**FORM OF AGREEMENT**

**Incorporating the NEC4 Professional Services Contract June 2017 incorporating amendments January 2019 and October 2020**

**Between**

**The Department for Work and Pensions ("DWP")**

**And**

**WSP UK Limited**

**For the Development of a DWP Nature Recovery Plan**

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**THIS AGREEMENT is made the 21 December 2022**

**PARTIES:**

1. **THE SECRETARY OF STATE FOR WORK AND PENSIONS** acting as part of the Crown (the ***"Client"***); and

2. **WSP UK LTD** which is a company incorporated in and in accordance with the laws of England and Wales (Company No. 01383511 whose registered office address is at WSP House, 70 Chancery Lane, London, England, WC2A 1AF (the "***Consultant***").

**BACKGROUND**

(A) The *Consultant* has agreed to Provide the Services in accordance with this agreement.

**IT IS AGREED AS FOLLOWS:**

1. The *Client* will pay the *Consultant* the amount due and carry out his duties in accordance with the *conditions of contract* identified in the Contract Data and the Contract Schedules.

2. The *Consultant* will Provide the Service in accordance with the *conditions of contract* identified in the Contract Data and the Contract Schedules.

3. This contract incorporates the conditions of contract in the form of the NEC4 Professional Services Contract June 2017 Edition incorporating amendments January 2019 and October 2020 and incorporating the following Options:

    - Main Option A;
    - Dispute Resolution Option W2;
    - Secondary Options X2, X10, X11, X18, and X20

    Option Y(UK)2 Together with the following Contract Schedules:

    1. Contract Schedule 1 – Expression of Interest for the Development of a DWP Nature Recovery Plan and Statement of Requirements and Scope.
    2. Contract Schedule 2 - Activity Schedule
    3. Contract Schedule 3 - Consultant Proposal
    4. Contract Schedule 4 - Government Commercial Function Supplier Code of Conduct
    5. Contract Schedule 5 - DWP Security Policy
    6. Contract Schedule 6 - Key Performance Indicators
    7. Contract Schedule 7 - Financial Distress
    8. Contract Schedule 8 – GDPR

    which together with the *additional conditions of contract* specified in Option Z, and the amendments specified in Option Z, form this contract together with the documents referred to in it. References in the NEC4 Professional Services Contract June 2017 Edition incorporating amendments January 2019 and October 2020 to "the contract" are references to this contract.

4. This contract is the entire agreement between the parties in relation to the *service* and supersedes and extinguishes all prior arrangements, understandings, agreements, statements, representations, or warranties (whether written or oral) relating thereto.

4.1 If there is any ambiguity or inconsistency in or between the documents comprising this contract, the priority of the documents is in accordance with the following sequence:

4.1.1 this Agreement

4.1.2 the Scope

4.1.3 the completed Contract Data

4.1.4 the other conditions of contract

4.1.5 the additional conditions of this contract

4.1.6 any other document forming part of the contract

5. Neither party has been given, nor entered into this contract in reliance on any arrangements, understandings, agreements, statements, representations or warranties other than those expressly set out in this agreement.

Nothing in clauses 4, or 5 shall exclude liability in respect of misrepresentations made fraudulently.

Executed under hand

Signed by REDACTED for and on behalf of **WSP UK LTD**

REDACTED

Authorised Signatory

The Client

Signed by REDACTED for and on behalf of The Secretary of State for Work and Pensions of Caxton House, Tothill Street, London, SW1H 9NA

REDACTED

Authorised Signatory

# Professional Services Contract
# Contract Data

## Part one – Data provided by the *Client*

**1 General**

The *conditions of contract* are the core clauses and the clauses for the following main option, the option for resolving and avoiding disputes and the and secondary Options of the NEC4 Professional Services Contract June 2017 incorporating amendments January 2019 and October 2020.

Main Option A

Option for resolving and avoiding disputes W2

Secondary Options X2, X10, X11, X18, X20, Y(UK)2 and Z clauses.

- The *service* is as set out in The Statement of Requirements and Scope (Contract Schedule 1) appended to this agreement.
- The *Client* is Department for Work and Pensions of Caxton House, Tothill Street, London, SW1H 9NA.

*Address for communications:*

Caxton House, Tothill Street, London, SW1H 9NA

*Address for electronic communications:*

REDACTED

REDACTED

The *Service Manager* is REDACTED

*Address for communications:*

Department for Work and Pensions, Ground Floor, Caxton House, Tothill Street, London, SW1H 9NA

*Address for electronic communications:*

REDACTED

REDACTED

The Scope is as set out in The Statement of Requirements and Scope (Contract Schedule 1) appended to this agreement.

The *language of the contract* is English.

*The law of the contract* is the law of England and Wales and the Courts of the country selected above, shall have exclusive jurisdiction with regard to any dispute in connection with this Agreement and the Parties irrevocably agree to submit to the jurisdiction of those courts.

If Option Y(UK)2 is said to apply then notwithstanding that this contract relates to the carrying out of construction operations other than in England or Wales or Scotland, the Act is deemed to apply to this contract.

The *period for reply* is two weeks.

The *period for retention* is 6 years following Completion or earlier termination.

The following matters will be included in the Early Warning Register

N/A

Early warning meetings will be held as and when early warnings are raised by either the Consultant or the Client.

**2 The *Consultant's* main responsibilities**

**If the Client has identified work which is set to meet a stated *condition* by a *key date***

The *key dates* and *conditions* to be met are

| *condition* to be met | *key date* |
|---|---|
| Completion of progress reports and attendance at meeting(s) | within timescales communicated in writing (which may include email) by the Client to the Consultant as and when required |
| Notice of planned absence of Consultant Key Personnel e.g. annual leave | at least 10 Working Days prior to the first day of the planned absence |
| Desk based review of DWP waste data Within timescales | Within timescales communicated in writing |

| | |
|---|---|
| communicated in writing (project plan) by the Consultant to the Client | (project plan) by the Consultant to the Client |
| Undertake site visits to selected DWP offices | Within timescales communicated in writing (project plan) by the Consultant to the Client |
| Undertake site visits to selected DWP offices | Within timescales communicated in writing (project plan) by the Consultant to the Client |
| Circulate survey to selected DWP staff | Within timescales communicated in writing (project plan) by the Consultant to the Client |
| Write up and provide report to DWP on findings of independent waste management review | Within timescales communicated in writing (project plan) by the Consultant to the Client |

**If Option A is used**

The *Consultant* prepares forecasts of the total *expenses* at intervals no longer than 2 weeks

**3 Time**

*The starting date* is 01November 2022

The *Client* provides access to the following persons, places and things

- access to — *access date*
  DWP premises as necessary. — When required.

The *Consultant* submits revised programmes at intervals no longer than one week.

**If the *Client* has decided the *completion date* for the whole of the *service***

The *completion date* for the whole of the *service* is 31st January 2023

**4 Quality Management**

The period after the Contract Date within which the *Consultant* is to submit a quality policy statement and quality plan is 2 weeks.

The period between Completion of the whole of the *service* and the *defects date* is 52 weeks

**5 Payment**

The *currency of the contract* is the pound sterling (£).

