



Department
for Environment
Food & Rural Affairs

www.gov.uk/defra

Contract for the Provision of RDPE Countryside Productivity Scheme Project to tackle Sheep Scab

January 2021

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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, acting through the Rural Payments Agency whose principal address is at North Gate House, 21-23 Valpy Street, Reading, RG1 1AF (the “**Authority**”);

AND

- (2) Moredun Research Institute (registered in England and Wales under number SC149440) whose registered office is Pentlands Science Park, Midlothian, EH26 0PZ (the “**Contractor**”)

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

WHEREAS

Following a competitive tender process, the Authority wishes to appoint the Contractor to provide certain services and the Contractor agrees to provide those 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 1:	Specification Annex 1 – Claims and Administration Process Annex 2 – Data Collection and Format Requirements Annex 3 – Publicity Requirements Annex 4 – Draft Example Template: Report of Advice Visit Annex 5 – Eligibility Criteria for Participants in the Sheep Scab Project Annex 6 – Sheep Scab Resistance Annex 7 – Travel and Subsistence Policy Annex 8 – Privacy Notice Annex 9 – Delivery Plan Annex 10- Contractor’s Tender Response
Schedule 2:	Prices
Schedule 3:	Change Control
Schedule 4:	Commercially Sensitive Information
Schedule 5:	Processing, Personal Data and Data Subjects
Schedule 6:	Not used
Schedule 7:	Contractor and Third Party Software
Schedule 8:	Security Requirements, Policy and Plan

- 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 01 February 2021 (the "**Commencement Date**") and ends on 01 May 2023 (the "**End Date**") unless it is terminated early or extended in accordance with the Contract.

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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.

“**Annual Review**” means the Authority’s review of the Contractor’s performance under the Contract which takes place in the fourth quarter of each year of the Contract Period.

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

“**Authority**” means The Secretary of State for Environment, Food and Rural Affairs acting through the Rural Payments Agency, whose principal address is at North Gate House, 21-23 Valpy Street, Reading, RG1 1AF.

“**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 Subcontractors 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.

“CAP Regulations” means the Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014.

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

“Claim Form” means an invoice containing the information set out in clause C2.6.

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

“Commercially Sensitive Information” means the information listed in Schedule 4 comprising the 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.

“Commission” means the European Commission.

“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.
- (e) is required by the Authority for the purposes of management, control and evaluation and may be shared with other UK or EU public bodies for the purposes of monitoring and administering the Common Agricultural Policy (CAP) further to Article 117 of EU Regulation 1306/2013.

“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 and which is set out in Schedule 7.

“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.

“**Decision**” means a Pillar 2 Decision as defined by Regulation 30 of Part 5 of the 2014 Regulations made pursuant to the 2014 Regulations.

“**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.

“**Delivery Plan**” means the delivery plan attached at Schedule1 Annex 9 of this Contract.

“**Determination**” has the meaning given to it by Regulation 14 of the Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014.

“**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.

“FOIAS” means the Freedom of Information (Scotland) 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 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 Performance Indicators**” or “**KPIs**” means the key performance indicators contained in Schedule 1 of the Contract

“**Key Personnel**” mean those persons named in the Contractor’s Tender, as per Annex 10.

“**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).

“**Livestock**” means sheep belonging to a Participant.

“**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) including any breach of the Rural Development Regulations 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 including, but not limited to, any breach of the Rural Development Regulations which has resulted in or would result in claw-back of all or part of the Price; or
- (b) any of the obligations set out in clauses A6, D1, E1, E2, E3, E4, E7, E8 or E10.

“**Milestone**” means the delivery milestones as set out in the Delivery Plan in Annex 9.

“**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.

“Participant” means a farmer who receives Services delivered by the Contractor or its Staff pursuant to this Contract.

“Performance Management Report” means the report which the Contractor is required to supply to the Authority pursuant to Clause F2.4 detailing performance against the KPIs.

“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.

“Privacy Notice” means the notice attached at Schedule 1, Annex 8 to the Contract which details how the Participant’s Personal Data will be processed and seeks consent to this processing.

“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.

“Project” means the animal health and welfare project as detailed in the Specification.

“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.

“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” means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with, and as may be further detailed in Schedule 1.

“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 Subcontractor 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 Subcontractor) wholly or mainly in the supply of the Services immediately before the end of the Contract Period.

“RDPE” means the Rural Development Programme for England.

“RPA” means the Rural Payments Agency.

“Rural Development Regulations” means:

- Regulation (EU) No 1305/2013 Regulation (EU) No. 809/2014;
- Regulation No. 2015 Regulation (EU) No.907/2014;
- Regulation (EU) No 1303/2013;
- Regulation (EU) No 808/2014;
- Regulation No. 1306/2013 Regulation (EU) 640/2014;and
- The Common Agricultural Policy (Control and Enforcement, Cross-Compliance, Scrutiny of Transactions and Appeals) Regulations 2014 (SI 2014/3263).

“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 Subcontractors 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 **“Subcontractor”** 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 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 7.

“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:

(a) For the Authority:

Contact Name: [REDACTED];

Address: Rural Payments Agency, Sterling House, Dixs Field, Exeter EX1 1QA; and

Email: [REDACTED]@rpa.gov.uk.

(b) For the Contractor:

Contact Name: [REDACTED];

Address: Moredun Research Institute, Pentlands Science Park, Midlothian EH26 0PZ; and

Email: [REDACTED]@moredun.org and legal@moredun.ac.uk

A5 Mistakes in Information

A5.1 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 and shall pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein.

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 B3.1 The Contractor shall at all times comply with the:
- (a) Quality Standards;
 - (b) the Delivery Plan;
 - (c) the Rural Development Regulations;
 - (d) all applicable Law from time to time in force; and
 - (e) where applicable, shall maintain accreditation with the relevant Quality Standards authorisation body.
- B3.2 To the extent that the standard of the Service has not been specified in the Contract, the Contractor shall agree the relevant standard of the Services with the Authority prior to the supply of the Services and, in any event, the Contractor shall perform its obligations under the Contract in accordance with the Law and Good Industry Practice.
- B3.3 The Contractor shall ensure that all Staff supplying the Services do so with all due 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.
- B3.6 During the Contract Period, the Contractor shall:
- (a) at all times have all licences, approvals and consents necessary to enable the Contractor and Staff to carry out the installation;
 - (b) provide all tools and equipment (or procure the provision of all tools and equipment) necessary for completion of the installation; and
 - (c) not, in delivering the Services, in any manner endanger the safety or convenience of the public.

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 B4.2 or B4.3. 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 Not used

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 Subcontractors 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.

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 fully and accurately disclose 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 At intervals determined by the Authority (which shall not be more frequent than once every 30 days) the Contractor shall give the Authority updated TUPE Information.
- 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 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 Subcontractor in respect of any Returning Employee on or before the end of the Contract Period;
 - (c) any failure by the Contractor or any Subcontractor 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 Subcontractor 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.

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 Subcontractor 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 may, where it is permitted to do so by the Rural Development Regulations pay the Price to the Contractor in accordance with clause C2.

C2 Payment and VAT

C2.1 Following the completion of a Milestone, the Contractor shall submit a Claim Form to the Authority.

- C2.2 The Contractor shall not be entitled to payment until the Authority has verified in writing to the Contractor that the relevant Milestone detailed in the Claim Form has been reached and the Claim Form submitted is compliant with the Rural Development Regulations.
- C2.3 The Authority shall, in addition to the Price and following Receipt and verification of a Claim Form in accordance with clause C2.2, pay the Contractor a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Contract.
- C2.4 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 Claim Forms as an extra charge. If the Contractor fails to show VAT on a Claim Form, the Authority will not, at any later date, be liable to pay the Contractor any additional VAT.
- C2.5 All sums stated on any Claim Forms shall be expressed in sterling or such other currency as shall be permitted by the Authority in writing.
- C2.6 Each Claim Form shall include:
- (a) the Contractor's full name, address and title of the Contract;
 - (b) the date;
 - (c) the project reference number as assigned by the Authority;
 - (d) details of the Participants as set out in a data table annexed to the Claim Form;
 - (e) a detailed breakdown of all costs incurred during the period to which the Claim Form relates;
 - (f) a declaration signed by the Contractor;
- and, if requested by the Authority:**
- (g) identification of which individuals delivering the Services are Contractor's staff and which are Subcontractors;
 - (h) separate identification of time spent travelling and/or meal or rest breaks;
 - (i) details of journeys made and distances travelled; and
 - (j) any other reasonable supporting evidence requested by the Authority Representative.
- C2.7 The Authority shall not pay Contractor time spent on meal or rest breaks and the Contractor shall ensure that all workers take adequate meal or rest breaks.
- C2.8 Meal and rest breaks will include breaks both in or outside an individual's workplace along with any time taken in travelling to or from the break location and/or any facilities for cleaning/changing/washing in preparation for or return from a meal or rest break.
- C2.9 Timesheets must include a minimum of 30 minutes break for each shift of 8 hours, a minimum of 45 minutes break in a shift of between 8 and 12 hours and a minimum of one

hour break will be taken within a shift in excess of 12 hours and the Contractor's rates and Contract Price must include such breaks.

