; the total for these may be the same as the other total incidents but could also be lower.
- (c) Costs of clearance are based on standard unit costs with the exception of tipper lorry loads and significant/multiple loads where LAs should enter both the number of incidents and costs for these.
- (d) Action taken broken down by category of action, including the categories of fixed penalty notice available to LAs; costs for these actions are estimated based on standard costs.
- (e) Number of prosecution outcomes, broken down by category.
- (f) Number of fines, broken down by various scale and total value of the fines.
- (g) Basis of reporting question – LAs confirm the basis for reporting – all incidents or just publicly or internally notified.

## **7 Reminders and deadlines**

The data collection needs to be managed with deadlines and reminders to LAs to enter and roll up their data and to respond to any data validation queries. All LAs will be notified of forthcoming reporting deadlines through a newsletter or e-mail, on at least a quarterly basis, and which must be issued two weeks prior to the reporting deadline.

The established reporting deadlines for England are the 25<sup>th</sup> of the month following the quarter for which the data applies. The Contractor will send reminders to English LAs each quarter 2 weeks and 1 week prior to the reporting deadline where the return has not been completed and submitted.

Where English LAs have missed the reporting deadline they will be sent a reminder e-mail 1 working day after the deadline and 1 week after the reporting deadline. This will be followed by a telephone call 2 weeks after the reporting deadline and two additional calls a further 1-2 weeks afterwards if no contact is established after the first call. If no response or other communication is received within 3 weeks of the official deadline with an explanation and commitment to provide the data within a reasonable timescale, a standard Defra template letter will be issued at this point with a 1 week deadline to report or otherwise explain the reason for the delay with confirmation of when the data will be provided.

In cases of persistent non-response or non-submission for English LAs where the Contractor has made all efforts, as required in the contract, to establish contact and obtain the data as described above it would be reasonable for the Contractor to refer cases to the Authority for direct assistance and intervention in contacting English LAs. Before referring cases to the Authority the Contractor is expected to have ruled out that non-response is due to changes in staff and have sought alternative contact information through the LA and will have made at least the standard e-mail reminders and 3 telephone calls to data providers (and where these are absent speak to managers via the LA switchboard) over a 2-3 week period.

For the avoidance of doubt, any instances when the Contractor Staff have to leave a voicemail when their calls are not answered by LA, shall not count towards the requirement of 2 telephone conversations set out above. The Contractor shall implement additional reminders to LAs (2 e-mails and/or 2 telephone conversations) to obtain responses to any validation queries at approximately weekly intervals before referring to the Authority.

Fly-tipping reporting is mandatory so a one hundred (100) per cent response rate is required to meet required data quality standards.

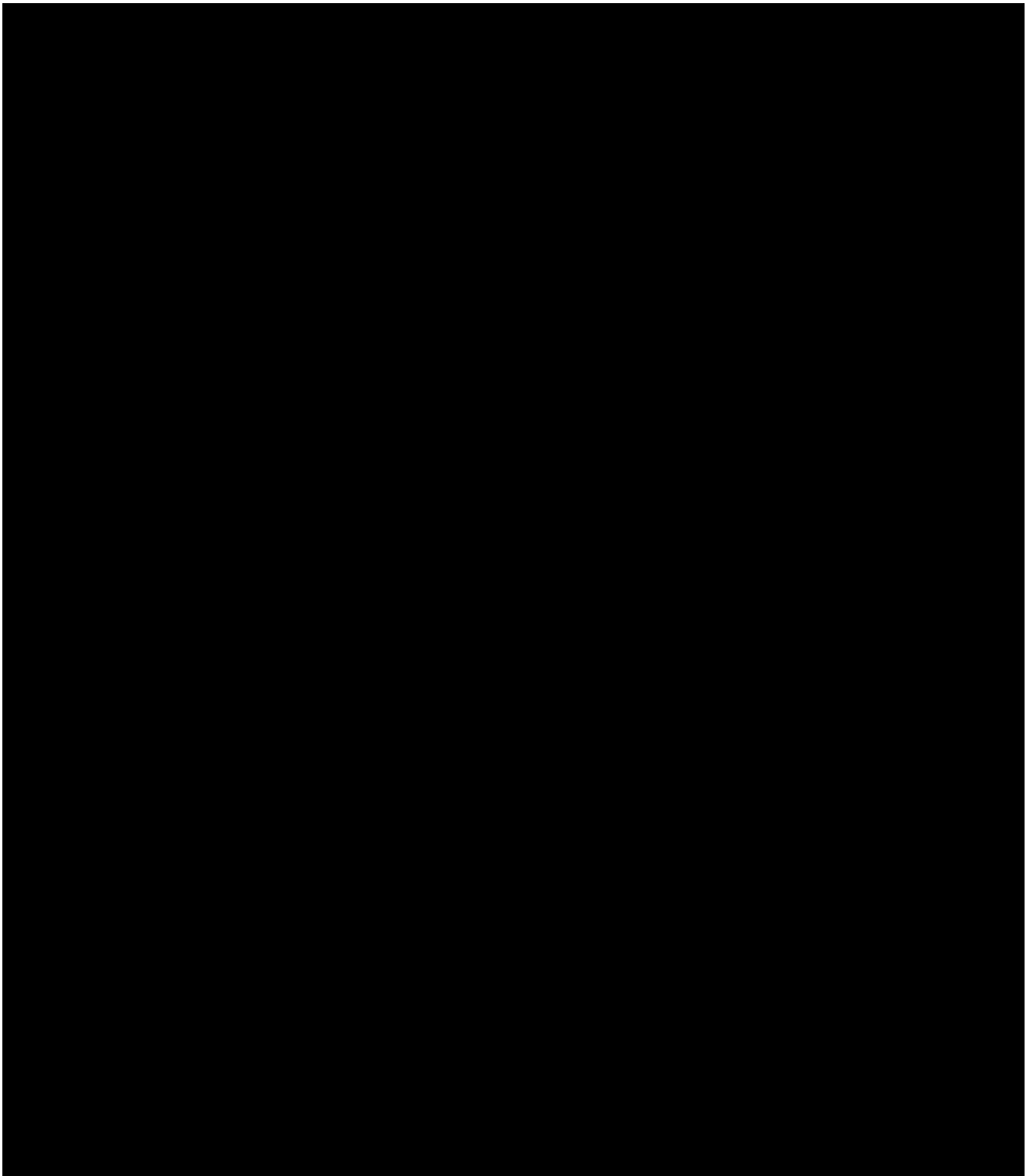
The Contractor shall use reasonable endeavours to ensure that complete response is received from all LAs. The Authority will support the Contractor in ensuring compliance with any non-responding LAs. Where there are persistent non-responding LAs it is the responsibility of the Contractor to escalate these to the Authority and to work with the Authority to secure a response (expect no more than 15 LAs per quarter).