The *assessment interval* is monthly

**If the *Client* states any *expenses***

The *expenses* stated by the *Client* are

| Item | Amount |
|---|---|
| N/A | |

The *interest rate* is, 3% per annum above the Bank of England base rate in force from time to time.

**6 Compensation events**

**If there are additional compensation events**

These are additional compensation events

N/A

**8 Liability and insurance**

**If there are additional *Client* liabilities**

These are additional *Client* liabilities

1 N/A

The amounts of insurance and the periods for which the *Consultant* maintains insurance are

| **event** | **cover** | **Period** |
|---|---|---|

| | | |
|---|---|---|
| 1. *Professional Indemnity Insurance* - To indemnify the insured for all sums which the insured shall become legally liable to pay (including claimants' costs and expenses) as a result of claims first made against the insured during the period of insurance by reason of any negligent act, error and/or omission arising from or in connection with the performance of its obligations under the Framework Alliance Contract. | Not less than £1,000,000 in respect of each claim, without limit to the number of claims except for claims arising out of pollution or contamination, where the minimum amount of cover applies in the aggregate in any one period of insurance and except for claims arising out of asbestos where a lower level may apply in the aggregate. | From the date of the Framework Alliance Contract and renewable on an annual basis unless agreed otherwise by the Client in writing (a) throughout the Framework Period or until earlier termination of the Framework Alliance Contract and (b) for a period of 6 years thereafter. |
| *2. Third Party Public Liability Insurance* - To indemnify the insured in respect of all sums which the insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:<br><br>● death or bodily injury to or sickness, illness or disease contracted by any person;<br><br>● loss of or damage to property; happening during the period of insurance and arising out of or in connection with any matter governed by the Framework Alliance Contract. | Not less than £2,000,000 in respect of any one occurrence, the number of occurrences being unlimited, but £2,000,000 any one occurrence and in the aggregate per annum in respect of products and pollution liability. | |

*The Consultant's*.total liability for the Client for all matters arising under or in connection with the contract, other than the excluded matters, is limited to £1,000,000 in the aggregate.

**Resolving and avoiding disputes**

The tribunal is arbitration

**If the *tribunal* is arbitration**

The *arbitration procedure* is the London Court of International Arbitration Rules;

The place where arbitration is to be held is London

The person or organisation who will choose the arbitrator if the parties cannot agree a choice or if the *arbitration procedure* does not state who selects and arbitrator is: Royal Institution of Chartered Surveyors.

The *Representatives* of the *Client* are: REDACTED, REDACTED and REDACTED

*Address for communications:*

Department for Work and Pensions I Ground Floor, Caxton House, Tothill Street, London, SW1H 9NA

*Address for electronic communications:* REDACTED, REDACTED and REDACTED

The *Senior Representatives* of the *Client* are: REDACTED and REDACTED

*Address for communications:*

Department for Work and Pensions I Ground Floor, Caxton House, Tothill Street, London, SW1H 9NA

*Address for electronic communications*:

REDACTED and REDACTED

The representative of the *Consultant* is*:* REDACTED

*Address for communications:*

ATTENBOROUGH HOUSE

BROWNS LANE BUSINESS PARK

STANTON-ON-THE-WOLDS

NOTTINGHAM

NG12 5BL

*Address for electronic communications*: REDACTED

The Senior Representative of the *Consultant* is: REDACTED

*Address for communications:*

WSP, 3RD FLOOR, KINGS ORCHARD
1 QUEENS STREET
BS2 0HQ
BRISTOL

*Address for electronic communications*: REDACTED

The *Adjudicator* is the person agreed by the Parties from the list of Adjudicators published by the Royal Institution of Chartered Surveyors or nominated by the *Adjudicator nominating body* in the absence of agreement.

*Address for communications [To be provided on agreement of adjudicator]*

*Address for electronic communications [To be provided on agreement of adjudicator]*

The *Adjudicator nominating body* is the *Royal Institute of Chartered Surveyors.*

**Option X1** **Option X1 is not used**

**Option X2 Changes in the law** **If Option X2 is used**

*The law of the project* is the law of England and Wales

**Option X3** **Option X3 is not used**

**Option X5** **Option X5 is not used**

**Option X6** **Option X6 is not used**

**Option X7** **Option X7 is not used**

**Option X8** **Option X8 is not used**

**Option X10 Information modelling** **If Option X10 is used**

**If no *information execution plan* is identified in part two of the Contract Data**

The period after the Contract Date within which the *Consultant* is to submit a first information Execution Plan for acceptance is two weeks.

**Option X12** **Option X12 is not used**

**Option X13** **Option X13 is not used**

**Option X18 Limitation of liability** **If Option X18 is used**

- The Consultant’s liability to the Client for indirect or consequential loss is limited to £1,000,000.
- The Consultant's total liability to the Client for all matters arising under or in connection with the contract, other than excluded matters, is limited to £1,000,000.
- The end of liability date is 6 years after Completion of the whole of the services.

**Option X20 Key performance indicators**

*The incentive schedule* for Key Performance Indicators is in Contract Schedule 6.

Unless otherwise communicated by the Client to the Consultant, a report of performance against each Key Performance Indicator is provided by the Consultant to the Client at monthly intervals.

- The Parties shall meet within 5 Working Days following each KPI performance report being provided at a Performance Review Meeting. Without prejudice to the Improvement Plan Process set out below, actions and associated timescales will be agreed to share best practice and/or agree how improvements to performance will be implemented.
- The performance of the Consultant in the preceding month is classified as 'Good' if KPIs 1 and 2 are marked as Green, and KPI 3 is marked as either Green or Amber. The performance of the Consultant in the preceding month is classified as 'Poor' if two or more of the KPIs are marked as Red.
- The performance of the Consultant in the preceding month is classified as 'Requiring Improvement' if the Key Performance Indicators are neither classified as 'Good' or 'Poor.'
- Where X20 is used, the amount due under clause 50 is adjusted to account for the application of the *incentive schedule.*
- The *Client* reserves the right to disapply the *incentive schedule* where the *Client* considers that mitigating circumstances apply.

**Improvement Plan Process**

- An **Improvement Plan** is the plan to address the impact of and prevent the reoccurrence of performance by the *Consultant* which is 'Poor' or 'Requiring Improvement'.
- Where the performance of the *Consultant* is 'Poor' or 'Requiring Improvement' in the previous month, the *Client* may serve notice (an **Improvement Notice**) on the *Consultant* setting out sufficient detail to make it clear what the *Consultant* has to rectify.
- Where an Improvement Notice is served the *Consultant* submits to the *Client* a draft Improvement Plan and the *Client* reviews it as soon as possible and in any event within 10 Working Days (as defined in Contract Schedule 6) (or such other period as the Parties agree) of the monthly performance meeting or, if later, the date of service of the Improvement Notice. The *Consultant* submits a draft Improvement Plan even if it disputes the performance rating in the previous month.
- The draft Improvement Plan sets out:

  1. full details of the performance rating in the previous month and which KPIs were rated as Red or Amber to achieve this rating; and

2. the steps the *Consultant* proposes to take to rectify and improve the performance of these KPIs and to prevent any issues from recurring, including timescales for such steps.

