



Highways England Company Limited

Construction Works Framework - Reconstruction

Scope

Data Protection

Annex 08

CONTENTS AMENDMENT SHEET

Amend. No.	Revision No.	Amendments	Initials	Date
0	0	Tender Issue	SOS	04/08/20

LIST OF CONTENTS

1 DATA PROTECTION 4

1.1 Data Protection 4

2 DATA PROTECTION (SCHEDULE [A]) 9

2.1 Schedule A – Processing, Personal Data and Data Subjects 9

1 DATA PROTECTION

1.1 Data Protection

- 1.1.1. For the purposes of the contract and the Data Protection Legislation:
- for the purposes of this Annex only the *Client* is the Data Controller,
 - the *Contractor* is the Processor and
 - this Annex and Schedule A (data protection) together constitute a data processing agreement where required by the Data Protection Legislation.
- 1.1.2. The *Contractor* processes the Data in accordance with the Data Protection Legislation and only to the extent necessary for the purpose of Providing the Works.
- 1.1.3. The *Contractor* does not knowingly do anything or permit anything to be done which might lead to a breach of the Data Protection Legislation by either party.
- 1.1.4. The *Contractor* obtains and maintains until Completion all registrations and notifications that it is obliged to obtain and maintain pursuant to the Data Protection Legislation (see link in **Annex 02**) in respect of Providing the Works.
- 1.1.5. The *Contractor* only processes Data to the extent it relates to
- the types of Data,
 - the categories of Data Subject and
 - the nature and purpose
- as set out in Schedule A (data protection) and only for the duration specified in Schedule A (data protection).
- 1.1.6. Without prejudice to paragraph 1.1.2 the *Contractor* processes the Data only in accordance with the instructions of the *Project Manager* unless the *Contractor* is required to process Data for other reasons under the laws of the United Kingdom or European Union (or a member state of the EEA) to which the *Contractor* is subject. If the *Contractor* is required to process the Data for these other reasons, it informs the *Project Manager* before carrying out the processing, unless prohibited by relevant law.
- 1.1.7. The *Contractor* immediately informs the *Project Manager* if it believes that an instruction infringes the Data Protection Legislation or any other applicable law.
- 1.1.8. The *Contractor*

- implements and maintains Protective Measure which take into account the nature, scope, context and purpose of processing the Data and
- implements adequate security programmes and procedures to ensure that unauthorised persons do not have access to the Data or to any equipment used to process the Data.

The *Contractor* ensures its processing is in accordance with the Data Protection Legislation and protects the rights of Data Subjects.

- 1.1.9. The *Contractor* submits details of its Protective Measures to the *Project Manager* for acceptance. A reason for not accepting them is that they are not appropriate to protect against a Security Incident. Acceptance (or a failure to reject) by the *Project Manager* does not amount to acceptance by the *Client* of the adequacy of the Protective Measures.
- 1.1.10. The *Contractor* ensures that all persons authorised to process Data are bound by obligations equivalent to those set out in Clause Z5 (Confidentiality) and this section and are aware of the *Contractor's* obligations under the contract and the Data Protection Legislation.
- 1.1.11. The *Contractor* ensures access to the Data is limited to those persons who need access in order for the *Contractor* to Provide the Works and (in each case) to such parts of the Data as are strictly necessary for performance of that person's duties.
- 1.1.12. Where the *Contractor* obtains or collects Personal Data on behalf of the *Client*, the *Contractor*
- provides to Data Subjects a data protection notice in a form accepted by the *Project Manager* informing the Data Subject of the identity of the *Client*, the identity of any data protection representative it may have appointed, the purpose or purposes for which their Personal Data will be processed and any other information which is necessary having regard to the specific circumstances in which the Personal Data is, or is to be, processed to enable processing in respect of the Data Subject to be fair, and comply with the Data Protection Legislation; and
 - where applicable, obtains all necessary consents for the processing of Data.
- 1.1.13. On request, the *Contractor*, takes all necessary actions and provides the *Project Manager* with all reasonable assistance necessary for the *Client* to comply with a Data Subject Access Request.
- 1.1.14. The *Contractor* immediately notifies the *Project Manager* if it receives

- a Data Subject Access Request (or purported Data Subject Request),
 - a complaint or request relating to the *Client's* obligations under the Data Protection Legislation or
 - a request from any Supervisory Authority for assistance or information, unless provided by relevant law.
- 1.1.15. The *Contractor* assists and co-operates with the *Project Manager* in relation to any complaint or Data Subject Request received pursuant to paragraph 1.1.14, including
- providing full details of the complaint or Data Subject Access Request,
 - complying with the Data Subject Request within the time limits set out in the Data Protection Legislation and in accordance with the instructions of the *Project Manager*, and
 - promptly providing the *Client* through the Project Manager with any Personal Data and any other information requested to enable it to respond to the Data Subject Request within the limits set out in the Data Protection Legislation.
- 1.1.16. The *Contractor* does not process the Data outside the EEA (other than in the United Kingdom) without the agreement of the *Project Manager*. Where the *Client* agrees, the *Contractor*
- provides evidence (acceptable to the *Project Manager*) of appropriate safeguards as required by the Data Protection Legislation, and
 - complies with the instructions of the *Project Manager*.
- 1.1.17. The *Contractor* complies with the requirements of the *Client* and the *Project Manager* in relation to the storage, dispatch and disposal of Data in any form or medium. Any requirement for the *Contractor* to destroy or delete copies of the Data is subject to any law of the European Union, the United Kingdom or a member state of the EEA to which the *Contractor* is subject that requires Data to be retained.
- 1.1.18. The *Contractor* notifies the *Project Manager* as soon as they become aware of a Security Incident or any other breach of this section. The notification includes, as far as possible
- a description of the nature of the Security Incident, including the categories and approximate number of Data Subjects concerned,
 - the likely consequences of the breach, and