Non-response can also include failing to respond to or deal with validation queries after submission of the return. The Contractor shall use all reasonable endeavours to have all submitted returns pass validation checks within validation deadlines following submission by the LA and the Contractor is expected to raise any validation queries with the LAs in a timely manner (within 5 working days following the submission deadline).

Details of the relevant deadlines are given in the table below. By exception, it is noted that the Contractor may not be able to meet the deadline for a complete response due to a minority of LAs failing to provide responses and in these cases, the Contractor will work with the Authority to manage such circumstances.

For clarity, based on previous quarterly returns, it is anticipated that 70% of LAs will provide submissions by the required deadlines, with a majority (90%) of those missing this deadline, responding within 2 weeks of the reporting deadline and a small minority still outstanding post two weeks after the reporting deadline. It is this minority that Authority expects will need to be referred by the Contractor to the Authority and on that basis it is expected that no more than 15 referral cases will be made to the Authority each quarter. Where this figure is exceeded for referral cases made to the Authority each quarter, engagement will be had between the Authority and the Contractor to determine and understand why so many referrals are required with a view to considering amendments to the processes in place for resolving LA submissions.





The Contractor will aim to have all submitted returns pass validation checks by the Contractor within agreed deadlines outlined in the Table above.

Where there are late submissions or there are a significant number of data queries, the Contractor can raise this for consideration with the Authority and the Authority will agree which LAs returns are to be prioritised and queried and the Contractor will contact such LAs.

Details of the chasing undertaken by Contractor Staff of non-responding LAs, the validation queries and responses must be clearly recorded by the Contractor and made

available to the Authority on request, either directly through WasteDataFlow or another mutually convenient and agreed sharing mechanism.

Complete validated returns for the full financial year (financial year being April to March and consisting of 4 quarters) will be in the system by the end of June following the financial year period end. The quarter 4 and final financial year data deadlines are particularly important to allow the Authority to publish the regular annual statistics to pre-announced deadlines and so meet obligations under the Statistics Code of Practice (<https://www.statisticsauthority.gov.uk/code-of-practice/the-code/>).

Data submission for quarters beyond March 2025 will be possible as WasteDataFlow will remain operational to the end of the contract. However the contractor will not be required to validate data for periods beyond March 2025. Any assistance for queries on data relating to periods after March 2025 will be at the contractor's discretion.

## **8.0 Data validation**

### **8.1 Data submission & validation levels**

Once data has been entered, it passes through a series of validation stages. There are a number of checks built into the system and once a quarterly return has been rolled up from Level 0 to Level 10, LAs have available to them an online Excel workbook where data validation points which have been triggered by the entered data are available to view. The LA may review these and may either amend their data or confirm correct and add any relevant explanatory comment.

The Contractor will carry out the routine detailed validation checks before passing the data over to the Authority who will carry out their own checks.

In the terminology of the Contract, the fly-tipping data is 'authorised up' or 'rejected down' through a series of 'levels'. The level codes associated with the quarterly returns denote the status of the return.