- The *Consultant* provides the *Client* with such additional information or documentation as the *Client* reasonably requires.
- The *Client* notifies the *Consultant* that:

  1. it agrees the draft Improvement Plan; or

  2. it rejects the draft Improvement Plan because it is inadequate, for example because it is not detailed enough to evaluate, will take too long to complete, will not prevent reoccurrence of the Red or Amber markings it was drafted to improve or is otherwise unacceptable to the *Client*. Where the *Client* does so it shall set out its reasons for doing so.

- Where the *Client* accepts the Improvement Plan the *Consultant* immediately implements the actions in the Improvement Plan.
- Where the *Client* rejects the Improvement Plan the *Consultant* resubmits its draft Improvement Plan taking into account the *Client's* comments within 5 Working Days of notice that the *Client* rejects the preceding Improvement Plan.
- Without prejudice to any other right or remedy of the *Client,* the *Client* may terminate this contract by written notice to the *Consultant* if performance of the *Consultant* is classified as 'Poor' in three or more consecutive months and the *Consultant* fails in respect of any of such incidences of 'Poor' performance:

  1. to submit a draft Improvement Plan to the *Client*;

  2. to submit a draft Improvement Plan which the *Client* acting reasonably does not approve;

  3. to implement an Improvement Plan agreed by the Parties by the date of rectification stipulated in the Improvement Plan; or

  4. following implementation of a previous Improvement Plan, where one or more of the same KPIs has received a Red marking in consecutive months for the same (or substantially the same) root cause.

**Option Y(UK)1** **Y(UK)1 is not used**

**Option Y(UK)3** **Y(UK)3 is not used**

**Option Z** The *additional conditions of contract* are: Z2, Z4, Z5, Z6, Z7, Z8, Z9, Z10, Z13, Z14, Z16, Z44, Z49, Z51, Z52, Z53, Z54

**Contract Data relating to Z clauses**

The additional conditions of contract are as set out below:

**Option Z2**

**Identified and defined terms** Insert new clause 11.3 additional defined terms.

11.3 (1) Auditor is:

- the *Client's* internal and external auditors;
- the *Client's* statutory or regulatory auditors;
- the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;
- HM Treasury or the Cabinet Office;
- any party formally appointed by the *Client* to carry out audit or similar review functions; and
- successors or assigns of any of the above;

11.3 (2) Change of Control is a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;

11.3 (3) Client Confidential Information is all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and contractors of the *Client* and/or any of the *Client's* other suppliers, including all IPRs and all financial or pricing information, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential.

11.3 (4) Client Data is 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 supplied to the *Consultant* by or on behalf of the *Client*,
- which the *Consultant* is required to generate, process, store or transmit pursuant to this contract or
- which are any Personal Data for which the *Client* is the Data Controller to the extent that such Personal Data is held or processed by the Consultant.

11 (5) Client's Premises are premises owned, occupied or leased by the Client and the site of any works to which the *service* relates.

11.3 (6) Commercially Sensitive Information is the information agreed between the Parties (if any) comprising the information of a commercially sensitive nature relating to the *Consultant*, the charges for the *service*, its IPR or its business or which the *Consultant* has indicated to the *Client* that, if disclosed by the *Client*, would cause the *Consultant* significant commercial disadvantage or material financial loss.

11.3 (7) Confidential Information is the Client's Confidential Information and/or the Consultant's Confidential Information.

11.3 (8) Contracting Body is any Contracting Body as defined in Regulation 5(2) of the Public Contracts (Works, Service and Supply) (Amendment) Regulations 2000 other than the Client.

11.3 (9) Consultant's Confidential Information is any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and consultants of the *Consultant*, including IPRs, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential, including the Commercially Sensitive Information.

11.3 (10) Crown Body is any department, office or agency of the Crown.

11.3 (11) DASVOIT is the Disclosure of Tax Avoidance Schemes: VAT and other indirect taxes contained in the Finance (No.2) Act 2017.

11.3 (12) DOTAS is the Disclosure of Tax avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notable 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 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992.

11.3 (13) Environmental Information Regulations is the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations.

11.3 (14) FOIA is the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together

with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.

11.3 (15) General Anti-Abuse Rule is

- the legislation in Part 5 of the Finance Act 2013 (as amended) and

- any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements and to avoid national insurance contributions.

11.3 (16) Halifax Abuse Principle is the principle explained in the CJEU Case C-255/02 Halifax and others.

11.3 (17) Intellectual Property Rights or "IPRs" is

- copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trademarks, rights in internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information,

- applications for registration, and the right to apply for registration, for any of the rights listed in the first bullet point that are capable of being registered in any country or jurisdiction,

- all other rights having equivalent or similar effect in any country or jurisdiction and

- all or any goodwill relating or attached thereto.

11.3 (18) Law is 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, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the *Consultant* is bound to comply under the *law of the contract*.

11.3 (19) An Occasion of Tax Non-Compliance is

- where any tax return of the *Consultant* submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of

- a Relevant Tax Authority successfully challenging the *Consultant* 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 or

- the failure of an avoidance scheme which the *Consultant* was involved in, and which was, or should have been, notified to a Relevant Tax Authority under DASVOIT, DOTAS or VADR or any equivalent or similar regime and

where any tax return of the *Consultant* 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 Contract Date or to a civil penalty for fraud or evasion.

11.3 (20) Prohibited Act is

- to directly or indirectly offer, promise or give any person working for or engaged by the *Client* or other Contracting Body or any other public body a financial or other advantage to
    - induce that person to perform improperly a relevant function or activity or
    - reward that person for improper performance of a relevant function or activity,
- 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 this contract,
- committing any offence
    - under the Bribery Act 2010 (or any legislation repealed or revoked by such Act),
    - under legislation or common law concerning fraudulent acts or
    - defrauding, attempting to defraud or conspiring to defraud the *Client* or
- any activity, practice or conduct which would constitute one of the offences listed above if such activity, practice or conduct had been carried out in the UK.

11.3 (21) Request for Information is a request for information or an apparent request under the Code of Practice on Access to government Information, FOIA or the Environmental Information Regulations.

11.3 (22) Relevant Requirements are all applicable Laws 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.

11.3 (23) Relevant Tax Authority is HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the *Consultant* is established.

11.3 (24) Security Policy means the *Client*'s security policy attached as Contract Schedule 5 as may be updated from time to time.

11.3 (25) VADR is the VAT disclosure regime under Schedule 11A of the Value Added Tax Act 1994 (VATA 1994) (as amended by Schedule 1 of the Finance (No. 2) Act 2005).

Option Z4 - Admittance to Client's Premises

Insert new clause 18A:

18A.1 The Consultant submits to the Service Manager details of people who are to be employed by it and its Subcontractors in Providing the Service. The details include a list of names and addresses, the capabilities in which they are employed, and other

information required by the Service Manager.

18A.2 The Service Manager may instruct the Consultant to take measures to prevent unauthorised persons being admitted to the Client's Premises.

18A.3 Employees of the Consultant and its Subcontractors are to carry a Client's pass and comply with all conduct requirements from the Client whilst they are on the parts of the Client's Premises identified in the Scope.

18A.4 The Consultant submits to the Service Manager for acceptance a list of the names of the people for whom passes are required. On acceptance, the Service Manager issues the passes to the Consultant. Each pass is returned to the Service Manager when the person no longer requires access to that part of the Client's Premises or after the Service Manager has given notice that the person is not to be admitted to the Client's Premises.