- C2.10 The Authority shall not pay the Contractor's overhead costs unless specifically agreed in writing by the Authority and overhead costs shall include, without limitation; facilities, utilities, insurance, tax, head office overheads, indirect staff costs and other costs not specifically and directly ascribable solely to the provision of the Services.
- C2.11 The Authority shall carry out administrative checks of all Claim Forms to ensure the verification of :
- (a) the eligibility of the Contractor;
 - (b) the eligibility criteria, commitments or other obligations for which the payment is requested;
 - (c) compliance with the selection criteria;
 - (d) the reasonableness of the costs submitted.
- C2.12 Payment of the sums contained in a Claim Form shall only be made by the Authority for eligible expenditure. The Authority shall examine each Claim Form received from the Contractor to establish whether the Claim Form is eligible for payment in accordance with the Regulations.
- C2.13 The Authority's examination of each Claim Form shall establish:
- (a) the amount that is payable to the Contractor based on the Price and the Milestone reached; and
 - (b) the amount that is payable to the Contractor based on the eligibility of the expenditure claimed by reference to the Rural Development Regulations.
- C2.14 If the amount established pursuant to sub-paragraph (a) of clause C2.13 exceeds the amount established pursuant to sub-paragraph (b) of clause C2.13 by more than 10%, a charge shall be applied to the amount established pursuant to sub-paragraph (b) of clause C2.13. The charge shall be the difference between the two amounts established pursuant to sub-paragraphs (a) and (b) but shall not exceed the Price.
- C2.15 Notwithstanding the provisions of clause C2.14 no such charge shall be applied if the Contractor can demonstrate to the satisfaction of the Authority that it is not at fault for the inclusion of the ineligible amount stated in the Claim Form.
- C2.16 The Authority shall pay all sums due to the Contractor within 30 working days of Receipt of a Claim Form, excluding clock stops. Claim Forms should be submitted for payment to the following address: Rural Payments Agency, Sterling House, Dixs Field, Exeter, EX1 1QA and RDPEClaimSubmission@rpa.gov.uk
- C2.17 Any late payment of undisputed invoices by the Authority will be subject to interest at the rate of a maximum of 3% above the base rate from time to time of Barclays Bank plc.
- C2.18 The Contractor shall ensure that a provision is included in all Sub-Contracts which requires payment to be made of all sums due to Subcontractors within 30 days from the receipt of a valid invoice and must ensure that all relevant Subcontractor invoices have been paid before submitting a Claim Form to the Authority pursuant to Clause C2.
- C2.19 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 C2.19 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.

C2.20 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.

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:

- (a) 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; and/or
- (b) unilaterally deduct that sum from any other agreement between the Authority or the Crown and the Contractor; and/or
- (c) recover the sum together with interest calculated in accordance with the CAP Regulations as a debt.

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

C3.4 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

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, Subcontractors 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 Subcontractors 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;
 - (b) the Authority's biosecurity guidance located at <https://www.gov.uk/guidance/controlling-disease-in-farm-animals> as may be amended from time to time or such biosecurity guidance as the Authority may notify to the Contractor from time to time; and
 - (c) 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, material health and safety or biosecurity hazards 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 ensure that such back-ups are made available to the Authority immediately upon request.
- 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 Policy Framework.
- 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 5. The only processing that the Contractor is authorised to do is listed in Schedule 5 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 5 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 5);
 - (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.

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 Not used

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 endeavours to ensure that any government department, Contracting Authority, employee, third party or Subcontractor 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.
- E4.15 Notwithstanding the provisions of this Clause E4, the Authority may use any information or data provided by the Contractor and/or its Staff collected during the Contract Period for the purposes of management, control and evaluation any may share this with other UK and EU public bodies for the purposes of monitoring and administering the Common Agricultural Policy (CAP) further to Article 117 of EU Regulation 1306/2013.

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 transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within 2 Working Days of receipt:
- (a) give the Authority a copy of all Information in connection with the Contract in its possession or control in the form that the Authority requires within 5 Working Days (or such other period as the Authority may specify) of the Authority's request;
 - (b) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIR;
 - (c) not respond to directly to a Request for Information unless authorised to do so in writing by the Authority.
- E5.3 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, the Contractor shall comply with all instructions and guidance from the Authority in relation to acknowledgment and publicity of the Project and/or the Services including using any materials or templates which are provided to it for this purpose. Such acknowledgement and publicity may include, where appropriate, a statement on any website operated by the Contractor for

business purposes and/or a poster, plaque or billboard displayed on the Contractor's land or premises.

- E6.2 The Contractor shall use its reasonable endeavours to ensure that its Staff, professional advisors and consultants comply with clause E6.1.
- E6.3 Where the Contractor uses the name and logo of any other organisation in its publicity, it shall comply with all reasonable branding guidelines or instructions it is given in relation to the use of such name or logo.
- E6.4 The Contractor agrees to participate in and co-operate with promotional activities relating to the Project if required to do so by the Authority.
- E6.5 The Authority may acknowledge the Contractor's involvement in the Project as appropriate without prior notice.
- E6.6 The Contractor and its Staff shall comply with all reasonable requests from the Authority to facilitate visits, provide reports, statistics, photographs and case studies that will assist them with any promotional and publicity activities relating to the Rural Development Regulations.

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 Authority shall give the Contractor upon request copies of its written security procedures.
- E7.3 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.
- E7.4 Notwithstanding clause E7.3, 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.
- E7.5 Any cost arising out of the actions of the Parties taken in compliance with clause E7.4 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; or
- (b) any guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is furnished to or made available to 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 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.

E8.3 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) 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. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and shall include the right for the Authority to sub-license, transfer, novate or assign to other Contracting Authorities, the Crown, the Replacement Contractor or to any other third party supplying goods and/or services to the Authority ("**Indemnified Persons**");
- (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 E8.3, 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.

E8.4 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.

E8.5 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 or alleged 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).

E8.6 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 all costs and 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 E8.6 in relation to any costs and expenses to the extent that such arise directly from the matters referred to in clauses E8.3(d) i) and ii).

E8.7 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.

E8.8 If any Third Party IP Claim is made or in the reasonable opinion of the Contractor is likely to be made, 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 E8.3(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 the alleged infringement; or
- (b) procure a licence to use the Intellectual Property Rights and supply the Services which are the subject of the alleged infringement, on terms which are acceptable to the Authority

and if the Contractor is unable to comply with clauses E8.8(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.

E8.9 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 sublicense) to use any Intellectual Property Rights that the Contractor owned or developed prior to the Commencement Date and which the Authority (or the Replacement Contractor) reasonably requires in order for the Authority to exercise its rights under, and receive the benefit of, the Contract (including, without limitation, the Services).

E9 Audit

E9.1 The Contractor shall keep and maintain until 7 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 Controller, the Auditor General (and/or his appointed representatives), the Authority or any UK or EU public authority (and/or their authorised representatives or auditors) access free of charge to all such, land, premises, documents (including computerised documents and data) and other information, Participants (including their land and premises) as maybe required for the purposes of the financial audit of the Authority and for carrying out examinations into the economy, efficiency and effectiveness with which the Authority has used its resources and/or is administering the RDPE including but not limited to on the spot checks. The Contractor shall provide such explanations as are reasonably required for these purposes. The obligations set out in this clause E9.4 shall apply during and for a period of up to 7 years following the end of the Contract Period.

E9.5 In addition to any consequences arising as a result of a breach by the Contractor of this Contract, the Contractor understands that it may be a criminal offence to intentionally obstruct, or fail to assist or provide information to any person exercising powers pursuant to clause E9.4.

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 including but not limited to the Specification and the Delivery Plan or differs in any way from those requirements, and this is not as a result of a default by the Authority, 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 The Authority shall hold quarterly review meetings to review the Contractor's performance under this Contract. The first quarterly review meeting shall take place at or around 4 Months from the Commencement Date. The Authority may also conduct an Annual Review of the Contract. Without prejudice to the generality of the foregoing, the Authority may in an Annual Review consider such items as (but not limited to): the Contractor's delivery of the Services; the KPIs; 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 the Milestones.
- F2.3 The Contractor shall provide at its own cost any assistance reasonably required by the Authority to perform such Annual Review including the provision of data and information.
- F2.4 The Contractor shall produce a Performance Management Report (a including 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 Contractor shall give the Authority a copy of the Performance Management Report. The Authority shall consider any Contractor comments and may produce a revised Performance Management Report.

- F2.6 The Contractor shall, within 10 Working Days of receipt of the Performance Management Report (revised as appropriate) provide the Authority with a plan to address resolution of any shortcomings and implementation of improvements identified by the Performance Management 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 Performance Management Report and/or the Annual Review, 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) 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;
 - (b) 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;
 - (c) withhold or reduce payments to the Contractor in such amount as the Authority reasonably deems appropriate in each particular case; and/or
- (a) 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 and the Authority shall be permitted to approve all sub-contracts before approving any sub-contracting arrangement.

F4.2 The Contractor shall be responsible for the acts and/or omissions of its Subcontractors as though they are its own. If it is appropriate, the Contractor shall provide each Subcontractor 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 Subcontractors 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 Subcontractor 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 Subcontractor 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 Subcontractor does not comply in the performance of its contract with legal obligations in environmental, social or labour law;
- (b) any sub-contract imposes obligations on any Subcontractor on the same terms as those imposed on the Contractor pursuant to this Contract and shall ensure that the Subcontractor complies with such terms;
- (c) the Subcontractor includes a provision having the same effect as set out in clause F4.4 (a) in any Sub-Contract which it awards; and

- (d) 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 Subcontractor pursuant to regulation 57 of the Regulations, the Contractor shall replace or not appoint the Subcontractor; or
- (b) non-compulsory grounds for excluding a Subcontractor pursuant to regulation 57 of the Regulations, the Authority may require the Contractor to replace or not appoint the Subcontractor 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
- (c) any private sector body which substantially performs the functions of the Authority

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 CNN 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.

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 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;
- (c) any breach of clauses D1, E1, E2 and E4;
- (d) Schedule 8; or
- (e) any liability to the extent it cannot be limited or excluded by Law.

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 supply, or the late or purported supply, of the Services or the performance or non-performance by the Contractor of its obligations under the Contract or the presence of the Contractor or any Staff on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly by any act or omission of the Contractor.

G1.3 Subject to clause G1.1 the Contractor's aggregate liability in respect of the Contract shall not exceed £7 million.

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 The Authority may recover from the Contractor the following losses incurred by the Authority to the extent they arise as a result of a Default by the Contractor:

- (a) any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
- (b) any wasted expenditure or charges;
- (c) 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;

- (d) any compensation or interest paid to a third party by the Authority; and
- (e) 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:

- (a) Employer's (Compulsory) Liability Insurance: £5 million;
- (b) Public Liability Insurance: £2 million;
- (c) Professional Indemnity Insurance: £2 million.

Such insurance shall be maintained for the Contract Period and for a minimum of 6 year 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, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

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.

- (l) it has not and shall not receive any other public funding to deliver or assist with the delivery of the Services.