Level	Description	Permissions/reports
0	The return's questions are open to LA Data Entry users to input and amend data.	Data is not visible to other LAs.
10	When rolled up to this level by the LA Data Entry user, the data is aggregated (monthly to quarterly) and saved but not yet submitted for validation.	Checking tools become available (validation summary and performance indicator reports).  Data is visible to other LAs.
30	The LA's Administrator user authorises the return to this level to indicate it has	Returns authorised to Level 30 by the Administrator leave the control of the LA

	been checked and is complete and is ready for validation.	and move to National Level 1 for checking i.e. England – WasteDataFlow Contractor, Wales – Natural Resources Wales and the Welsh Assembly Government.  Data is visible to all LAs.
40	Data has been validated and authorised to the national level.  The return is then checked further by regional body and national bodies. Once they have checked the data it is eventually moved to level 40.	The bodies responsible for approving data to Level 40 are England – Defra and for Wales – Natural Resources Wales and the Welsh Assembly Government.

Data will be available to all local authorities when it has been rolled up to level 10, however this needs to be clear in the reports that the data is unchecked and not quality assured. After the data has been quality assured by both the Contractor and the Authority and published it will be available for reports to all users.

## 8.2 Data validation checks

The Contractor will carry out the routine detailed validation checks and review explanatory comments made by LAs before passing the data over to the Authority.

There are a range of checks in place, some of which are in-built into the system. The checks are supported by a data validation tool/spreadsheet available online through WasteDataFlow and lists validation queries for attention by the LA. In broad terms the Contractor is responsible for picking out errors and anomalies and missing values, according to the agreed list of validation checks. The Contractor will follow up with the LAs by email or telephone to resolve any data anomalies and 'missing values', according to the agreed list of validation checks.

The detailed validation checks are specified in Annex 4 but cover:

- Consistency of totals across sections e.g. incident breakdown by location and waste type should match but note that the total by size could be the same as the other incident totals or be lower.
- Missing data entry values. For context 'missing values' are not where LAs have simply omitted entering a zero against a particular category; in such cases the sum of the categories where there are figures entered will match the total for the relevant section and there are built-in checks that will check. 'Missing values' are where data for incidents/actions are entered, for example, against tipper lorry load, significant/multiple load, prosecution and or injunction, but where the LA has omitted to report the associated costs. 'Missing values' also apply where data are not entered against the 'total value of fines this period (£) yet there is data entry reported for the number and level of fines.
- Changes over previous equivalent periods based on defined thresholds (based on absolute and percentage changes).

The following checks are built into the system and/or have online screen messages on data entry however they form part of the validation checks:

- When the number of incidents by either land type or primary waste type doesn't match the total number of incidents actioned this period.
- When prosecutions are entered there must be the same number of outcomes as there are cases (excluding paid fixed penalty notices).
- If the result is a fine there must be the same number of fines entered in the 'fines' fields. The number of fines should equal the number of fines awarded as a prosecution outcome.
- For the 'total fines this period £' box, there is an on screen prompt that "users should enter the monetary figure and not the total number of fines awarded".
- When tipper lorry load, significant/multiple load, prosecution and or injunctions are entered but the associated costs are not.
- Reporting basis check to be added which will highlight inconsistencies reported across quarters.

There are some automatic calculations within the fly-tipping data entry to reduce data errors. These relate to:

- Total number of incidents by land type
- Total number of incidents by waste type
- Estimated clearance and disposal costs for categories other than tipper lorry loads and significant/multiple loads
- Total clearance and disposal costs
- Estimated costs of actions, including the total cost of all actions
- The number of total fines under 'Number of prosecution outcomes' is taken from data entered in the separate section which has the number of fines by level
- The total number of prosecution actions

After the Contractor has initially chased and where there are still LAs who either have not responded or have outstanding validation queries the Contractor will follow up with those LAs and send a further 2 emails and or have 2 telephone conversations. For the avoidance of doubt, it is Contractor's responsibility to escalate to the Authority information about LAs that have failed to respond (expect no more than 15 local authorities per quarter).

Where more than 15 referral cases are made to the Authority each quarter, the Authority and Contractor will work to determine and understand why so many referrals are required

and look to review and consider amendments to the processes in place for resolving LA submissions.

The Contractor will record the status of every submitted return. The Contractor records all chasing activity and dates, validations carried out and will record all the comments sent to each LA and their responses for each data return. This information and relevant validation queries and key points from the responses will be made available to the Authority quarterly following each quarterly validation round. This will be available directly from WasteDataFlow and/or other mutually convenient and agreed sharing mechanism. This is to assist the LA with their own data quality assurance and to avoid duplicate correspondence with the LA. Any data gaps or unsatisfactory or incomplete responses must be notified to the Authority in a written report for each quarter

Any validation queries which require advice from either the Authority or the Environment Agency should be referred to the Authority.