18A.5 The Consultant does not take photographs of the Client's Premises or of work carried out in connection with the service unless it has obtained the acceptance of the Service Manager.

18A.6 The Consultant takes the measures needed to prevent its and its Subcontractors' people taking, publishing or otherwise circulating such photographs.

**Option Z5**

- **Prevention of fraud and bribery**

Insert new clauses:

17.4.1 The *Consultant* represents and warrants that neither it, nor to the best of its knowledge any of its people, have at any time prior to the Contract Date

- committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act or
- 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.

17.4.2 During the carrying out of the *service* the *Consultant* does not

- commit a Prohibited Act and
- do or suffer anything to be done which would cause the *Client* or any of the *Client's* employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

17.4.3 In Providing the Service the *Consultant*

- establishes, maintains and enforces, and requires 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,
- keeps appropriate records of its compliance with this contract and make such records available to the *Client* on request and
- provides and maintains and where appropriate enforces an

anti-bribery policy (which shall be disclosed to the *Client* on request) to prevent it and any *Consultant's* people or any person acting on the *Consultant's* behalf from committing a Prohibited Act.

17.4.4 The *Consultant* immediately notifies the *Client* in writing if it becomes aware of any breach of clause 17.4.1, or has reason to believe that it has or any of its people or Subcontractors have

- been subject to an investigation or prosecution which relates to an alleged Prohibited Act,
- 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 or
- received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this contract or otherwise suspects that any person or party directly or indirectly connected with this contract has committed or attempted to commit a Prohibited Act.

17.4.5 If the *Consultant* makes a notification to the *Client* pursuant to clause 17.4.4, the *Consultant* responds promptly to the *Client's* enquiries, co-operates with any investigation, and allows the *Client* to audit any books, records and/or any other relevant documentation in accordance with this contract.

17.4.6 If the *Consultant* breaches Clause 17.4.3, the *Client* may by notice require the *Consultant* to remove from carrying out the *service* any person whose acts or omissions have caused the *Consultant*'s breach.

**Option Z6**

- **Equality and diversity**

Insert new clauses:

27.1 The *Consultant* performs its obligations under this contract in accordance with

- all applicable equality Law (whether in relation to race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise); and
- any other requirements and instructions which the *Client* reasonably imposes in connection with any equality obligations

imposed on the *Client* at any time under applicable equality Law*;*

27.2 The *Consultant* takes all necessary steps, and informs the *Client* 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).

**Option Z7** • **Legislation and Official Secrets**

Insert new clauses:

20.6 The *Consultant* complies with Law in the carrying out of the *service.*

20.7 The Official Secrets Acts 1911 to 1989, section 182 of the Finance Act 1989 and, where appropriate, the provisions of section 11 of the Atomic Energy Act 1946 apply to this contract.

20.8 The *Consultant* notifies its employees and its Subcontractors of their duties under these Acts.

**Option Z8** • **Conflict of interest**

Insert new clauses:

28.1. The *Consultant* takes appropriate steps to ensure that neither the *Consultant* nor any of its personnel are placed in a position where (in the reasonable opinion of the *Client*) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the *Consultant* or its personnel and the duties owed to the *Client* under this contract.

28.2. The *Consultant* promptly notifies and provides full particulars to the Client if such conflict referred to in clause 28.1 arises or may reasonably been foreseen as arising.

28.3. The *Client* may terminate the *Consultant's* obligation to Provide the Service immediately under reason R11 and/or to take such other steps the *Client* deems necessary where, in the reasonable opinion of the *Client*, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the *Consultant* and the duties owed to the *Client* under this contract.

**Option Z9** • **Publicity and Branding**

Insert new clauses:

29.1 The *Consultant* does not

- make any press announcements or publicise this contract in any way
- use the *Client's* name or brand in any promotion or marketing or announcement of the contract

without approval of the *Client*.

29.2. The *Client* is entitled to publicise the contract in accordance with any legal obligation upon the *Client*, including any examination of the contract *by* the National Audit Office pursuant to the National Audit Act 1983 or otherwise.

**Option Z10** • **Freedom of information**

Insert new clauses:

26.2 The *Consultant* acknowledges that unless the *Service Manager* has notified the *Consultant* that the *Client* is exempt from the provisions of the FOIA, the *Client* is subject to the requirements of the Code of Practice on Government Information, the FOIA and the Environmental Information Regulations. The *Consultant* cooperates with and assists the *Client* so as to enable the *Client* to comply with its information disclosure obligations.

26.3 The *Consultant*

- transfers to the *Service Manager* all Requests for Information that it receives as soon as practicable and in any event within two working days of receiving a Request for Information,
- provides the *Service Manager* with a copy of all information in its possession, or power in the form that the *Service Manager* requires within five working days (or such other period as the *Service Manager* may specify) of the *Service Manager's* request,
- provides all necessary assistance as reasonably requested by the *Service Manager* to enable the *Client* to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations and

- procures that its Subcontractors do likewise.

- 26.4 The *Client* is responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations.

- 26.5 The *Consultant* does not respond directly to a Request for Information unless authorised to do so by the *Service Manager*.

- 26.6 The *Consultant* acknowledges that the *Client* may, acting in accordance with Cabinet Office Freedom of Information Code of Practice, be obliged to disclose information without consulting or obtaining consent from the *Consultant* or despite the *Consultant* having expressed negative views when consulted.

- 26.7 The *Consultant* ensures that all information is retained for disclosure throughout the *period for retention* and permits the *Service Manager* to inspect such records as and when reasonably requested from time to time.

**Option Z13**

- **Confidentiality and Information Sharing**

Insert a new clause

- 26.8 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this contract, each Party shall

    - treat the other Party's Confidential Information as confidential and safeguard it accordingly,

    - not disclose the other Party's Confidential Information to any other person without prior written consent,

    - immediately notify the other Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information and

    - notify the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

26.9 The clause above shall not apply to the extent that

- such disclosure is a requirement of the Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to clause Z10 (Freedom of Information),
- such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner,
- such information was obtained from a third party without obligation of confidentiality,
- such information was already in the public domain at the time of disclosure otherwise than by a breach of this contract or
- it is independently developed without access to the other party's Confidential Information.

- 26.10 The *Consultant* may only disclose the Client Confidential Information to the people who are directly involved in Providing the Service and who need to know the information and shall ensure that such people are aware of and shall comply with these obligations as to confidentiality. The *Consultant* shall not, and shall procure that the *Consultant's* people do not, use any of the Client Confidential Information received otherwise than for the purposes of this contract.

- 26.11 The *Consultant* may only disclose the Client Confidential Information to *Consultant's* people who need to know the information, and shall ensure that such people are aware of, acknowledge the importance of, and comply with these obligations as to confidentiality. In the event that any default, act or omission of any *Consultant's* people causes or contributes (or could cause or contribute) to the *Consultant* breaching its obligations as to confidentiality under or in connection with this contract, the *Consultant* shall take such action as may be appropriate in the circumstances, including the use of disciplinary procedures in serious cases. To the fullest extent permitted by its own obligations of confidentiality to any *Consultant's* people , the *Consultant* shall provide such evidence to the *Client* as the *Client* may reasonably require (though not so as to risk compromising or prejudicing the case) to demonstrate that the *Consultant* is taking appropriate steps to comply with this clause, including copies of any written communications to and/or from *Consultant's* people, and any minutes of meetings and any other records which provide an audit

trail of any discussions or exchanges with *Consultant's* people in connection with obligations as to confidentiality.