G2.2 The Contractor undertakes that any items paid for by the Contractor for which the Contractor is entitled to receive payment pursuant to the Rural Development Regulations will remain in the Contractor's ownership and be maintained for the purpose and in the manner for which they were intended until the End Date. The Contractor shall not make any change of use or ownership of any such item or items before the End Date without the Authority's prior written consent.

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, Subcontractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Subcontractor 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 30 days' notice to the Contractor.

H3.2 In the event of termination pursuant to clause H3.1, the Authority shall not be entitled to recover any sums already paid to the Contractor unless:

- (a) the Contractor is in Default; or
- (b) a Determination pursuant to clause H7 has been made, is ongoing or, in the Authority's reasonable opinion is likely to be made; or
- (c) sums are due to be recovered from the Contractor pursuant to clause C3; and/or
- (d) an appeal against a Decision has been, is being or is likely to be made by the Contractor pursuant to Clause I2.

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;
 - (d) the Contractor has not, in performing the Services, complied with its legal obligations in respect of environmental, social or labour law;
 - (e) the Contractor receives any other public funding which is not explicitly permitted by the Project; or
 - (f) there is a change in circumstances affecting the Contractor's eligibility to carry out the Project (whether or not the Authority has already taken any steps recover some or all of the Price already paid to the Contractor) pursuant to this Contract.

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 (Determinations), H8 (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 Determinations

- H7.1 Where the Authority makes a Determination, the Authority may without payment of compensation to the Contractor or its Staff:
- (a) withhold all or part of the Price;
 - (b) recover on demand the whole or part of any payment already paid to the Contractor pursuant to the RDPE;
 - (c) by notice to the Contractor terminate the Contract with immediate effect; or
 - (d) where the Contract has been terminated by the Authority by notice given to the Contractor pursuant to Clause H7.1 (c), prohibit the Contractor from entering into any agreement to receive any funding from the RDPR for a period not exceeding two years from the date of termination of the Contract.

H8 Recovery upon Termination

- H8.1 On termination of the Contract for any reason, the Contractor shall at its cost:

- (a) 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 Subcontractors, 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.

H8.2 If the Contractor does not comply with clauses H8.1(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 Subcontractors where any such items may be held.

H9 Retendering and Handover

H9.1 Within 21 days of being requested by the Authority, the Contractor shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Authority to issue tender documents for the future provision of the Services.

H9.2 The Authority shall take all necessary precautions to ensure that the information referred to in clause H9.1 is given only to potential providers who have qualified to tender for the future provision of the Services.

H9.3 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.

H9.4 The Contractor shall indemnify the Authority against any claim made against the Authority at any time by any person in respect of any liability incurred by the Authority arising from any deficiency or inaccuracy in information which the Contractor is required to provide under clause H9.1.

H9.5 The Contractor shall allow access to the Premises in the presence of the Authorised Representative, to any person representing any potential provider whom the Authority has selected to tender for the future provision of the Services.

H9.6 If access is required to the Contractor's Premises for the purposes of clause H9.5, the Authority shall give the Contractor 7 days' notice of a proposed visit together with a list showing the names of all persons who will be visiting. Their attendance shall be subject to

compliance with the Contractor's security procedures, subject to such compliance not being in conflict with the objectives of the visit.

H9.7 The Contractor shall 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.

H9.8 Within 10 Working Days of being requested by the Authority, 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 fully indexed and catalogued disk format, to operate on a proprietary software package identical to that used by the Authority.

H10 Exit Management

H10.1 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 H11.

H11 Exit Procedures

H11.1 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.

H11.2 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.

H11.3 When requested to do so by the Authority, 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.

H11.4 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.

H12 Knowledge Retention

H12.1 The Contractor shall co-operate fully 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 provide the Authority free of charge with full access to its Staff, and in addition, 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 no later than 15 Working Days from the date that that request was made.

I DISPUTES AND LAW

I1 Governing Law and Jurisdiction

11.1 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

12.1 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.

12.2 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.

12.3 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.

12.4 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.

12.5 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 I2.6.

I2.6 Subject to clause I2.2, the Parties shall not institute court proceedings until the procedures set out in clauses I2.1 and I2.3 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 I2.7;
- (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 I2.7; and
- (c) the Contractor may request by notice to the Authority that any dispute be referred and resolved by arbitration in accordance with clause I2.7, to which the Authority may consent as it sees fit.

I2.7 If any arbitration proceedings are commenced pursuant to clause I2.6,

- (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 I2.7(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 I2.7(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.

SCHEDULE 1 - SPECIFICATION

1. Introduction

- 1.1. The Authority's strategic objectives include "For Britain to be one of the world's leading food nations, renowned for excellence in every aspect of the food" ('Creating a great place for living' (Authority's strategy to 2020).
- 1.2. The 2014-20 RDPE provides funding for projects that will improve the environment; increase the productivity of farming and forestry; and to grow the rural economy.
- 1.3. The Sheep Scab Project is one part of Countryside Productivity (CP), a £141 million RDPE Scheme aiming to increase the productivity of farming and forestry in England.
- 1.4. The Sheep Scab Project aims to improve farm productivity in England by improving the management of commercial livestock, resulting in a reduction in the level of Sheep Scab in sheep. A common factor in reducing/preventing Sheep Scab on farms, is a focus on biosecurity and preventative health planning improvements, and industry collaboration; these three areas will be at the core of this project.
- 1.5. The target is for at least 70 farms per lot to be covered by the project. The sheep should all be in the known scab hotspots of Cornwall, Devon, Shropshire, Herefordshire, North Yorkshire, Northumberland, Lancashire and Cumbria. The relevant sheep keepers participate in all stages as described in Work Package 1 (see Section 5 below).
- 1.6. The project will aim to achieve productivity improvements in the English sheep flock by reducing the spread of the Sheep Scab, and the number and severity of disease outbreaks, by:
 - Providing Advice and information to farmers to help them understand the Sheep Scab status of their flocks and take the necessary actions to minimise the spread of the disease.
 - Supporting farmers in Sheep Scab hotspot areas to build resilience through the provision of 1:1 and 'one to many' Advice on how to improve their on-farm biosecurity and reduce the risks of incursion of the disease from sheep movements and other risk pathways.
- 1.7. The Contractor is appointed to provide the Service for the following Lots:
 - **Lot 1 North West** – to cover n Sheep Scab hotspots present in Cumbria, Lancashire, North Yorkshire, and Northumberland.
 - **Lot 2 Midlands** – to cover project activity in Sheep Scab hotspots present in Shropshire and Herefordshire.
 - **Lot 3 South West** - to cover project activity in Sheep Scab hotspots present Cornwall and Devon.

2. Overview of Requirements

- 2.1. The purpose of the project is to improve farm productivity by improving the management of commercial livestock in England. The project will integrate Sheep Scab disease testing with biosecurity Advice, and skills and knowledge transfer activity to achieve a reduction in the level of Sheep Scab in sheep.
- 2.2 The Contractor shall:
- 2.2.1 Ensure that, where required, appropriate contractual relationships are established to ensure that the project can be delivered, for example by working with Subcontractors or delivery partners. The Contractor shall create or work with existing clusters (local groups) of farmers ensuring geographical coverage which reflects the distribution of target livestock across England.
- 2.2.2 Ensure that all vets and advisers working on this project provide nationally consistent Advice. The Contractor will be expected to put together vet familiarisation material and this will need to be agreed with the Authority. It is recommended that the Contractor works with, for example, Sheep Veterinary Society or similar organisations to ensure information is up to date.
- 2.2.3 Ensure that the required number of on farm Advice visits is carried out by qualified veterinary surgeons and SQP advisors and that these visits are of consistently high quality and in accordance with the requirements described in this ITT.
- 2.2.4 Ensure that Vets delivering on behalf of the Contractor can provide evidence of the following:
- Registration to practice in the UK;
 - Inclusion in the register of the Royal College of Veterinary Surgeons;
 - Details of the work and training they have completed over the past two years;
 - Experience in delivering Advice on farms over a period of at least two years;
 - Experience in working in a large animal practice, including providing veterinary services to sheep farmers, over a period of at least two years.
- 2.2.5 Ensure that Advisors delivering on behalf of the Contractor can provide evidence of the following:
- That they are a certified SQP;
 - Details of the work and training they have completed over the past two years;
 - Experience in delivering Advice on farms over a period of at least two years;
 - Experience providing veterinary services to sheep farmers, over a period of at least two years.
- 2.2.6 Be responsible for the project management, co-ordination and reporting requirements as specified in this Contract. The skills and knowledge transfer element will be funded from under Regulation (EU) No. 1305/2013 Article 14 '*Knowledge Transfer and Information*

Actions, Advice will be funded under Article 15 '*Advisory services, farm management and farm relief services*' and the Contractor shall be responsible for compliance with the Appropriate Regulations. These include ensuring that the value of Advice provided pursuant to the Contract does not exceed €1,500 per site/farm (by reference to its County Parish Holding number).

- 2.2.7 Identify and enrol sheep farmers who are eligible participants under the RDPE and included in the target market - the target market consists of commercial livestock farmers who are located in England and are registered keepers stated at Section 2.5 above. In order to be eligible to participate in this project the farmer must a) meet the eligibility criteria set out at Annex 6 and b) agree that Sheep Scab disease status data (or results of a Sheep Scab test, if appropriate) can be shared as described in Deliverable 5c Sheep Scab 3. The provision of Advice as part of this project is subject to a limit of €1,500 per site/farm (by reference to its CPH number).
- 2.2.8 The €1,500 allowance will be determined at the level of the CPH. One business may well have multiple CPHs if it has more than one site/farm. The skills and knowledge transfer and Advice elements, and testing will be funded at 100% of the total cost.
- 2.2.9 Group the farmers participating in the project into clusters, which will be organised by a qualified Vet or Adviser (see Sections 3.2.4 and 3.2.4 above). The Contractor shall be required to put in place appropriate contractual measures to demonstrate the ability to cover requirements and to ensure the project can sign up at least the target number of farms by working with a range of veterinary practices and advisors including those that are independent of, or have no previous relationship with, the Contractor. **In each cluster area (i.e. a common) to get full control 100% of active sheep farmers will need to be involved. So whilst a Vet or Adviser will organise the clusters, farmer ownership and drive is essential.**
- 2.2.10 Establish and record epidemiological details, testing and treatment information and test results of participating flocks **specifically in relation to Sheep Scab**. The amount of support any individual site/farm (by reference to CPH number) can receive for diagnostic testing (lab fees, not vet time) is capped at €600.
- 2.2.11 Ensure that all Participants receive, sign and return the form confirming agreement to the terms of the Privacy Notice (Annex 8). By providing this confirmation, Participants agree to their Sheep Scab disease status or Sheep Scab test results data being shared with the Authority, RPA, APHA and other project Participants in their immediate cluster. The Contractor shall ensure that all farmers participating in the project sign an agreement to participate.
- 2.2.12 Set up and manage two group learning sessions for each cluster, one session at the beginning and one at the end of the process. The Contractor shall capture the data and outputs as set out in Annex 2.
- 2.2.13 Ensure **all** delivery is compliant with the Appropriate Regulations and the RDPE.