The thresholds have been set to try to reduce unnecessary data queries for LAs and target those where there are more likely genuine data errors. It is challenging to set appropriate fixed thresholds, so these thresholds will be kept under review by both the Contractor and the Authority. Feedback from the Contractor on the validation checks, such as where these seem to trigger queries which do result in changes to data are helpful in informing possible refinement of validation checks. The system needs to be flexible to allow for these to be adjusted where necessary from time to time as part of any maintenance activity.

Validation of the data should be completed quarterly and kept under review. It is possible that in future the Authority may streamline and review the validation process and perform validation annually. Therefore the system needs to be flexible and allow for this provision for future needs.

### **8.3 Data outputs and reporting**

In order for the Authority, Welsh Government/Natural Resources Wales and the EA to be able to produce reports and carry out appropriate data analysis, the following reporting will be available:

- Provision of all full, historic and new data in either a .csv format or Excel format. The reports will be available to all users on a monthly (up to the end of 2014/15 for LAs that reported monthly only), quarterly, last 12-month period, financial and calendar year period according to the appropriate permissions. The data are presented in a simple tabular format that mirrors the format of the published dataset for England. This will have a breakdown for all LAs with one worksheet for incidents and a separate worksheet for actions covering all of the data fields recorded. This will show data for individual quarters or for an aggregate of multiple quarters. It is possible to run this for individual or multiple periods and LAs and regions. The aggregated worksheet will sum the figures for whichever quarters are selected.
- The raw data format supplied will output all of the data selected for individual or multiple quarters in csv or Excel format. This outputs all of the data fields, including comments.

It includes the period and the LA and each data entry field appears on a separate row and is not aggregated or tabulated. It is possible to run this for individual or multiple periods and LAs and regions.

- Individual question report which can be run for a single selected LA and time period combination.

All data and reference tables shall be easily accessible.

Subject to the submission of data by LAs, the Contractor will make provision to the Authority a quality assured dataset. This will be in an agreed Excel format of the data (for individual quarters and the full financial year) which is available directly from WasteDataFlow plus relevant key points or comments from the data validation undertaken. The full final financial year data is required by the end of June following the particular financial year in order for the official fly-tipping statistics to be published no later than mid-October.

As data collection takes place on a rolling programme it is vital that continuity of supply is maintained. Since the data is used to produce official statistics which are published to pre-announced deadlines under the Code of Practice, the data must be provided to the Authority by the specified deadlines.

Alongside the provision of the data, to assist with data QA and data interpretation carried out by the Authority, the Contractor will provide a short written summary to the Authority each quarter on completion of the data validation carried out by the Contractor. These written summary will detail any LAs that have not submitted a complete return or if validation queries have not been satisfactorily addressed or any significant remarks in the comments or validation responses that may explain unusual trends or significant changes e.g. introduction of new reporting APP or technology, change to the basis of reporting, specific fly-tipping campaign. All exchanges and questions and responses or other exchanges related to the data must be made available to the Authority to aid their data QA and to avoid duplicate correspondence with the LA using a mutually convenient and agreed sharing mechanism.



# SCHEDULE 3 – CHANGE CONTROL

## Contract Change Note (“CCN”)

<b>CCN Number</b>	
<b>Contract Reference Number &amp; Title</b>	
<b>Variation Title</b>	
<b>Number of Pages</b>	

WHEREAS the Contractor and the Authority entered into a Contract for the supply of [project name] dated [dd/mm/yyyy] (the "Original Contract") and now wish to amend the Original Contract

IT IS AGREED as follows

1. The Original Contract shall be amended as set out in this Change Control Notice:

Change Requestor / Originator		
Summary of Change		
Reason for Change		
Revised Contract Price	Original Contract Value	£
	Previous Contract Changes	£
	Contract Change Note [x]	£
	New Contract Value	£
Revised Payment Schedule		
Revised Specification (See Annex [x] for Details)		
Revised Contract Period		
Change in Contract Manager(s)		
Other Changes		

2. Save as amended all other terms of the Original Contract shall remain effective.
3. This CCN takes effect from the date on which both Parties communicate acceptance of its terms via Bravo.



## SCHEDULE 4 – PROCESSING, PERSONAL DATA AND DATA SUBJECTS

1. This Schedule shall be completed by the Authority, who may take account of the view of the Contractor, however the final decision as to the content of this Schedule shall be with the Authority at its absolute discretion.
2. The contact details of the Authority Data Protection Officer are:  
[REDACTED]
3. The contact details of the Contractor Data Protection Officer are:  
[REDACTED]
4. The Contractor shall comply with any further written instructions with respect to processing by the Authority.
5. Any such further instructions shall be incorporated into this Schedule.