- 26.12 At the written request of the *Client*, the *Consultant* shall procure that those members of the *Consultant's* people identified in the *Client*'s request signs a confidentiality undertaking prior to commencing any work in accordance with this contract.

- 26.13 Nothing in this contract shall prevent the *Client* from disclosing the Consultant's Confidential Information

  - to any Crown Body or any other Contracting Bodies. All Crown Bodies or Contracting Bodies receiving such Confidential Information shall be entitled to further disclose the Consultant's Confidential Information to other Crown Bodies or other Contracting Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Body,

  - to a professional adviser, contractor, consultant, supplier or other person engaged by the *Client* or any Crown Body (including any benchmarking organisation) for any purpose connected with this contract, or any person conducting an Office of Government Commerce Gateway Review,

  - for the purpose of the examination and certification of the *Client*'s accounts,

  - for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the *Client* has used its resources,

  - for the purpose of the exercise of its rights under this contract or

  - to a proposed successor body of the *Client* in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this contract,

  and for the purposes of the foregoing, disclosure of the Consultant's Confidential Information shall be on a confidential basis and subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the *Client* under this clause 26.13.

  26.14 The *Client* shall use all reasonable endeavours to ensure that any government department, Contracting Body, people, third party or subcontractor to whom the Consultant's Confidential Information is disclosed pursuant to the above clause is made aware of the *Client*'s obligations of confidentiality.

26.15 Nothing in this clause shall prevent either party from using any techniques, ideas or know-how gained during the performance of the contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.

26.16 The *Client* may disclose the Consultant's Confidential Information

- to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement,
- to the extent that the *Client* (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions.

**Option Z14** • **Security Requirements**

The *Consultant* complies with, and procures the compliance of the *Consultant's* people, with the Security Policy and the Security Management Plan produced by the *Consultant* and the *Consultant* shall ensure that the Security Management Plan fully complies with the Security Policy and Contract Schedule 5.

**Option Z16** • **Tax Compliance**

Insert new clauses:

- 26.17 The *Consultant* represents and warrants that at the Contract Date, it has notified the *Client* in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance.
- 26.18 If, at any point prior to the *defects date*, an Occasion of Tax Non-Compliance occurs, the *Consultant* shall
  - notify the *Client* in writing of such fact within 5 days of its occurrence and
  - promptly provide to the *Client*
    - details of the steps which the *Consultant* is taking to address the Occasions of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant and
    - such other information in relation to the Occasion of

Tax Non-Compliance as

the *Client* may reasonably require.

**Option Z22**

- **Fair payment applies - NOT USED**

**Option Z42** **The Housing Grants, Construction and Regeneration Act 1996 – NOT USED**

**Option Z44**

- **Intellectual Property Rights**

Delete clause 70 and insert the following clause In this clause 70 only:

**"Document"** means all designs, drawings, specifications, software, electronic data, photographs, plans, surveys, reports, and all other documents and/or information prepared by or on behalf of the *Consultant* in relation to this contract.

70.1 The Intellectual Property Rights in all Documents prepared by or on behalf of the *Consultant* in relation to this contract and the work executed from them remains the property of the *Consultant*. The *Consultant* hereby grants to the *Client* an irrevocable, royalty free, non-exclusive licence to use and reproduce the Documents for any and all purposes connected with the construction, use, alterations or demolition of the *service*. Such licence entitles the *Client* to grant sub-licences to third parties in the same terms as this licence provided always that the *Consultant* shall not be liable to any licencee for any use of the Documents or the Intellectual Property Rights in the Documents for purposes other than those for which the same were originally prepared by or on behalf of the *Consultant*.

70.2 The *Client* may assign novate or otherwise transfer its rights and obligations under the licence granted pursuant to clause 70.1 to a Crown Body or to anybody (including any private sector body) which performs or carries on any functions and/or activities that previously had been performed and/or carried on by the *Client*.

70.3 In the event that the *Consultant* does not own the copyright or any Intellectual Property Rights in any Document the *Consultant* uses all reasonable endeavours to procure the right to grant such rights to the *Client* to use any such copyright or Intellectual Property Rights from any third party owner of the copyright or Intellectual Property Rights. In the event that the *Consultant* is unable to procure the right to grant to the *Client* in accordance with the foregoing the *Consultant* procures that the third party grants a direct licence to the *Client* on industry acceptable terms.

70.4 The *Consultant* waives any moral right to be identified as author of the Documents in accordance with section 77, Copyright Designs and Patents Acts 1988 and any right not to have the Documents subjected to derogatory treatment in accordance with section 8 of that Act as against the *Client* or any licensee or assignee of the *Client*.

70.5 In the event that any act unauthorised by the *Client* infringes a moral right of the *Consultant* in relation to the Documents the *Consultant* undertakes, if the *Client* so requests and at the *Client's* expense, to institute proceedings for infringement of the moral rights.

70.6 The *Consultant* warrants to the *Client* that it has not granted and shall not (unless authorised by the *Client*) grant any rights to any third party to use or otherwise exploit the Documents.

70.7 The *Consultant* supplies copies of the Documents to the *Service Manager* and to the *Client*'s other contractors and consultants for no additional fee to the extent necessary to enable them to discharge their respective functions in relation to this contract or related service.

70.8 After the termination or conclusion of the *Consultant*'s employment hereunder, the *Consultant* supplies the *Service Manager* with copies and/or computer discs of such of the Documents as the *Service Manager* may from time to time request and the *Client* pays the *Consultant*'s reasonable costs for producing such copies or discs.

70.9 In carrying out the *service* the *Consultant* does not infringe any Intellectual Property Rights of any third party. The *Consultant* indemnifies the *Client* against claims, proceedings, compensation and costs arising from an infringement or alleged infringement of the Intellectual Property Rights of any third party.

**Option Z48** **Apprenticeships applies – NOT USED**

**Option Z49**

- **Change of Control**

Insert new clauses:

19.1 The *Consultant* notifies the *Client* and the *Service Manager* immediately in writing and as soon as the *Consultant* is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a Change of Control and provided such notification does not contravene any Law. The *Consultant* ensures that any notification sets out full details of the Change of Control including the circumstances suggesting and/or explaining the Change of Control.

91.9 The *Client* may terminate the *Consultant's* obligation to Provide the Service (which shall take effect as termination under reason R11) within six months from

- being notified in writing that a Change of Control is anticipated or is in contemplation or has occurred; or
- where no notification has been made, the date that the *Client* becomes aware that a Change of Control is anticipated or is in contemplation or has occurred, but shall not be permitted to terminate where an approval was granted prior to the Change of Control.

**Option Z50**

- **Financial Standing - NOT USED**

**Option Z51**

- **Financial Distress**

The *Consultant* complies with the provisions of Contract Schedule 7 (Financial Distress) in relation to the assessment of the financial standing of the *Consultant* and the consequences of a change to that financial standing.