2.2.13.1 It is a requirement of the RDPE that the Contractor shall pay their Subcontractors, and the payment, must have left the Contractor's bank account, before an invoice is submitted to the RPA for the cost of any services. This means that the Contractor shall have to fund the upfront costs of service delivery and be able to evidence that any invoices from Subcontractor(s) and or other suppliers for services supplied have been paid and the funds have left their bank account prior to submitting an invoice to the RPA.

2.2.13.2 Payment of all Subcontractors' invoices by the Contractor shall be made no later than thirty days from the date on which an invoice is regarded as valid and undisputed.

2.2.14 The Contractor shall provide details to the Authority of the laboratories the Contractor intends to use for testing purposes.

2.2.15 Liaise with industry partners including, but not limited to, AHDB Beef & Lamb, National Sheep Association, the Sheep Health and Welfare Group (SHAWG), Ruminant Health and Welfare Group, and Sustainable Control of Parasites in Sheep, SQP sector bodies to market the project to the target market. This shall involve attendance at stakeholder meetings and regular liaison by telephone.

2.2.16 Assure the quality and ensure the security of all data collected and maintain a full audit trail to be inspected by an Auditor. Checks shall usually be undertaken by the RPA although other bodies may conduct inspections. Organisations that must be granted access to data include: European Court of Auditors, European Commission, National Audit Office, the RPA or any organisation authorised by them to do so. The Contractor must demonstrate that, as a minimum, the requirements of the [Cyber Essentials scheme](#) will be satisfied.

2.2.16.1 Inspections will seek to confirm:

- that the expenses incurred and payments made by the Contractor in the course of delivering activity under the Contract are supported by accounting documents or evidence and can be directly attributed to that delivery
- that the nature and timing of expenditure corresponds to the work actually delivered (and that expenditure has been incurred and defrayed before claims have been submitted)
- that the activity delivered is in accordance with the Specification of Requirements (including the KPIs) and the Contract; and
- that the activity has been implemented in accordance with European Union rules.

This will include, for example, checks:

- of timesheets and invoices from third party suppliers, and bank statements/payment ledger screen prints confirming that these invoices have been paid;
- that EU and Authority branding have been used appropriately throughout delivery; and
- on a proportion of participants by contacting them to verify:
 - that the activity has taken place as stated in the claim; and
 - the beneficiary is eligible.

- 2.2.17 Ensure that the Claims and administration process set out in Annex 1 is completed in a timely and accurate manner. More detail about this will be provided at the inception meeting.
- 2.2.18 Ensure that the correct procedures are followed regarding the acknowledgment of RDPE funding in any Publicity (see Annex 3).
- 2.2.19 Ensure that the requirements in relation to targeting are met. The requirement in terms of the number of livestock covered is as follows:
- ensure that a minimum of 70 sheep farms (per lot) in the Contractor's target area within England participate in all stages as described in work package 1. The aim is that they have taken the recommended actions as a result.
 - The target market consists of commercial sheep farmers who are located in the known scab hotspots of Cumbria, Lancashire, Cornwall, Devon, Shropshire, Herefordshire, North Yorkshire, and Northumberland and are registered keepers of the above sheep.
- 2.2.20 Establish an effective working relationship with the Nominated Officer and ensure that any changes to the agreed Delivery Plan are agreed by both parties and confirmed in writing prior to implementation.

3. Key Requirements

- 3.1 The Contractor shall be required to achieve work delivery outcomes (Section 5 below) against work delivery milestones as set out in the Contractor's Delivery Plan (Annex 9).

4. Outcome – Sheep Scab project

- 4.1 Each participant is required to complete the training sessions, establish the Sheep Scab health status of their flock and participate in the Advice sessions. The Authority will pay per each unique CPH number that completes each of the deliverables (5b to 5f as described below). The Contractor shall be responsible for determining how many unique CPHs they will need to work with to deliver the target number of sheep.
- 4.2 The Contractor shall be required to provide a full list of those participating in the project and confirm their eligibility to take part prior to any activity taking place.
- 4.3 The Contractor shall be required to confirm the flock number (the 6 digit UK ear tag prefix) of each participating flock along with the details required by Annex 3.
- 4.4 The Contractor shall carry out quality assurance and evaluation work to ensure that the services supplied are of a consistently high standard and encourages participants to take action.

5. Work Package 1: Sheep Scab Project Delivery

5.1. Deliverable 5a Sheep Scab 1

Project set up and enrolling participants

- 5.1.1 To identify and establish a working relationship, either as a Subcontractor or delivery partner with veterinary surgeons (Vets).

- 5.1.2 Vets must be registered to practice in the UK, be listed on the [RCVS register](#), have at least 2 years' experience of delivering on farm Advice, and have been working with sheep for 2 years or more.
- 5.1.3 Advisers must be SQPs, have at least 2 years' experience of delivering on farm Advice, and have been working with sheep for 2 years or more.
- 5.1.4 To ensure the selected Vets and Advisors are up to date and have a consistent knowledge of Sheep Scab. All Vets and Advisors are to have taken a specific Sheep Scab CPD module. This activity must be at least 95% complete within the first year of the project.
- 5.1.5 Identify and enrol sufficient numbers of Participants so that at least 70 farms per lot are covered by the project, and that they are in the target hotspot areas.

5.2 Deliverable 5b Sheep Scab 2

Setting up clusters, and initial cluster meetings

- 5.2.1 Form cluster groups of project participants. Clusters are groups of sheep keepers, vet or SQP led, that will be formed to benefit from training provided by the vet with administrative support provided by the Contractor. It is envisaged that shared grazing and geography would act as a natural groupings for clusters. These clusters must be in the hotspot areas as mentioned.
- 5.2.2 Arrange introductory meetings for each cluster. Each of these meetings will be attended by farmers eligible to benefit from this project (see Annex 5) who have some kind of link to unite them in a cluster. This may be that they all use the same vet (who has been/ will be trained under Deliverable 5a Sheep Scab 1). These can be physical or virtual meetings.
- 5.2.3 The purpose of the meeting will be to cascade the information to the farmers attending the meeting, and to engage the farmers in the project.
- 5.3.4 Participants will be asked to agree that their Sheep Scab epidemiological info, including the results of any new testing, can be made available as described in Deliverable 5c Sheep Scab 3 to other participants in their immediate cluster.

5.3 Deliverable 5c Sheep Scab 3

Establishing Sheep Scab status and making Sheep Scab disease status data available

- 5.3.1 The testing of sheep on participating holdings shall take place as part of the project. The Contractor shall demonstrate that the tests are carried out and the results are displayed in a way that is consistent with industry recommended best practice – see Annex 2.
- 5.3.2 Participants will be asked to agree that their Sheep Scab disease status, based on the results of the testing, can be made available to:
 - a. The Contractor managing the project.
 - b. Vets and Advisors participating in the project who will use the data to inform the delivery of situationally specific Advice and management actions to farmers enrolled in the project.

- c. Farmers enrolled and participating in the project so that they can see the Sheep Scab disease status of participating farms in their local cluster only.
- d. The Authority, RPA, APHA who will use the data to inform policies which work to improve and safeguard animal health and welfare. For any parties other than the above, the data will be anonymised, ensuring that participants and their farms cannot be identified from it, including in relation to location data and from geographical features.

5.4 Deliverable 5d Sheep Scab 4 Farm Visit 1

Provision of Advice

- 5.4.1 The Contractor shall arrange for each participating farmer to be visited by an advisor or vet, this is likely to be the Advisor or Vet who led that particular cluster meeting.
- 5.4.2 The Advisor or Vet will be required to relay the consistent messages and carry out the Advice visit. This visit will include a biosecurity audit and situationally-specific Advice on disease management, treatment and prevention, as appropriate. See Annex 4.
- 5.4.3 The nature of the Advice will be informed by the Sheep Scab status of the holding, farm type and management practices, Sheep Scab disease control measures, and the Sheep Scab status of neighbouring holdings (whether known already through project testing results). The Vet time spent obtaining samples from livestock, and laboratory costs are eligible for 100% funding.
- 5.4.4 For Sheep Scab positive flocks, Advice will be provided on management of the disease, and prevention of internal and external spread. For both Sheep Scab positive and negative flocks, Advice will be provided on biosecurity improvements that would prevent infection and/or spread to neighbouring flocks. An example template for the biosecurity audit and the measures for action that could result is attached at Annex 4, but other biosecurity audits may be used.
- 5.4.5 Depending on flock size, the estimated time for delivery of the Advice and biosecurity assessment is estimated to be around 2 – 3 hours per farm participating.
- 5.4.6 A report/action plan of this initial visit will need to be submitted to the RPA. Example templates are provided at Annex 4, however the Contractor shall design their own to fit into information management systems that they will use.

5.5 Deliverable 5e Sheep Scab 5 Farm Visit 2

Follow-up visits to assess progress in implementing Advice

- 5.5.1 Following the Vet visit and provision of Advice (Deliverable 5d Sheep Scab 4), a follow up visit will be arranged and undertaken to assess progress on implementing the recommended Sheep Scab control and biosecurity measures, recording why any of the recommended measures have not been implemented, and to offer further Advice. A short action plan will be provided by the Vet to the farmer. This second visit will take place at least 6 months after the initial visit and before the end of the project.