<b><i>Data Processing descriptor</i></b>	<b><i>Narrative</i></b>
<i>Identity of the Controller and Processor</i>	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor in accordance with Clause E2.1.
<i>Subject matter of the processing</i>	This Contract is to manage the collection and validation of data through an existing online survey system known as WDF and host the web and database servers for the online system. The purpose of WDF is to provide good quality timely data on Local Authority collected waste.
<i>Duration of the processing</i>	07/01/2023 to 06/01/2026; Data processing after this period will be conducted as per Contractual required, such as the transfer of documentation and the removal of personal data following project completion.
<i>Nature and purposes of the processing</i>	<p>The processing of personal data is only undertaken in order to enable the delivery of the duties specified within the Contract. Examples of such duties would include the collection, recording, storage, erasure and the disclosure of data.</p> <p>The disclosure of personal data is only performed when specifically necessitated by the contact. This relates to the delivery of weekly status reports issued to Defra and the Environment Agency, alongside allowing for the facilitating of meetings and the gathering of user feedback.</p>
<i>Type of Personal Data</i>	<p>The personal data collected in relation to the Agreement includes:</p> <p>Name (forename and surname)</p> <p>Organisation of employment</p>

	<p>Business contact details</p> <p>The organisation of employment refers to the local government body that the individual is acting on behalf of. The contact details specifically relate to the individuals business telephone number(s) and business email address.</p>
<i>Categories of Data Subject</i>	<p>The categories of personal data collected principally relate to those individuals who are employed within or by local government to facilitate the reporting of information via the WasteDataFlow system. This includes those individuals who are employed directly by local authorities and those who are employed by operational partners, such as waste contractors.</p> <p>A tracker is also maintained which records information relating to those who contact the WasteDataFlow Helpdesk.</p>
<p><i>Plan for return and destruction of the data once the processing is complete</i></p> <p><i>UNLESS requirement under union or member state law to preserve that type of data</i></p>	<p>The personal data is retained until it is no longer necessary for the purpose for which it was originally collected. This will be as detailed in the following table.</p>

	Data source	Description	Retention length	Removal process	Personal data held
1	Local Authority user accounts.	An officer's user account for the online WDF reporting system.	Proactive check conducted every 6 months for activity, if no activity for 18 months, the account will be deactivated. Accounts will be deactivated if requested by the user or by an Admin user for that local authority.	The user account is deactivated and made inaccessible via the website. Data (name and contact details) is retained on the server for audit purposes. Local authorities should manage their user list, actively removing users when required. Accounts of Admin users can only be managed by the Contractor.	Name. Organisation of employment. Business email address.
2	Other user account	Public user accounts for the online WDF reporting system.	Proactive check conducted every year. If no activity for 2 years account deactivated. Remove if notified by user.	The user account's personal data is deleted / anonymised ,	Name. Organisation (optional). Email address.
3	Helpdesk	Communications log WDF helpdesk.	Data retained for 3 years for audit purposes. This is reviewed on a 6 monthly basis. Personal data is removed after 3 years, with all records removed after 6 years.	All personal data is removed from records after 3 years. Records are deleted after 6 years. This is actioned on a 6 monthly basis.	Name. Organisation of employment. Business email address. Business telephone.
4	Validation records notes	A record of the quarterly validations that are undertaken.	Data retained for 6 years for audit purposes, after which it will be deleted.	All retained validation records will be deleted from the project files.	Name. Business email address. Business telephone (may include mobile phone number).

	Data source	Description	Retention length	Removal process	Personal data held
5	Training records	A record of attendance at training sessions.	Data retained for 10 years, after which it will be deleted.	All relevant files will be deleted from the project files.	Name. Organisation of employment. Business email address.
6	User Group minutes	A record of attendance at the User Group meeting.	The meeting record, actions and any formal discussions are retained for audit purposes. Any administrative information not relating to the above will be deleted after 5 years.	All relevant files will be deleted from the project files.	Name. Organisation of employment. Business email address. Business telephone.
7	Group communications	Email communications to LA users, such as deadline reminders emails, newsletters, updates etc. No regular communications are issued to public users.	Data retained for 6 years for audit purposes.	Emails to be deleted after 6 years.	Name. Organisation of employment. Business email address.
8	Individual communications	Email communications to or from WDF users in relation to specific enquiries received via the helpdesk or validation queries.	Data retained for 6 years for audit purposes.	Emails to be deleted after 6 years.	Name. Organisation of employment. Business email address. Business telephone.

# SCHEDULE 5 – EXIT PLAN

Draft Exit Plan attached.

Finalisation of Exit Plan 12 month prior to exit.