**Option Z52**

- **Records, audit access and open book data**

Insert new clauses:

26A.1 The *Consultant* keeps and maintains for the *period for retention* full and accurate records and accounts of the operation of this contract including the *service* provided under it, any subcontracts and the amounts paid by the *Client*.

26A.2 The Consultant

- keeps the records and accounts referred to in clause 26A.1 in accordance with Law
- affords any Auditor access to the records and accounts referred to in clause 26A.1 at the *Consultant's* premises and/or provides records and accounts (including copies of the *Consultant's* published accounts) or copies of the same, as may be required by any Auditor from time to time during the *Consultant* Providing the Service and the liability period under the contract in order that the Auditor may carry out an inspection to assess compliance by the *Consultant* and/or its Subcontractors of any of the *Consultant's* obligations under

this contract including in order to:

- verify the accuracy of any amounts payable by the *Client* under this contract (and proposed or actual variations to them in accordance with this contract)
- verify the costs of the *Consultant* (including the costs of all Subcontractors and any third party suppliers) in connection with Providing the Service
- identify or investigate an actual or suspected Prohibited Act, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the *Client* has no obligation to inform the *Consultant* of the purpose or objective of its investigations
- obtain such information as is necessary to fulfil the *Client's* obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General
- enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the *Client* has used its resources

- subject to the *Consultant's* rights in respect of Consultant's Confidential Information, the *Consultant* provides the Auditor on demand with all reasonable co-operation and assistance in respect of
  - all reasonable information requested by the *Client* within the scope of the audit
  - reasonable access to sites controlled by the *Consultant* and to any *Consultant's* equipment used to Provide the Service
  - access to the *Consultant's* personnel.

26A.3 The Parties bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 26A, unless the audit reveals a default by the *Consultant* in which case the *Consultant* reimburses the *Client* for the *Client's* reasonable costs incurred in relation to the audit.

26A.4 This clause does not constitute a requirement or agreement for the purposes of section 6(3)(d) of the National Audit Act 1983 for the examination, certification or inspection of the accounts of the *Consultant* and the carrying out of an examination under Section

6(3)(d) of the National Audit Act 1983 in relation to the *Consultant* is not a function exercisable under this contract.

**Option Z53**

- **Data Protection**

The *Client* and the *Consultant* shall comply with the provisions of Contract Schedule 8.

**Option Z54** **Third party conflicts of interest**

Insert new clauses:

28.4 For the purposes of clauses 28.4 to 28.7 the following terms have the following meanings:

- "Affiliate" means an entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time
- "contracting authority" has the meaning given to it in regulation 2 of the Public Contracts Regulations 2015
- "Control" has the meaning given to it in section 1124 of the Corporation Tax Act 2010
- "procurement" has the meaning given to it in regulation 2 of the Public Contracts Regulations 2015
- "Representative" refers to a person's officers, directors, employees, advisers and agents and, where the context admits, providers or potential providers of finance to the *Consultant* or any Affiliate in connection with a procurement and the representatives of such providers or potential providers of finance

28.5 The *Consultant* acknowledges and agrees that a conflict of interest may arise in situations where the *Consultant* or an affiliate (being an entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time) intends to participate in a procurement (whether for the *Client* or any other contracting authority) and, because of the *Consultant's* relationship with the *Client* under this contract, the *Consultant*, its affiliates and/or representatives (as defined below) have or have had access to information which could provide the *Consultant* and/or its affiliates with an advantage and render unfair an otherwise genuine and open competitive procurement process.

28.6 The *Consultant* agrees that it shall notify any relevant Contracting Authority immediately of all perceived, potential and/or actual conflicts of interest that arise in the situation described in clause 28.5 above and shall take all appropriate steps to ensure that the *Consultant* and its Affiliates and/or Representatives:

- are not in a position where, in the reasonable opinion of the relevant Contracting Authority, there is or may be an actual conflict, or a potential conflict; and
- are not provided with an advantage that might render unfair an otherwise genuine and open competitive procurement process by virtue of any information accessed under or in connection with this contract.

28.7 The obligations of the *Consultant* under this clause 28 shall continue for the duration of this contract and for 1 year following its termination or expiry.

**Other *Additional conditions of contract***

n/a

## Part two – Data provided by the *Consultant*

**1 Statements given in all contracts**

The *Consultant* is WSP UK Limited

- *Address for communications* *WSP House, 70 Chancery Lane, London, WC2A 1AF*

*Address for electronic communications*

The *fee percentage* is n/a

- The *key persons* are as provided in Contract Schedule 3 - Consultant Proposal.

The following matters will be included in the Early Warning Register

- n/a

**2 The *Consultant's* main responsibilities**

**If the Consultant is to provide the Scope** n/a

**3 Time**

**If a programme is to be identified in the Contract Data** The programme identified in the Contract Data is as per the supplier's proposal for the activities contained within the Activity Schedule.

**If the *Consultant* is to decide the *completion date* for the whole of the *service***

**5 Payment**

**If the *Consultant* states any *expenses*** The *expenses* stated by the *Consultant* are

| • **item** | • **amount** |
|---|---|
| • Expenses for site visits to up to four Client sites unless further site visits are requested by the Client in line with the Statement of Requirements and Scope. | The amount due to the Consultant for expenses will be limited to the expenses properly spent by the Consultant in providing the Services in line with the Client's Expenses Policy |

The amount due to the Consultant for expenses will be limited to the expenses properly spent by the Consultant in providing the Services in line with the Client's Expenses Policy in Contract Schedule 1

**If Option A or C is used** The *activity schedule* is defined in Contract Schedule 2.

The tendered total of the Prices is £ REDACTED

, excluding expenses

**Resolving and avoiding disputes** The *Representatives* of the *Consultant* are

*Address for communications* REDACTED

, *WSP,* Attenborough House, Browns Lane Business Park, Stanton-on-the-Wolds, Nottingham, NG12 5BL *Address for electronic communications* REDACTED

The *Senior Representatives* of the *Consultant* are

*Address for* REDACTED*, WSP, 3rd Floor, Kings Orchard, 1 Queens Street, BS2 0HQ*

*Address for electronic communications* REDACTED

**Option X10 Information modelling**

**If Option X10 is used**

**If an *information execution plan* is to be identified in the Contract Data**

The Information Execution Plan identified in the Contract Data is n/a

**Option Y(UK)1**

**Option Y(UK)1 is not used**

**Data for the Schedule of Cost Components (used only with Options A and C)**

The *overhead percentages* for the cost of support people and office overhead are

| location | *overhead percentage* |
|---|---|
| n/a | |

**Data for the Schedule of Cost Components (used only with Option A)**

The *people rates* are as follows based on 7.5 hour day: REDACTED

**CONTRACT SCHEDULE 1 -**

# The Client's Statement of Requirements and Scope

## Provision of an Independent Waste Management Review for the Department for Work and Pensions in FY22/23

## Contract Schedule 1 - The Statement of Requirements and Scope

### 1. Introduction

The Department for Work and Pensions or DWP (the Client) is looking to appoint a supplier to undertake an independent review of the current waste management practices across the DWP estate to identify areas for improvement and costed interventions, which will help DWP meet its waste targets, the following information sets out the scope of work required from the successful supplier

### 2. Background to the Client

The Client is responsible for welfare, pensions and child maintenance policy. As the UK's biggest public service department it administers the State Pension and a range of working age, disability and ill health benefits to around 20 million claimants and customers.