5.6 Deliverable 5f Sheep Scab 6

Follow-up cluster meetings

- 5.6.1 Following the individual Advice visits, the Contractor shall arrange meetings to bring together all of the members of each cluster that have participated in deliverables Sheep Scab 5c, 5d and 5e. A Vet will disseminate cluster-specific results and discuss general strategies and actions that can be undertaken by everyone in the cluster including treatment options if Scab is present. This will be followed by a discussion on the next steps and Advice on individual actions. A report of this meeting to be provided to the RPA.

5.7 Deliverable 5g Sheep Scab 7

Follow-up meeting to assess quality and content of Advice

- 5.7.1 The Contractor shall contact each farmer participant no later than 3 months after the visit to assess the quality and content of Advice given by the vet Subcontractor and collect any feedback.
- 5.7.2 The Contractor shall contact each of the Vets heading up the clusters to obtain and record information about cluster performance, longevity, and individual member activity in relation to their action plans. This shall take place 3 months after the final Advice visit in a cluster.

6. Work Package 2: Quality Assurance, Quality Control and Data Reporting

Project Progress Reporting

6.1 Reporting: Claim Review Reports – Deliverable 6a

- 6.1.1 The Contractor shall provide Claim Review Reports with each claim, throughout the duration of the Contract to be sent to the Nominated Officer one week prior to the Claim Review Meeting.
- a. The Claim review Report shall provide details of activity delivered (deliverables 5a, 5b, 5c, 5d, 5e, 5f & 5g) and the quality assurance and quality control activities associated with that activity. The reports shall be cross-referenced to invoices, providing a breakdown of all costs incurred during the associated period.
 - b. The format of the reports will be agreed at the inception meeting.
 - c. A minimum of 2 claims or maximum of 3 claims shall be made in any six month period throughout the life of the Contract.

6.2 Reporting: Annual Reports - Deliverable 6b

- 6.2.1 The Contractor shall provide an annual report collating and reflecting on the Claim Review Reports to the Authority on the first anniversary of the start date of the Contract and then for each year thereafter until the end of the Contract. An electronic copy of the annual report shall be provided in both Microsoft Word and pdf file formats.
- 6.2.2 In addition to reporting against the number of livestock covered as part of the payment by results, the following areas need to be reported against in the annual report:
- a. Flock sizes that participated.
 - b. Diagnostic results for Sheep Scab (using anonymised data as described in Deliverable 5c Sheep Scab 3).
 - c. Final vet/cluster reports to show the levels of Sheep Scab at the end of the project.

- d. Farmer and vet “dropout rate” at each stage of the project.
- e. How many actions did the vets recommend in farmer Advice reports and how many of these were implemented by the farmers.
- f. Where treatment was advised how many farmers carried this out.

6.3 Reporting: Final Report – Deliverable 6c

6.3.1 The final report should consolidate the annual reports. In addition to reporting against the number of livestock covered as part of the payment by results, the following areas need to be reported against in the final report:

- a. Flock sizes that participated.
- b. On common land did all sheep farmers on that common participate, on non-common land were contiguous flocks identified?
- c. Diagnostic results for Sheep Scab (using anonymised data as described in Deliverable 5c Sheep Scab 3).
- d. Final vet/cluster reports to show the levels of Sheep Scab at the end of the project.
- e. Farmer and vet “dropout rate” at each stage of the project.
- f. How many actions did the vets recommend in farmer Advice reports and how many of these were implemented by the farmers.
- g. Which types of actions recommended in vet reports were not carried out and why?
- h. How many clusters plan to continue in some form beyond the RDPE funding.
- i. Farmer’s assessment of the Service. It is expected that 95% of participants will be satisfied or fully satisfied with Advice. This success will be measured as receiving a score of three or more using a scale rated out of four, four being the highest. The Contractor shall provide a suggested scoring matrix based on the following:

–For a score of 4: Excellent service providing comprehensive, relevant Advice. (Fully satisfied)

–For a score of 3: Acceptable Service with relevant Advice. (Satisfied)

–For a score of 2: Poor – Service and Advice was partially relevant and/or poor.

–For a score of 1: Unacceptable service that failed to meet customer’s needs.

6.4 Reporting: Sheep Scab Disease Testing Results – Deliverable 6d

6.4.1 The Contractor shall provide Sheep Scab Disease Testing Report at each Claim Review Meeting to the Authority containing the following information:

- a) County Parish Holding number (CPH)
- b) Flock number
- c) Type of test
- d) Date of test
- e) Laboratory which carried out the test
- f) Result

6.4.2 The Contractor shall ensure that the data collected and described at Deliverable 5c Sheep Scab 3 is used only for the purposes of the Project. A timetable of key deliverables for reporting is summarised in Table 1.

Table 1: Key Reporting Deliverables and Timescales

Deliverables/outputs	Deliverable Number	Frequency –	Timescales	Recipient
Claim Review Report	6a	With each claim	A minimum of 2 claims or maximum of 3 claims shall be made in any six month period	The Authority
Annual Reports	6b	Once a year	The first report must be received no later than the anniversary of the date that the Contract is signed and then annually thereafter	The Authority
Final Report	6c	Once	Draft report no later than 2 months before end of Contract. Final version by 2 weeks before end of Contract	The Authority
Reports of Disease testing Results (updated database and analysis)	6d	With each Claim Review Report	A minimum of 2 claims or maximum of 3 claims shall be made in any six month period	The Authority

6.5 The Contractor shall use quality management systems to assure the quality of their own and the work of any Subcontractors' or other delivery partners' work.

6.6. The Contractor shall be responsible for the project management, co-ordination and reporting requirements as specified in this tender and for ensuring that delivery is compliant with the regulatory requirements.

6.7. The Contractor shall ensure that any data collected (as detailed in Deliverable 5c Sheep Scab 3) or data set developed from this project, is treated in accordance with the requirements set out in Appendix K and interpreted in a clear and accessible electronic format for use by the Authority (should the Authority request sight of this information at any point during the project).

6.8 The Contractor shall validate all data prior to submitting it to the Authority.

6.9 Contractor shall keep the following accounts and records of all quotations and invoices received from Subcontractors, suppliers, utilities, local authorities, etc.

6.10 The Contractor shall accept audit of the Services by the Authority, RPA, European Commission, European Court of Auditors and the National Audit Office or any organisation

mandated by any of these bodies. These audits may be conducted on a regular basis with the following aims:

- to review and verify information available in records developed through the monitoring programme; and
- to identify specific issues of non-compliance and to give recommendations to meet them.

6.11 If the Contractor submits any invoice containing ineligible expenditure this shall result in a financial charge to the Contractor and a corresponding reduction in the amount paid in accordance with Article 63 of Regulation (EU) No. 809/2014. The claim payment will be calculated on the basis of what is found to be eligible within the claim. In the event of an irregularity in the claim, which is not deemed to be an obvious error on the Contractor's part, the RPA will have the right to make a deduction from the sum due to the Contractor and to remove the ineligible expenditure from the claim.

6.12 If a check finds that the value of the costs included in the Contractor's claim exceeds the amount that is actually eligible for inclusion in the claim by more than 10%, then unless the Contractor can demonstrate that they are not at fault, a 2 stage reduction is applied to calculate the amount that is paid for that claim.

- **Stage 1** - the claim is reduced to the total value found to be eligible.
- **Stage 2** - penalty is imposed such that the final amount from stage 1 is further reduced by a figure equal to the difference between the total claimed and the amount found to be eligible.

6.13 In practice this results in a reduction to the claim payment of twice the amount that was found to be ineligible. The total amount that can be deducted in this way is capped at the value of the contract (less VAT).

7 Programme of Work and Milestones

7.1. The Contractor shall be responsible for proposing a work programme designed to meet the above objectives, requirements and timetable, including a time schedule for the work that identifies the main stages, tasks and key milestones. This will then be used by the Contractor and the Authority to monitor progress. Any changes to the work programme must be approved by the Authority in writing prior to implementation.

8. Performance Management Framework (PMF) (Including Service Levels and Key Performance Indicators)

8.1 As part of the Authority's continuous drive to improve the performance of all contractors, this PMF will be used to monitor, measure and control all aspects of the Contractor's performance of Contract responsibilities.

8.2 The PMF purpose is to set out the obligations on the Contractor, to outline how the Contractor's performance will be evaluated and to detail the sanctions for performance failure.

- 8.3 The Authority may define any reasonable performance management indicators for the Contractor under the following categories:
- I. Contract Management
 - II. Delivery and support
 - III. Quality of Service
 - IV. Continuous Improvement
- 8.4 The above categories are consistent within all Contract awards allowing the Authority to monitor Contractor's performance at both individual Contract level and at enterprise level with the individual Contractor.
- 8.5 The proposed Key Performance Indicators (KPIs) are set out below.