Exit\_Plan\_DRAFT\_u  
pdated Nov 2021.doc

# SCHEDULE 6 – Key Performance Framework

## Key Performance Framework including Key Performance Indicators (KPI's)

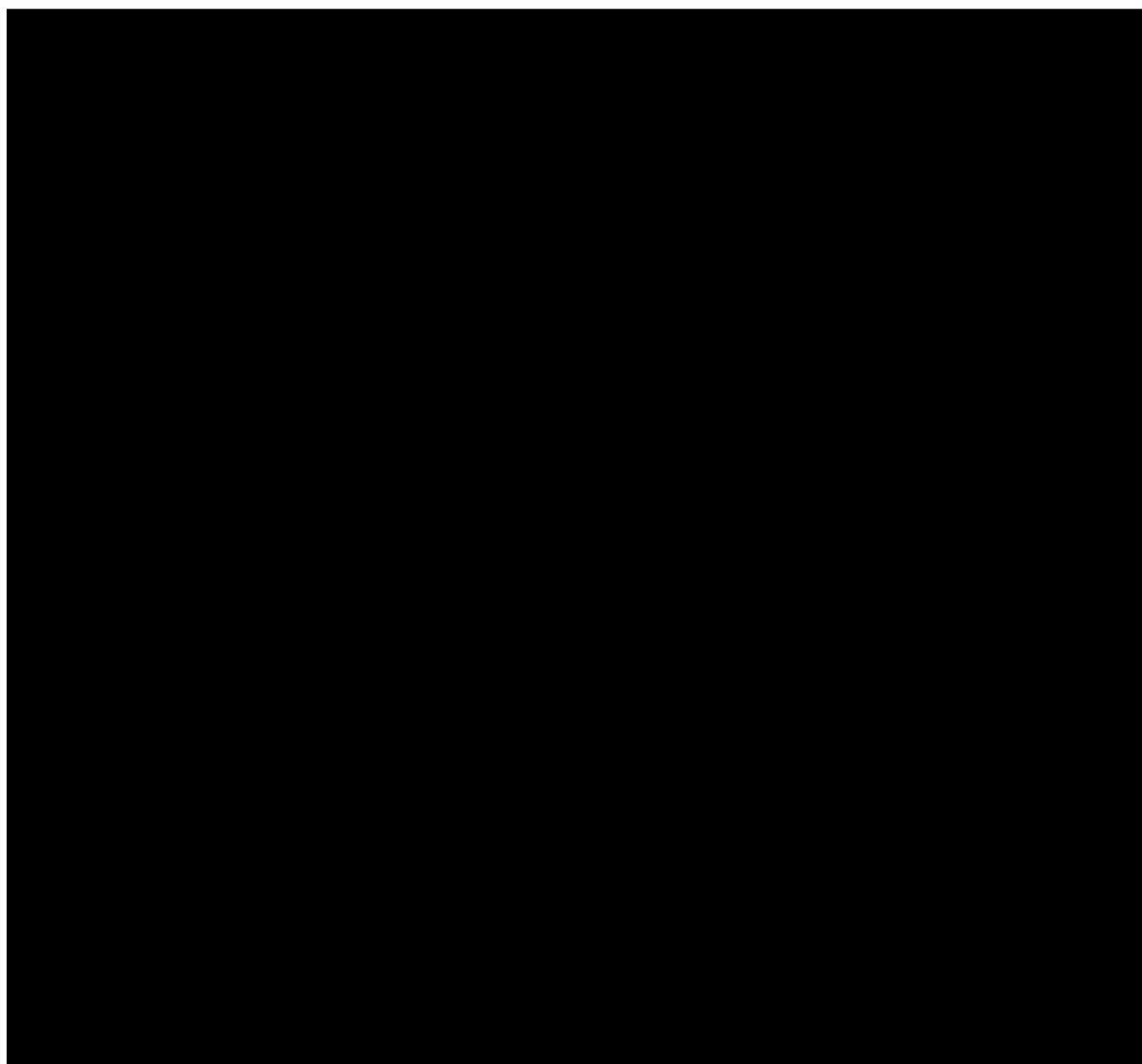
- 1.1 The performance of the Contractor shall be managed and sanctioned through the whole Contract period under a Performance Management Framework.
- 1.2 KPIs are essential in order to align Contractor performance with the requirements of the Authority and to do so in a fair and practical way. KPIs have to be realistic and achievable; they have to be met otherwise if not met could be an indication that the service is failing and in such instances the use of service credits may be implemented which could ultimately result, as the only recourse would be to terminate and seek alternative supply.
- 1.3 The use of a strong service credit regime accompanied by a proactive approach to correcting failures and addressing their cause improves the relationship and enables a partnership rather than a confrontational style of working. Its focus is on managing and improving service. It is NOT about taking cost out of the service to the Authority.
- 1.4 The use of service credits is governed by the following principles:
  - Service credits sit within the wider service management approach being pursued by the Contractor and the Authority.
  - The service credit regime shall be instigated on each occasion where there is a service failure (i.e. where a KPI is identified as having a 'Red status'). This shall give rise to a remediation plan.
  - Failure to achieve the performance target of a minimum 'Amber status' for **KPI 4** shall result in the 10% of the contract value in that quarter not being paid until resolved to the Authority's satisfaction in line with performance indicators.
  - Failure to achieve the performance target of a minimum 'Amber status' for **KPI 3** shall result in the 15% of the contract value in that quarter not being paid until resolved to the Authority's satisfaction in line with performance indicators.
  - Failure to achieve the overall performance target of a minimum of 'Amber status' for **KPI's 1,1a, 2, 5 & 6** in each quarter would result in the reimbursement of 5% of the total Warranty/In-service charges for the quarter in which the service failure occurred.
  - Service failure in the subsequent quarters for the same KPI would have a cumulative effect – i.e. would increase the charges at risk for that service failure by a further 5% of the total Warranty / in service charges for the quarter during which the service failure persists.
  - The maximum service credit is set at 30% of the charges in the appropriate quarter.
  - Achieving the KPI within the next quarter renders that service failure resolved.
  - The Authority has full and complete discretion on whether to claim all, part or none of a service credit to which it is due.
  - Service credits claimed will be paid to the Authority as a credit note within a month following the date at which the service credits fell due.