The Client delivers these services across England, Wales and Scotland, through a diverse estate of c.1000 buildings. This number is made up primarily of JobCentre Plus offices, but also includes Health Assessment Centres and back offices. The back office sites consist of corporate centres, large processing centres and service centres very similar to call centre environments, which are not open to the public. The DWP estate is geographically dispersed due to the high street nature of the JobCentre Plus and Health Assessment Centre portfolio - requiring local presence to serve customers.

The majority of the estate is covered by a single Facilities Management Contract with Mitie FM Ltd which includes waste services at 786 sites. There are a further 47 sites, managed by Instant, where we have estimated waste data and some influence over the service provision. At the remaining sites, waste services are managed through landlords or other third parties, limited or no control from the Client.
The contract with Mitie is part of the 'Estates Target Operating Model' (**ETOM**) operated by the Client, which is described further in Annex B.

### 3. The Client's Requirements

The Client is committed to reducing the environmental footprint of its estate with specific targets defined under the Greening Government Commitments (GGCs) across seven environmental themes. This study focusses on the waste minimisation targets, in particular to:

- Reduce the overall amount of waste generated by 15% from the 2017 to 2018 baseline
- Reduce the amount of waste going to landfill to less than 5% of overall waste
- Increase the proportion of waste which is recycled to at least 70% of overall waste

The Contractor should undertake a review of current waste management practices on the DWP estate against latest best practice to identify areas to improve performance against these targets, including a list of costed interventions

### a) Scope of Work

Sites where the Client does not have direct control over waste services are considered out of scope for this review, therefore the review should focus only on the 786 sites managed by Mitie where there is greatest ability to make changes.
The independent waste management review should include (but is not limited to) the following activities:

1. Waste management process and functional review:
    - Desk-based review of current general waste management procedures across the whole estate (including internal and external bin provision, signage, management/storage of waste, collection schedules etc.) against latest best practice/guidance/innovation for similar building types and provide recommendations for improvement.
    - Review implementation of these waste management procedures in practice, through selected site visits and interviews with key stakeholders, to identify any gaps in actual practice and provide recommendations for improvement.
    - Review waste carrier services, including following a sample of carriers from collection to disposal to validate waste disposal routes and reporting data, providing feedback to the Client.
    - Desk-based review of DWP estate design standards, providing guidance on a standard approach for internal waste facility provision across all sites to encourage waste minimisation (e.g. types of bins, locations of bins, number of bins per $m^2$/FTE etc.)
2. Waste stream review:
    - Desk-based waste stream review using existing site waste data and estate data (building type/function/size/occupancy) against best practice to identify if waste is being suitably separated and disposed of via the most appropriate routes and to establish appropriate best practice benchmarks for each waste stream (e.g. tonnes per $m^2$ or FTE on site). Waste streams to cover general waste, recycling, confidential paper, food, hazardous, hygiene, WEEE, and furniture.
3. Review of procurement waste:
    - Desk-based review of DWP product procurements to identify potential significant sources of waste and opportunities to reduce (e.g. bulk containers, reduced packaging, reusing pallets etc.).
4. Waste awareness review and behavioural change campaign:
    - Develop survey for DWP staff to understand waste habits, recycling knowledge, and general staff awareness on waste. Use results to develop material for a waste awareness campaign and provide a method to measure success of the campaign.
    - Develop survey for Mitie and DWP staff employed in site management roles to identify level of waste knowledge and understanding of appropriate waste management procedures. Use results to advise on training requirements for staff in these roles.
5. Develop list of recommended interventions:
    - Produce a long-list of recommended interventions coming out of all reviews, including a high-level assessment of the costs and savings, potential benefits against targets, and sites each intervention is applicable to. Present the long list to the Client for review and short-listing.

### b) Site visits

The above activities will require site visits. The number of site visits and specific sites of choice should be decided between the Contractor, the Client and Mitie at the beginning of the project through a review of existing waste and estate data to provide a representative sample of the estate as well as targeting any sites of particular interest.
The amount due to the Consultant for expenses will be limited to the expenses properly spent by the Client in providing the Services in line with the Client's Expenses Policy (please see Annex C).

Consultant Personnel undertaking site visits must comply with the Client's latest relevant policies and procedures.

Consultant Personnel must be fully attuned to the Client's business environment and the sensitive nature of the Client's operations. When conducting site visits, Consultant Personnel must ensure photographs taken do not record identifiable images of other persons or elements of the Client's operations beyond the scope of this Statement of Requirements.

### c) Stakeholders

The Contractor will need to engage with a number of stakeholders to enable an accurate and appropriate review. The Client will provide contact details and facilitate discussions between stakeholders, but the Contractor should include allowance for meetings with the following stakeholders as required:

- Mitie sustainability & waste leads – for information on current waste management procedures and to develop list of interventions and appropriate costings. We anticipate the need for 1 interview and up to 3 development meetings.
- Client and Mitie local site teams – engagement whilst on site visits for local information on current procedures and opportunities for improvement.
- Waste carrier providers – for information on waste collection and disposal methods. 1 meeting required.

### d) Deliverables

The Contractor shall produce the following deliverables:

- A report recording the approach taken, best practice data used, results of reviews, and recommendations.
- Full list of recommended waste improvement measures including details of their benefits/costs.
- Waste awareness campaign material and recommended site staff training.
- Results from any site-specific surveys undertaken.

### e) Information available from the Client

The Client will share relevant data with the Contractor to aid their work. Examples of data available include:

- Mitie waste management plan/procedures
- DWP estate design standards
- DWP product procurement data
- Current overall waste performance against targets at departmental level

- Monthly waste reports including waste type, volumes, and disposal route at individual site level
- DWP estate list including: site name, site reference, address, co-ordinates, building function, floor area, FTE.
- Site occupancy data (where available)

### f) Consultant Personnel Requirements

All Consultant Personnel must be professionally qualified and highly competent in this sector, having relevant technical expertise, qualifications and substantive experience in successfully undertaking similar roles. A strong team ethic is essential, allied to an ability to communicate clearly and effectively with a wide and diverse stakeholder community.

The Client requires that all Consultant Personnel employed, whether permanent or temporary, on the provision of the *services* are subject to the requirements of the HM Government Baseline Personnel Security Standard (BPSS).

There is no requirement to apply to the Client or any other third party for BPSS clearance. BPSS clearance is obtained if the following steps have been completed as part of your organisation's pre-employment checks:

- Verification of identity
- Verification of Nationality and Immigration Status (including an entitlement to undertake the work in question)
- Verification of Employment history (past 3 years)
- Verification of Criminal record (unspent convictions only). This will require a basic disclosure certificate (at cost via Disclosure and Barring Service, Disclosure Scotland and Access Northern Ireland).

Copies of the current HM Government Baseline Personnel Security Standard, providing further information regarding how each of these steps should be verified, can be found via the following link Government Baseline Personnel Security Standard. The Consultant is expected to arrange the BPSS checks at no additional charge.