Metric	KPI	What is required to make this measurable	KPI Measurement	KPI Rating (1-3) scale		
				1	2	3
Contract Management	<p>KPI 1 – Claim reporting/invoicing to agreed timescales</p> <p>WP 3 Deliverables numbered 6a, 6b,6c and 6d</p>	<p>Claim Review Reports, Sheep Scab Disease Testing Result Reports and invoicing are produced to the timescales and quality as outlined in the deliverables.</p>	<p>Invoices delivered on time and are correct, quote correct PO, contract number, the Authority Contact, and qualitative description of the work being done.</p> <p>Invoices and associated reports shall be clearly linked and clearly itemised.</p> <p>Performance management reports should minimise burden on the Authority. Claim Review Reports shall be clearly and explicitly linked to invoices to help financial tracking.</p>	<p>Below expectations <100%</p>	<p>NA</p>	<p>Meets Expectations 100%</p>
Contract Management	<p>KPI 2 –Risk Assessment</p>	<p>Detailed and up to date project risk register in place. The Risk Register will be agreed at the inception meeting based upon the Tender response to E04</p>	<p>An agreed Risk Register 1 month from the inception meeting and kept up to date throughout the life of the Contract. Evidence at each Claim Review Meeting</p> <p>Evidence shall be provided that risks are pro-actively managed.</p>	<p>Below expectations <100%</p>	<p>NA</p>	<p>Meets expectations 100%</p>

Contract Management	KPI 3 – performance against table of outputs	WP 1 Deliverables 5a,5b,5c,5d,5e, 5f and 5g are being achieved and to the agreed timetable	The deliverables and timescales submitted in the tender are being achieved on time and to the agreed standard	Below expectations <100%	NA	Meets expectations 100%
Delivery and support	KPI 4 – Annual reports	High Quality annual reports delivered on time and to a high quality.	Reports are delivered on time and need little input/corrections from the Authority in order to finalise for publication.	Below expectations <100%	NA	Meets expectations 100%

Delivery and support	KPI 5 – Health & Safety and Biosecurity	Health & safety and/or Biosecurity is appropriately managed throughout the life of the Contract	<p>H&S and/or Biosecurity policy & procedures are in place & shared with Delivery Partners and/or Subcontractors</p> <p>H&S and/or Biosecurity policy & procedures are adhered to and all training and certifications are maintained (including Delivery Partners and/or Subcontractors).</p> <p>H&S and/or Biosecurity issues relating to the Contract are communicated to the Authority within 1 working day.</p> <p>Any identified H&S issues and/or Biosecurity relating to the Contract have an appropriate action plan and are resolved within agreed timescales.</p>	Below expectations <100%	NA	Meets expectations 100%
Quality of service	KPI 6– Data capture and delivery	Data capture and delivery in line with requirements of Annex 2.	Data capture meets requirements stated in ITT	<95%	95%	>95%

Quality of service	KPI 7– QA/QC Compliance	Robust QA/QC procedures are implemented and maintained throughout delivery.	QA/QC activities should be reported to the Authority in meeting all aspects of the contract in line with the requirements of the specification. Evidence is provided that they are carried out throughout delivery whilst minimising burden to the Authority, are regularly reviewed and amendments implemented.	Below expectations <100%	Meets expectations	Exceeds expectations 100%
Quality of service	KPI 8 - 95% of participants satisfied or fully satisfied with Advice (receive a score of 3 or more using a scale of 1-4 where 4 is high)	Contractor to put system in place to capture participant satisfaction / feedback	Fully completed, signed participant evaluations collected and retained in a format to be agreed with the Authority	<95%	95%	>95%
Continuous Improvement	KPI 9 – Continuous Improvements and added value (Deliverables: All)	Contractor provides recommendations for Service improvements to improve Quality and add value.	Suggestions which may or may not be accepted by the Authority which will lead to improved quality and added value to the Service offered by the Contractor	None submitted or recommendations are below expectations	NA	Recommendations submitted and exceed expectations

9. Management of the PMF

- 9.1 The Contractor shall produce a Performance Management report with each claim made, detailing performance against KPIs. This shall be provided to the Authority by email along with the other requirements detailed in Annex 1.
- 9.2 The Contractor shall maintain their own management reports, including a Risk and Issues Log.
- 9.3 Any performance issues highlighted in the Performance Management reports shall be addressed by the Contractor, who may be required at the request of the Authority to provide an improvement plan ("Remediation Plan") to address all issues highlighted within a week of the Authority's request.
- 9.4 The Authority shall hold quarterly Claim Review Meetings with the Contractor to review the Contractor's Performance Management reports, operational delivery of the Contract and implementation of any Remediation Plans, as required.
- 9.5 In the fourth quarter of each year of the Contract (on the anniversary of the Contract Start Date) the Authority shall hold an overarching Annual Review Meeting with the Contractor. The Annual Review will be to review performance over the past year and look ahead to the next year, including strategic and financial issues. The risk, issues and actions register will also be reviewed.
- 9.6 Meetings shall be held at the most mutually convenient location, usually face-to-face, but with teleconference facilities available.
- 9.7 Key Performance Indicators (KPIs) are essential in order to align Contractor's 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 also have to be met. Failing to meet the KPIs would indicate otherwise that the service is failing to deliver. As a result, recourse might be to terminate and seek alternative supply.

Annex 1 - Claims and Administration Process

As an integral part of their delivery responsibilities, the Contractor shall supply relevant Contract outputs on a regular basis (a minimum of 2 claims per six months and a maximum of 3 claims per six months), to accompany their invoice for each Claim Review Meeting. These outputs shall be on the standard templates provided and include (but are not limited to):

- Claim form;
- Management report – including details of progress against milestones, performance against KPIs/output targets, details of forthcoming activity, issues/risks and actions to be taken if delivery is falling below expectations;
- EU data requirements table – which is required to meet EU requirements;
- Provision of information about participants (see Annex 2).

In addition, the Contractor shall keep the following information for all activities. This information must be made available for inspection upon request. In addition, the Contractor shall be asked to submit further detailed information for some of their claims which will, be selected at random:

- Participant registers – which are required to meet EU and State Aid requirements;
- Feedback forms; including an evaluation form completed by the participant confirming the level of satisfaction with the activity and if they intend to put their learning or Advice received into practice
- One-to-one visit reports; and
- Event agendas and, if requested, presentations/handouts.
- Evidence of carrying out eligibility checks
- Completed Evaluation Forms
- Other records.

The Contractor shall keep timesheets and payroll records for those employees involved in training, and where relevant Subcontractor records and evidence of payment to Subcontractors to evidence the level of work being undertaken. These can take the form of normal employment records, kept for standard tax purposes. **(Tenderers intending to sub-contract need to be aware that Subcontractors have to be paid for work done before a claim is made for any training delivered by the Subcontractor.)**

The Contractor should note that failure to provide accurate documentation may lead to penalties being charged.

Annex 2 - Data Collection and Format Requirements

Participant Information

The Contractor will be responsible for collating the following data for all the trainees attending the one to many training events, these are the initial cluster training/introductory event(s) and the final group session:

- Individual – Name, address post code, contact details including an email address, land line and mobile telephone number, Employment status, age,
- Business name (as per Rural Payments / BPS)
- Farm/Holding – County Parish Holding number (CPH)
- Employer – Name, address, postcode, size of the business, SIC codes
- Sheep farm type – Breeder, Finisher, pedigree breeder, ram breeder
- Type of Assistance – Type of training/learning, number of hours/period
- Reporting – Attendance register, learning hours provided
- Dates – plus start and finish times of the activity attended
- Training Venue – postcode of primary activity location
- Name or number in order to identify which cluster the participant is a member of

Beneficiary data will need to be loaded on to a claim form, this will be a spreadsheet format (Microsoft Excel or equivalent) and an electronic template will be provided.

There will be a requirement to report the evaluation of the each of the training event(s) within the agreed timelines. The Contractor and the Authority will need to agree how:

- The training event(s) will be evaluated
- The chosen method will measure the impact of the training for the trainees

Test Results.

For the Sheep Scab test results the contractor(s) must provide the following additional data to the Authority in a format compatible with Microsoft Excel

- County Parish Holding number (CPH)
- Flock Number
- Management group ID
- Individual sheep ID for those tested
- Test type
- Date of test
- Laboratory which carried out the test
- Result (ELISA levels)

Evaluation data

- Flock sizes that participated
- Final vet/cluster reports to show the success/ failure at the end of the project
- Farmer and vet “dropout rate” at each stage of the project.
- How many actions did the vets recommend in farmer Advice reports and how many of these were implemented by the farmers.
- Which types of actions recommended in vet reports were not carried out and why.
- How many clusters plan to continue in some form beyond the RDPE funding.

Annex 3 - Publicity Requirements

The publicity requirements will be explained in detail at the inception meeting, however an indication of the requirements is below

- All publications (booklets, leaflets, letters, posters, websites, databases, etc.) relating to the RDPE funded project must have clear indication on the title page of the EU, and Defra support
- RDPE grant support must also be acknowledged in any press releases relating to the project
- An example of the acknowledgement to be displayed in publications and on publicity material is provided below:
- This project has been supported through the Rural Development Programme for England, which is jointly funded by Defra and the European Union

Websites must acknowledge support received from the EU and Defra on the homepage. There must be a web link to the EU Commission's rural development page:

<http://ec.europa.eu/agriculture/rurdev>

Annex 4 - Draft Example Template: Report of Advice Visit

This is an example template. The Contractor shall design their own to fit into information management systems that they will use.

All Advice visits shall be recorded and completed by the vet and signed by the recipient of the Advice. The Contractor must also sign the Advice report to confirm that the appropriate eligibility and quality assurance checks have been carried out. The information in the template below should be contained within the Advice report but the format (paper or electronic) can be developed by the Contractor.

Vet Visit Report - Sheep Scab

Farmer's Name	
Vet name	
Others present	
Farm name and address	
Location of sheep (if different to above)	
Cluster name	
Flock no.	
CPH	
First visit date	
Second visit date	
Report date	

1. Summary Recommendations

To be completed after second visit. Recommendations should be listed prioritising those which will achieve the greatest biosecurity gain, considering the financial implications.

Recommendation 1.

Recommendation 2.

Recommendation 3.

Etc.

2. Farm Summary

To be completed after first visit. A brief description of the farm in terms of its location, relevant stock numbers and type, farming and business practices and progress towards Sheep Scab and biosecurity best practice. For example recent treatments (which animals treated what with and when), animals bought in, rams, contractors used, shared equipment, fencing, dipping facilities, contiguous sheep holdings, other treatments that effect Scab treatments

3. Diagnostics results

Date and type of test	Management group	Sheep ID	Result

4. Detailed Assessment of Current Situation and Possible Improvements

Please add a commentary based on the diagnostic results, currently level of biosecurity, business practices etc.

5. Full Recommendations

Priority	Recommendation	Reason/benefit	cost	Resources/input needed	Target date for completion
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6. Implications of NOT Undertaking Recommendations

Please add a commentary about the impacts on the farm business and on Animal welfare if the recommendations are not carried out.

7. What and Who Can Help?

Insert details of any further sources of information, Advice, support or contacts that you discussed during the visit to help implement the recommendations, such as publications, websites, organisations etc.

Please sign below to confirm this report accurately represents the Advice Visit and recommendations

	Name	Signature	Date
Vet			
Farmer			

Annex 5 - Eligibility Criteria for Participants in the Sheep Scab Project

Please note that these eligibility criteria must be met in all cases, however the Contractor shall be required to undertake further work to ensure that the required target market is reached.