- The full, agreed service credit regime will operate from the delivery date until the Authority ends the service support regime to a maximum of five (5) years after the delivery date.

Waste Data Flow Key Performance Indicators						
Metric	KPI	What is required to make this measurable	KPI Measurement	KPI Rating (1 – 3 scale)		
				1	2	3
Support to users and Local Authorities	KPI 1 – WDF Helpdesk	Contractor responds to queries within one working day	The Contractor responds to queries within one working day	less than 91% of the time	91% to 95% of the time	96% – 100% of this time
	KPI 1a - Web Hosting	Contractor to ensure the service is available for 99% of business hours	The Contractor will ensure that the WDF website and database are available for 99% of business hours	less than 98% of the time	99% of business hours	100% of business hours
	KPI 2 - Training	Contractor provides adequate training to Local Authority(s) staff as required which will be monitored through customer feedback	The Contractor will provide adequate training	Adequate training delivered 80% of users	Adequate training delivered 81 to 90% of users	All users adequately trained 91 to 100%
Maintenance and development	KPI 3 – Maintenance and development of the WDF system	The system will be maintained to a high standard and developments will be progressed to a determined deadline	Delivery to an agreed standard against agreed timescales	Below agreed standard / failure to meet deadline	Delivered on time but standard agreed not reached	Delivered on time and to the agreed standard
Data collection and validation	KPI 4 – Collection and validation of data	The data is collected and validated for use by the Authority	The service meets the required standard	Strongly disagree	Neutral	Strongly Agree
	For the avoidance of doubt, the Authority accepts as detail in Schedule 1A and 1B that the submission of data and validation is dependent on Local Authorities collecting the data and responding to validation queries. Schedule 1A and 1B provides clarity on this and were these issues do occur, the Authority will Contractor will work together to resolve and these issues will be taken into account when reviewing performance against KPI4.					
Project governance and communications	KPI 5 – Contractor attends Operational and User group meetings and agrees a format for communications	Attendance is to be physical at user group meetings, though can be optional at operational group meetings but representation is mandatory and a written format of communication will be agreed	Contractor and the Authority agree the best way forward	Strongly disagree	Neutral	Strongly Agree



Provision of offline statistical report	KPI 6 – Contractor provides statistical reports and datasets for production of Local Authority waste statistics publications	These will be an accurate reflection of data held in Wastedataflow with variables calculated to agreed and transparent methodology and checked to ensure aggregated totals are correct	The Authority will give the Contractor adequate notice to provide these reports	Below agreed standard/failure to meet deadline	Delivered on time but standard agreed not reached	Delivered on time and to the agreed standard
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1.5 As highlighted above there are a number of Operational KPIs used to assess the overall service performance; these are summarised below:

- a) **The number of LAs that have submitted data to by the quarter deadline;** this indicator highlights whether LAs understand the reporting timescales and provides an



indication of the need for additional training in this area and links to the communications plan and the need for reminder service emails by either the Contractor or Authority (as per agreed processes)

- b) **The number of returns that have passed the validation process and have been submitted for approval**; this indicator provides an indication of the quality of the returns submitted and the effectiveness of the validation procedures
- c) **The number of returns which have been rejected back down to the LAs (either during the validation process or at the request of the LA)**; this indicator provides an indication of the quality of the returns submitted.
- d) **Average number of working days from original submission to first validation response**; this indicator provides a measure of the effectiveness of the allocation of returns to validators and team resource management;
- e) **Average number of working days from original submission**; this indicator provides an indication of both effectiveness of resources management and the quality of the returns submitted.
- f) **The number of returns rolled down from validation checks**; this indicator provides an indication of the effectiveness of the validation procedures.
- g) **Number of calls to the helpdesk per month**, broken down by: country of origin; length of call; and nature of query, which would be obtained through queries in the target helpdesk database. This indicator allows particular issues to be identified and guidance to be reviewed and adapted.
- h) **Number of e-mails to the helpdesk per month**, broken down by: country of origin; length of time on query; and nature of query, again obtained from the target helpdesk database. This indicator allows particular issues to be identified and guidance to be reviewed and adapted.
- i) **Number of training courses delivered**, broken down by: course type; number of attendees (individuals); and number of LAs covered. This indicator allows checks that the coverage of the training is good
- j) **Average feedback scores**, broken down by course type; this indicator allows a check on whether the quality of the training courses is being maintained.
- k) The Contractor will conduct an annual 'user satisfaction' survey which will capture feedback on KPIs 1, 1a, 2 and 5 which will be provided to the Authority and used to assess performance and to identify whether there are certain aspects of WDF which need reviewing. The survey will be agreed with the Authority but will seek feedback on the helpdesk, training and web and database accessibility and usability.