- the Protective Measures taken, or to be taken, to address the breach, including measures taken to mitigate any possible adverse effects.
- 1.1.19. In the event of a Security Incident, the *Contractor* provides the *Project Manager* with full co-operation and assistance in dealing with the Security Incident, in particular in notifying individuals affected by the Security Incident or a Supervisory Authority as required by the Data Protection Legislation and in accordance with the instructions of the *Project Manager*.
- 1.1.20. On request the *Contractor* provides to the *Project Manager* all necessary information to demonstrate the *Contractor* compliance with this Annex.
- 1.1.21. The *Contractor* promptly provides all assistance and information requested by any Supervisory Authority or required by the *Project Manager* in order for the *Client* to ensure compliance with its obligations under the Data Protection Legislation, including in relation to
- security of processing,
 - preparation of any necessary Data Protection Impact Assessments and
 - undertaking any necessary data protection consultations of Supervisory Authorities.
- 1.1.22. The *Contractor* maintains electronic records of all processing activities carried out on behalf of the *Client*, including:
- the information described in paragraph 1.1.5 of this Annex,
 - The different types of processing of Data being carried out (if applicable),
 - any transfers of Data outside the EEA or the United Kingdom, identifying the relevant country or international organisations and any documentation required to demonstrate suitable safeguards, and
 - a description of the technical and organisation security measures referred to in paragraph 1.1.9 of this Annex.
- The *Contractor* makes these records available to the *Project Manager* promptly on request.
- 1.1.23. Before allowing any Sub-Processor to process any Personal Data related to the contract, the *Contractor*
- notifies the *Client* in writing of the intended Sub-Processor and processing,
 - obtains the written agreement of the *Project Manager*,

- enters into a written agreement with the Sub-Processor which give effect to the terms set out in the contract such that they apply to the Sub-Processor, and
- provide the *Project Manager* with such information regarding the Sub-Processor as the *Project Manager* may reasonably require.

- 1.1.24. The *Service Manager* may, at any time revise this Annex by replacing it with any applicable controller to processor standard provisions or similar terms forming part of an applicable certification scheme.
- 1.1.25. The Parties agree to take account of any guidance issued by the Information Commissioner's Office.
- 1.1.26. Each Party designates its own Data Protection Officer if required by the Data Protection Legislation.
- 1.1.27. A failure to comply with this Annex is treated as a substantial failure by the *Contractor* to comply with its obligations.

2 DATA PROTECTION (SCHEDULE [A])

2.1 Schedule A – Processing, Personal Data and Data Subjects

This schedule is completed by the *Client*, who may take account of the view of the *Contractors*, however the final decision as to the content of this schedule is the *Client's* and at its absolute discretion.

1. The contact details of the *Client's* Data Protection Officer are Graham Woodhouse (dataprotectionadvice@highwaysengland.co.uk).
2. The contact details of the *Contractor* Data Protection Officer or nominated lead are per Contract Data part 2.
3. The *Contractor* complies with any further written instructions with respect to processing by the *Client*.

Any such further instructions are to be incorporated into this table.

Description	Details
Identity of the <i>Client</i> and <i>Contractor</i>	The Parties acknowledge that for the purposes of the Data Protection Legislation, the <i>Client/Purchaser</i> is the Data Controller and the <i>Contractor/Consultant/Supplier</i> is the Processor in accordance with clause 1.1.1.
Subject matter of the processing	The processing is needed in order to ensure that the Processor can; <ul style="list-style-type: none"> • effectively liaise and communicate with members of the public and other stakeholders, for example but not limited to councils, affected businesses and community groups and • monitor traffic for the purpose of vehicle recovery through the use of temporary closed circuit television (CCTV).
Duration of the processing	For the duration of the framework.
Nature and purposes of the processing	Collection, storage and use of personal data for the purpose of conducting liaison and communications with affected customers and stakeholders, and the recovery of vehicles as necessary where traffic management is deployed.
Type of Personal Data	Name, postal address, e-mail address and telephone number and vehicle registration.
Categories of Data Subject	Members of the public and stakeholders.
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	Personal data to be deleted once the data is no longer required, once the scheme is fully complete, including any unresolved matters, or the framework concludes.