Skills and Knowledge Transfer elements – i.e. the initial cluster start up meeting and the cluster review meeting

The participant must be a farmer as described in Article. 4 of the Direct Payments Regulation (Regulation (EU) No. 1307/2013) and a keeper of Sheep with the flock and keeper registered to a holding in England.

Advice - In order to participate in the Advice elements of the project i.e. the one to one on farm Advice sessions provided by a qualified vet, the farmer must:

- Meet the criteria specified above
- Undertake the Sheep Scab disease testing as recommended by the vet
- Consent to the sharing of Sheep Scab test results/Sheep Scab disease status (as described in Deliverable 5c Sheep Scab 3)
- Declare the value of any RDPE funded Advice received since 1st January 2014. If the farm (business) has received any funding under the Sheep Scab Project since 1/1/2014 the value of this Advice will be deducted from the 1500 euro available and may prohibit them from full participation.

The value in pounds sterling of the cost for the provision of Advice (and all other claims under this contract) will be calculated using the most recent exchange rate set by the European Central Bank (ECB) prior to the first day of the month in which the payment claim is paid. It remains the responsibility of the contractor to ensure that it is not claiming for amounts greater than those eligible for payment under the Rural Development Regulations and in particular Article 15 and Annex II of Regulation (EU) No. 1305/201.

Annex 6 - Sheep Scab Resistance

Background

Sheep scab due to the *Psoroptes ovis* mite is an important cause of health and welfare problems in the national flock and has a significant cost to the sheep farming industry of the UK.

In 2017 APHA scanning surveillance identified cases where sheep affected by sheep scab mites (*Psoroptes ovis*) had not responded to treatments with an injectable product containing the active ingredient of the macrocyclic lactone (ML) moxidectin.

Mites were collected from four flocks and a collaboration between APHA and the University of Bristol was established with the University undertaking research and *in vitro* tests comparing mites from these farms with a known fully susceptible strain held at Moredun Research Institute to determine if the mites had developed resistance to the injectable product used. The results of this study were published in the Veterinary Record - First evidence of resistance to macrocyclic lactones, in *Psoroptes ovis* sheep scab mites in the UK (Doherty and others 2018). University of Bristol, APHA and the Moredun Research institute investigated further cases of apparent treatment failure and subsequently resistance to other injectable MLs was demonstrated - Multiple resistance to macrocyclic lactones in the sheep scab mite *Psoroptes ovis* (Sturgess-Osborne and others 2019).

This raises major concerns

1. Increasing failure of treatment and control of sheep scab due to the presence of ML resistant mites.
2. Increasing incidents and spread of sheep scab.
3. Continuing use of preventive treatments (MLs) for sheep scab whether successful or not, leading to increased resistance of gut worms to these products.

Diagnosis

Itchy sheep may be infested with the chewing louse, *Bovicola ovis* or the sheep scab mite *Psoroptes ovis* or BOTH at the same time. Therefore in cases of itching sheep with wool loss it is important to get an accurate diagnosis (Mitchell and Carson 2019) .

There are two available methods, the skin scrape and a relatively new *Psoroptes ovis* ELISA test.

Following infection with scab (*P. ovis*) mites it can take a number of weeks before affected sheep start to scratch and rub. This allows time for the mites to spread to other sheep.

In some cases it may be difficult to find mites on skin scrapings and some flocks show little or no clinical signs of sheep scab, particularly if it has been established in the flock for some time and it is in these situations that this ELISA test can be useful. The *Psoroptes ovis* ELISA test can detect antibodies to scab mites in serum from 2 weeks after infestation, so can be useful to indicate exposure before the development of clinical signs or in other situations where mite numbers are

low. It also is best where 12 animals (including the itchy animals) are tested from a suspected infected group

However veterinary interpretation of ELISA results is essential as it needs to take account of treatment history and assess risk factors. A paper describing the use of the ELISA test has been published (Hamer and others 2019).

Treatment

There are only two types of treatment available for sheep scab in the UK, the injectable macrocyclic lactones (MLs) and diazinon organophosphate (OP) dips and it has become very important to recognise that resistance in *P. ovis* mites in the UK to injectable treatments is now present/ confirmed and possibly increasing.

Since scab is not the only cause of itchy sheep it is important to get the diagnosis confirmed to allow treatment with the right product. Pour on synthetic pyrethroids will not kill sheep scab mites and injections of 3ML wormers (e.g. Ivomec, Dectomax, Cydectin) will not kill lice.

Dipping with an OP dip however will kill both sheep scab mites and lice. Many farms may not have dipping facilities but there are an increasing number of contractors who can provide a mobile dipping service.

Injectable 3ML products can be used for prevention and/or treatment, but each product varies, some require two injections to be administered to effectively treat sheep scab. It is imperative that the manufacturer's instructions are read before use. In addition withdrawal periods are subject to change and it is the user's responsibility to ensure withdrawal periods are adhered to.

If resistance is present in mites on the farm, and the mite is eradicated by correct alternative treatment, any resistant mites remaining in the environment in tags of wool for example would not survive for a long period (a maximum of approximately 17 days). This is in contrast to the situation in gastro-intestinal worm resistance where resistant worms will survive in the environment for years.

Summary

- Take sheep scab seriously and encourage flock owners to do so.
- When investigating suspect cases, take skin scrapes and blood samples from the group to help in the diagnosis
- Optimise skin scrape sampling by inspecting the group of animals and select the most pruritic animals. Look for discoloured or wet fleece. The mites will normally be located around the moist edge of the lesion
- Blood sample a minimum of 12 animals of the affected group, including the pruritic animals, ideally identifying the animals sampled to allow retesting if necessary.
- Recommend testing rather than routine prophylactic sheep scab treatment and only treating correctly quarantined new sheep if infestation is confirmed.

- Remember the potential for infestation without clinical signs (e.g. risks associated with common grazing) where use of the blood test will be essential. Encourage collaboration between graziers to coordinate treatments.
- Investigate possible ineffective treatment and report concerns to the VMD.
<https://www.gov.uk/report-veterinary-medicine-problem>
- Further advice on treatment options are available on the Sustainable Control of Parasites (SCOPS) pages <https://www.scops.org.uk/external-parasites/scab/>

DOHERTY, E., BURGESS, S., MITCHELL, S. & WALL, R. (2018) First evidence of resistance to macrocyclic lactones in *Psoroptes ovis* sheep scab mites in the UK. *Veterinary Record*

HAMER, K., BURGESS, S., BUSIN, V. & SARGISON, N. D. (2019) Performance of the *Psoroptes ovis* antibody enzyme-linked immunosorbent assay in the face of low-level mite infestation. *Veterinary Record* 185, 107-107

MITCHELL, S. & CARSON, A. (2019) Sheep scab – the importance of accurate diagnosis. *Veterinary Record* 185, 105-106

STURGESS-OSBORNE, C., BURGESS, S., MITCHELL, S. & WALL, R. (2019) Multiple resistance to macrocyclic lactones in the sheep scab mite *Psoroptes ovis*. *Vet Parasitol* 272, 79-82

Annex 7 – Travel and Subsistence Policy

All Travel and Subsistence should be in line with Defra's Travel and Subsistence Policy. Claims should always be supported by valid receipts for audit purposes and must not exceed any of the stated rates below. Should the stated rate be exceeded, Defra reserve the right to reimburse only up to the stated rate.

Rail Travel

All Journeys – Standard class rail unless a clear business case demonstrating value for money can be presented. This includes international rail journeys by Eurostar and other international and overseas rail operators.

Mileage Allowance

Mileage Allowance	First 10,000 business miles in the tax year	Each business mile over 10,000 in the tax year
Private cars and vans – no public transport rate*	45p	25p
Private cars and vans – public transport rate	25p	25p
Private motor cycles	24p	24p
Passenger supplement	5p	5p
Equipment supplement**	3p	3p
Bicycle	20p	20p

*NB the 'no public transport rate' for car and van travel can only be claimed where the use of a private vehicle for the journey is essential e.g. on grounds of disability or where there is no practical public transport alternative. If the use of the vehicle is not essential the 'public transport rate' should be claimed.

** Under HMRC rules this expense is taxable.

UK Subsistence

Location	Rate
London (Bed and Breakfast)	£115
UK Other (Bed and Breakfast)	£75

Annex 8 – Privacy Notice

The Privacy Notice provided with the tender will be updated by the Authority and provided to the Contractor before work commences.

SCHEDULE 3 - CHANGE CONTROL

Contract Change Note (“CCN”)

CCN Number	
Contract Reference Number & Title	
Variation Title	
Number of Pages	

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 - COMMERCIALY SENSITIVE INFORMATION

[insert commercially sensitive information as appropriate and if known the dates that the information will remain commercially sensitive]

- 1.1 Without prejudice to the Authority's general obligation of confidentiality, the Parties acknowledge that the Authority may have to disclose Information in or relating to the Contract following a Request for Information pursuant to clause E5 (Freedom of Information).
- 1.2 In this Schedule the Parties have sought to identify the Contractor's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be contrary to the public interest.
- 1.3 Where possible the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies.
- 1.4 Without prejudice to the Authority's obligation to disclose Information in accordance with the FOIA and the EIR, the Authority will, acting reasonably but in its sole discretion, seek to apply the commercial interests exemption set out in s.43 of the FOIA to the Information listed below.

CONTRACTOR'S COMMERCIALLY SENSITIVE INFORMATION	DATE	DURATION OF CONFIDENTIALITY

SCHEDULE 5 - 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:

Defra Group Commercial
DGC.GDPR@defra.gov.uk
3. The contact details of the Contractor Data Protection Officer are:

[REDACTED]
[REDACTED]@pentlands.co.uk
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.