# SCHEDULE 7 – SECURITY REQUIREMENTS, POLICY

## INTERPRETATION AND DEFINITION

For the purposes of this Schedule 7, unless the context otherwise requires the following provisions shall have the meanings given to them below:

**“Breach of Security”** means the occurrence of unauthorised access to or use of the Premises, the Premises, the Services, the Contractor System, or any ICT or data (including Authority Data) used by the Authority or the Contractor in connection with the Contract.

**“Contractor Equipment”** means the hardware, computer and telecoms devices and equipment supplied by the Contractor or its Sub-Contractor (but not hired, leased or loaned from the Authority) for the provision of the Services;

**“Contractor Software”** means software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services.

**“ICT”** means Information Communications Technology and includes a diverse set of technological tools and resources used to communicate, and to create, disseminate, store and manage information, including computers, the Internet, broadcasting technologies (radio and television), and telephony.

**“Software”** means Specially Written Software, Contractor Software and Third Party Software.

**“Third Party Software”** means software which is proprietary to any third party which is or will be used by the Contractor for the purposes of providing the Services

## 1. INTRODUCTION

This Schedule 7 covers:

- 1.1 principles of security for the delivery of the requirements under Schedule 1A and 1B the Specification. ,
- 1.2 wider aspects of security relating to the Services;
- 1.3 breaches of security.
- 1.4 It is recognised that the Contractor has in place internal procedures and processes that are to be used for the management and actions taken to manage and meet the principles of security detailed within Section 2 and Section 3.

## 2. PRINCIPLES OF SECURITY

- 2.1 The Contractor acknowledges that the Authority places great emphasis on confidentiality, integrity and availability of information and consequently on the security of the Contractor System used for the delivery of the requirements. The Contractor also acknowledges the confidentiality of Authority Data.
- 2.2 The Contractor shall be responsible for the security of the Contractor System and shall at all times provide a level of security which is in accordance with law.

- 2.3 Without limiting paragraph 2.2, the Contractor shall at all times ensure that the level of security employed in the provision of the Services is appropriate to maintain the following at acceptable risk levels agreed between the Contractor and the Authority:
- 2.3.1 loss of integrity of Authority Data;
  - 2.3.2 loss of confidentiality of Authority Data;
  - 2.3.3 unauthorised access to, use of, or interference with Authority Data by any person or organisation;
  - 2.3.4 unauthorised access to network elements, buildings, the Premises, and tools used by the Contractor in the provision of the Services;
  - 2.3.5 use of the Contractor System or Services by any third party in order to gain unauthorised access to any computer resource or Authority Data; and
  - 2.3.6 loss of availability of Authority Data due to any failure or compromise of the Services.

### **3. WIDER ASPECTS OF SECURITY RELATING TO SERVICES**

- 3.1 The Contractor shall maintain the Security of the Services being delivered during the Contract Period (and after the end of the term where applicable in relation to data kept in accordance with the contract).
- 3.2 In line with the Contractor's internal procedures and processes, security will be implemented and maintained by the Contractor in relation to all aspects of the Services and all processes associated with the delivery of the Services and shall at all times comply with security measures and procedures which are sufficient to ensure that the Services comply with:
- 3.2.1 the provisions of this Schedule 7;
  - 3.2.2 the provisions of Schedule 1A and 1B relating to security;
  - 3.2.3 the Contractor's Information Assurance Standards;
  - 3.2.4 the data protection compliance requirements detailed within Section E2 of the Conditions of the Contract and Schedule 4;
  - 3.2.5 appropriate ICT standards for technical countermeasures which are included in the Contractor System, Contractor Software and the use of Third Party Software
- 3.3 The Contractor has in place Business Continuity and Disaster Recovery plans that if enacted will align and support the Security requirements set out at 3.2.

### **4. BREACH OF SECURITY**

- 4.1 Either Party shall notify the other immediately upon becoming aware of any Breach of Security relating to the delivery and Results of the services including, but not limited to an actual, potential or attempted breach,
- 4.2 Upon becoming aware of any of the circumstances referred to in paragraph 4.1, the Contractor shall immediately take all reasonable steps necessary to:

- 4.2.1 remedy such breach or protect the Contractor System against any such potential or attempted breach; and
  - 4.2.2 take all reasonable steps to attempt to prevent an equivalent breach in the future.
- 4.3 Such steps shall include any action or changes reasonably required by the Authority. If such action is taken in response to a breach that is determined by the Authority acting reasonably not to be covered by the obligations of the Contractor under the Contract, then the Contractor shall be entitled to refer the matter to the CCN procedure set out in Schedule 3.
- 4.4 The Contractor shall as soon as reasonably practicable provide to the Authority full details (using such reporting mechanism as may be specified by the Authority from time to time) of such actual, potential or attempted breach and of the steps taken in respect thereof.