Data Processing descriptor	Narrative
Identity of the Controller and Processor	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.
Subject matter of the processing	Collection of Participant details to allow crossing checking against RPA records for eligibility to receive the funded support.
Duration of the processing	For the duration of the Contract, which is anticipated to be: 01 February 2021 to 01 May 2023
Nature and purposes of the processing	<p>The Contractor shall ensure that the Participants in the project receive, sign and return the form confirming agreement to the terms of the Privacy Notice (Annex 8). By providing this confirmation, participants agree to their Sheep Scab disease status or Sheep Scab test results data being shared with the Authority, RPA, APHA and other project participants in their immediate cluster. The Contractor shall ensure that all farmers participating in the project sign an agreement to participate.</p> <p>Participants will be asked to agree that their Sheep Scab disease status based on the results of the testing, can be made available to:</p> <p>a. The Contractor managing the project.</p>

	<p>b. Vets and Advisors participating in the project who will use the data to inform the delivery of situationally specific Advice and management actions to farmers enrolled in the project.</p> <p>c. Farmers enrolled and participating in the project so that they can see the Sheep Scab disease status of participating farms in their local cluster only.</p> <p>d. The Authority, RPA, APHA who will use the data to inform policies which work to improve and safeguard animal health and welfare. For any parties other than the above, the data will be anonymised, ensuring that participants and their farms cannot be identified from it, including in relation to location data and from geographical features.</p> <p>Beneficiary data will need to be loaded on to a claim form, this will be a spreadsheet format (Microsoft Excel or equivalent) and an electronic template will be provided.</p>
<p>Type of Personal Data</p>	<p>The Contractor will be responsible for collating the following data for all the trainees attending the one to many training events, these are the initial cluster training/introductory event(s) and the final group session:</p> <ul style="list-style-type: none"> • Individual – Name, address post code, contact details including an email address, land line and mobile telephone number, Employment status, age, • Business name (as per Rural Payments / BPS) • Farm/Holding – County Parish Holding number (CPH) • Employer – Name, address, postcode, size of the business, SIC codes • Sheep farm type – Breeder, Finisher , pedigree breeder, ram breeder • Type of Assistance – Type of training/learning, number of hours/period • Reporting – Attendance register, learning hours provided • Dates – plus start and finish times of the activity attended • Training Venue – postcode of primary activity location • Name or number in order to identify which cluster the participant is a member of <p>For the Sheep Scab test results the contractor(s) must provide the following additional data to the Authority in a format compatible with Microsoft Excel</p> <ul style="list-style-type: none"> • County Parish Holding number (CPH) • Flock Number

	<ul style="list-style-type: none"> • Management group ID • Individual sheep ID for those tested • Test type • Date of test • Laboratory which carried out the test • Result (ELISA levels)
Categories of Data Subject	Farmers participating in the project.
<p>Plan for return and destruction of the data once the processing is complete</p> <p>UNLESS requirement under union or member state law to preserve that type of data</p>	<p>In line with clause E2.4(e) of this Contract: “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”.</p>

SCHEDULE 7 - CONTRACTOR AND THIRD PARTY SOFTWARE

CONTRACTOR SOFTWARE

For the purposes of this Schedule 7, “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. The Contractor Software comprises the following items:

THIRD PARTY SOFTWARE

For the purposes of this Schedule 7, “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 including the software specified in this Schedule 7. The Third Party Software shall consist of the following items:

Third Party Software	Supplier	Purpose	No. of Licences	Restrictions	No. of copies	Other	To be deposited in escrow?

SCHEDULE 8 - SECURITY REQUIREMENTS, POLICY AND PLAN

INTERPRETATION AND DEFINITION

For the purposes of this Schedule 8, 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 and which is specified as such in Schedule 7.

“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.

“Protectively Marked” shall have the meaning as set out in the Security Policy Framework.

“Security Plan” means the Contractor’s security plan prepared pursuant to paragraph 3 an outline of which is set out in an Appendix to this Schedule 8.

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

“Specially Written Software” means any software created by the Contractor (or by a third party on behalf of the Contractor) specifically for the purposes of this Contract.

“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 including the software and which is specified as such in Schedule 7.

1. INTRODUCTION

This Schedule 8 covers:

1.1 principles of security for the Contractor System, derived from the Security Policy Framework, including without limitation principles of physical and information security;

- 1.2 wider aspects of security relating to the Services;
- 1.3 the creation of the Security Plan;
- 1.4 audit and testing of the Security Plan; and
- 1.5 breaches of security.

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 Premises and the security for the Contractor System. 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:

2.2.1 is in accordance with Good Industry Practice and Law;

2.2.2 complies with Security Policy Framework; and

2.2.3 meets any specific security threats to the Contractor System.

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 (to be defined by 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. SECURITY PLAN

3.1 The Contractor shall develop, implement and maintain a Security Plan to apply during the Contract Period (and after the end of the term as applicable) which will be approved by the Authority, tested, periodically updated and audited in accordance with this Schedule 8.

3.2 A draft Security Plan provided by the Contractor as part of its bid is set out herein.

3.3 Prior to the Commencement Date the Contractor will deliver to the Authority for approval the final Security Plan which will be based on the draft Security Plan set out herein.

3.4 If the Security Plan is approved by the Authority it will be adopted immediately. If the Security Plan is not approved by the Authority the Contractor shall amend it within 10 Working Days of a notice of non-approval from the Authority and re-submit to the Authority for approval. The Parties will use all reasonable endeavors to ensure that the approval process takes as little time as possible and in any event no longer than 15 Working Days (or such other period as the Parties may agree in writing) from the date of its first submission to the Authority. If the Authority does not approve the Security Plan following its resubmission, the matter will be resolved in accordance with clause 12 (Dispute Resolution). No approval to be given by the Authority pursuant to this paragraph 3.4 may be unreasonably withheld or delayed. However any failure to approve the Security Plan on the grounds that it does not comply with the requirements set out in paragraphs 3.1 to 3.4 shall be deemed to be reasonable.

3.5 The Security Plan will set out the security measures to 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 and specify security measures and procedures which are sufficient to ensure that the Services comply with:

3.5.1 the provisions of this Schedule 8;

3.5.2 the provisions of Schedule 1 relating to security;

3.5.3 the Information Assurance Standards;

3.5.4 the data protection compliance guidance produced by the Authority;

3.5.5 the minimum set of security measures and standards required where the system will be handling Protectively Marked or sensitive information, as determined by the Security Policy Framework;

3.5.6 any other extant national information security requirements and guidance, as provided by the Authority's IT security officers; and

3.5.7 appropriate ICT standards for technical countermeasures which are included in the Contractor System.

3.6 The references to Quality Standards, guidance and policies set out in this Schedule shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such Quality Standards, guidance and policies, from time to time.

3.7 If there is any inconsistency in the provisions of the above standards, guidance and policies, the Contractor should notify the Authorised Representative of such inconsistency immediately upon becoming aware of the same, and the Authorised Representative shall, as soon as practicable, advise the Contractor which provision the Contractor shall be required to comply with.

3.8 The Security Plan will be structured in accordance with ISO/IEC27002 and ISO/IEC27001 or other equivalent policy or procedure, cross-referencing if necessary to other schedules of the Contract which cover specific areas included within that standard.

3.9 The Security Plan shall not reference any other documents which are not either in the possession of the Authority or otherwise specified in this Schedule 8.

4. AMENDMENT AND REVISION

4.1 The Security Plan will be fully reviewed and updated by the Contractor annually or from time to time to reflect:

4.1.1 emerging changes in Good Industry Practice;

4.1.2 any change or proposed change to the Contractor System, the Services and/or associated processes;

4.1.3 any new perceived or changed threats to the Contractor System;

4.1.4 changes to security policies introduced Government-wide or by the Authority; and/or

4.1.5 a reasonable request by the Authority.

4.2 The Contractor will provide the Authority with the results of such reviews as soon as reasonably practicable after their completion and amend the Security Plan at no additional cost to the Authority.

4.3 Any change or amendment which the Contractor proposes to make to the Security Plan (as a result of an Authority request or change to Schedule 1 or otherwise) shall be subject to a CCN and shall not be implemented until Approved.

5. AUDIT AND TESTING

5.1 The Contractor shall conduct tests of the processes and countermeasures contained in the Security Plan ("Security Tests") on an annual basis or as otherwise agreed by the Parties. The date, timing, content and conduct of such Security Tests shall be agreed in advance with the Authority.

5.2 The Authority shall be entitled to send a representative to witness the conduct of the Security Tests. The Contractor shall provide the Authority with the results of such tests (in an Approved form) as soon as practicable after completion of each Security Test.

5.3 Without prejudice to any other right of audit or access granted to the Authority pursuant to the Contract, the Authority shall be entitled at any time and without giving

notice to the Contractor to carry out such tests (including penetration tests) as it may deem necessary in relation to the Security Plan and the Contractor's compliance with and implementation of the Security Plan. The Authority may notify the Contractor of the results of such tests after completion of each such test. Security Tests shall be designed and implemented so as to minimise the impact on the delivery of the Services.

5.4 Where any Security Test carried out pursuant to paragraphs 5.2 or 5.3 reveals any actual or potential security failure or weaknesses, the Contractor shall promptly notify the Authority of any changes to the Security Plan (and the implementation thereof) which the Contractor proposes to make in order to correct such failure or weakness. Subject to Approval in accordance with paragraph 4.3, the Contractor shall implement such changes to the Security Plan in accordance with the timetable agreed with the Authority or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the Security Plan to address a non-compliance with the Security Policy Framework or security requirements, the change to the Security Plan shall be at no additional cost to the Authority. For the purposes of this paragraph, a weakness means a vulnerability in security and a potential security failure means a possible breach of the Security Plan or security requirements.

6. BREACH OF SECURITY

6.1 Either Party shall notify the other immediately upon becoming aware of any Breach of Security including, but not limited to an actual, potential or attempted breach, or threat to, the Security Plan.

6.2 Upon becoming aware of any of the circumstances referred to in paragraph 6.1, the Contractor shall immediately take all reasonable steps necessary to:

6.2.1 remedy such breach or protect the Contractor System against any such potential or attempted breach or threat; and

6.2.2 prevent an equivalent breach in the future.

6.3 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.

6.4 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.

APPENDIX 1- OUTLINE SECURITY PLAN

APPENDIX 2 - SECURITY POLICY: SECURITY POLICY FRAMEWORK

A copy of the Security Policy Framework may be found at:

<https://www.gov.uk/government/publications/security-policy-framework>