All Consultant personnel must comply with the Client's Security Policy (DWP procurement: security policies and standards - GOV.UK (www.gov.uk)). The Consultant will only be expected to comply with those Security Policies and Standards that are applicable to their delivery model and technologies used.

The Consultant must be able to immediately (on contract award) resource this requirement with Consultant personnel meeting the requirements of this section f).

### g) Cooperation, Mobilisation and Handover

The Consultant will be required to work collaboratively with the Client and all members of the Client's supply chain as necessary to support effective delivery of the services.

Mobilisation may require some meetings and/or workshops which include (but may not be limited to) introductions with other members of the Client's supply chain, as well as the Supply Chain Integrator (Please see Annex 1). The Consultant will attend any meetings and/or workshops required for mobilisation on an inclusive basis, free of charge, as this will define standard ways of working across the duration of the contract. The Client does not expect there to be more than five meetings and/or workshops required.

The Consultant will provide an effective handover to colleagues in the Client's operations and any other persons identified by the Client. If required, the Consultant will also provide any assistance required by the Client to exit the contract and tender for any ongoing or future support or services free of charge.

**Annex B - The Client's 'Estates Target Operating Model' (ETOM)**

Within the Department for Work and Pensions, the Client's People, Capability and Place Directorate are accountable for the delivery of all aspects of real estate services, supported by the Estates Category Management Team within Commercial Directorate to undertake all commercial activity required within the complex estates portfolio.

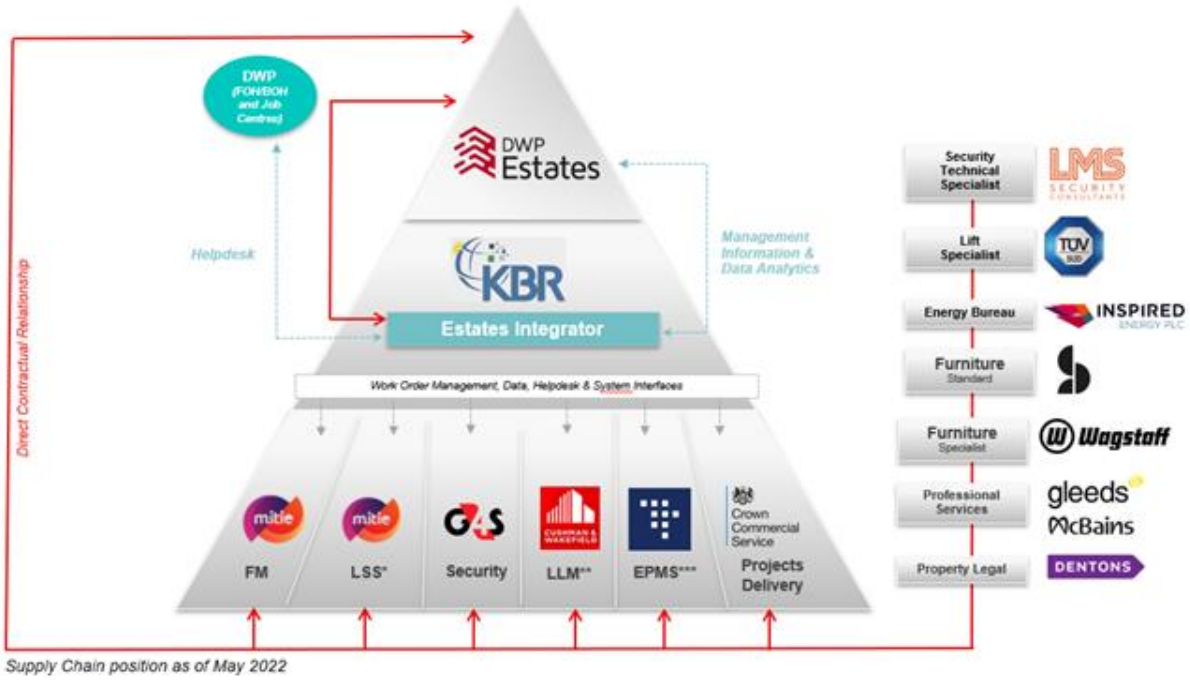
The Client operates an 'Estates Target Operating Model' (ETOM), shown in Figure 1, whereby a large proportion of the estates management is out-sourced to an independent third party organisation ('the Supply Chain Integrator'). The Supply Chain Integrator is independent from the Client's Supply Chain and provides an aggregated data, reporting and systems service. As of 1st May 2022, the Client's Supply Chain Integrator KBR is responsible for:

a) providing a single up-to-date and accurate version of all Client data and information, including a master asset register;
b) reporting holistically across the Client's estate and estate services;
c) processing all supply chain invoices for payment;
d) providing a help desk to the Client's workforce for all estates related problems, incidents or maintenance; and
e) providing a CAFM (Computer Aided Facilities Management) system and process for the creation, dissemination, management and closure of work orders between the Client and members of the Client's supply chain.

The Client is also supported by a new Estates Programme Management Service (EPMS) delivered by Turner & Townsend Project Management Limited (Turner & Townsend), which went live on 1st February 2022. Turner & Townsend will provide robust management and oversight across all types of projects for the Client's estate. They will be responsible for setting governance, providing robust Management Information, and oversee cost and risk management for the Client's project pipeline, including major and minor Capex projects, lifecycle works (LCW) and other strategic change programmes.

Turner & Townsend will work closely with the Client's construction professional services suppliers, listed in Table 3, project delivery suppliers and other supply chain members to ensure all project works are initiated, managed and delivered to high standards providing overall value for money, and in line with the Client's strategy and vision.

**Figure 1: The Client's Estates Target Operating Model (ETOM)**




*Supply Chain position as of May 2022*

*LSS – Life System Services
**LLM – Lease and Landlord Management
***EPMS – Estates Programme Management Services

## ETOM Suppliers

Suppliers listed within Figure 1 are referred to by the Client as 'towers:'

- **FM (Facilities Management)**: This tower includes the FM and LSS contracts, supplied by Mitie FM Ltd, the Client's Energy Bureau provided by Inspired Energy Plc and furniture, fittings and equipment (FFE) contracts, supplied by Southerns Broadstock Ltd and Wagstaff Interiors Group;
- **Security:** The security tower consists of several contracts for physical security guards and systems, supplied by G4S (SS) UK (G4S);
- **Projects Delivery:** This includes the currently appointed providers of construction professional services listed in Table 1, as well as all providers of construction, fit-out and LCW currently appointed to contracts from the Client's now-expired 'Estate Jobcentre & Office Fit Out Contractor Framework,' as well as 21 providers of construction, fit-out and LCW from the Client's 'Taxi Rank Rotational Procedure' shown in Table 2 and Figure 2 respectively. There is a possibility of future awards to further providers of construction from other public sector Frameworks, including those available from Scape and Pagabo, where the Client deems that the 'Taxi Rank Rotational Procedure' is not appropriate. The Projects Delivery supply chain is therefore subject to change.

- **Integrator, EPMS and LLM (Landlord and Lease Management)**: This tower includes the Integrator contract with KBR, the EPMS contract with Turner & Townsend and LLM supplied by Cushman and Wakefield Plc.

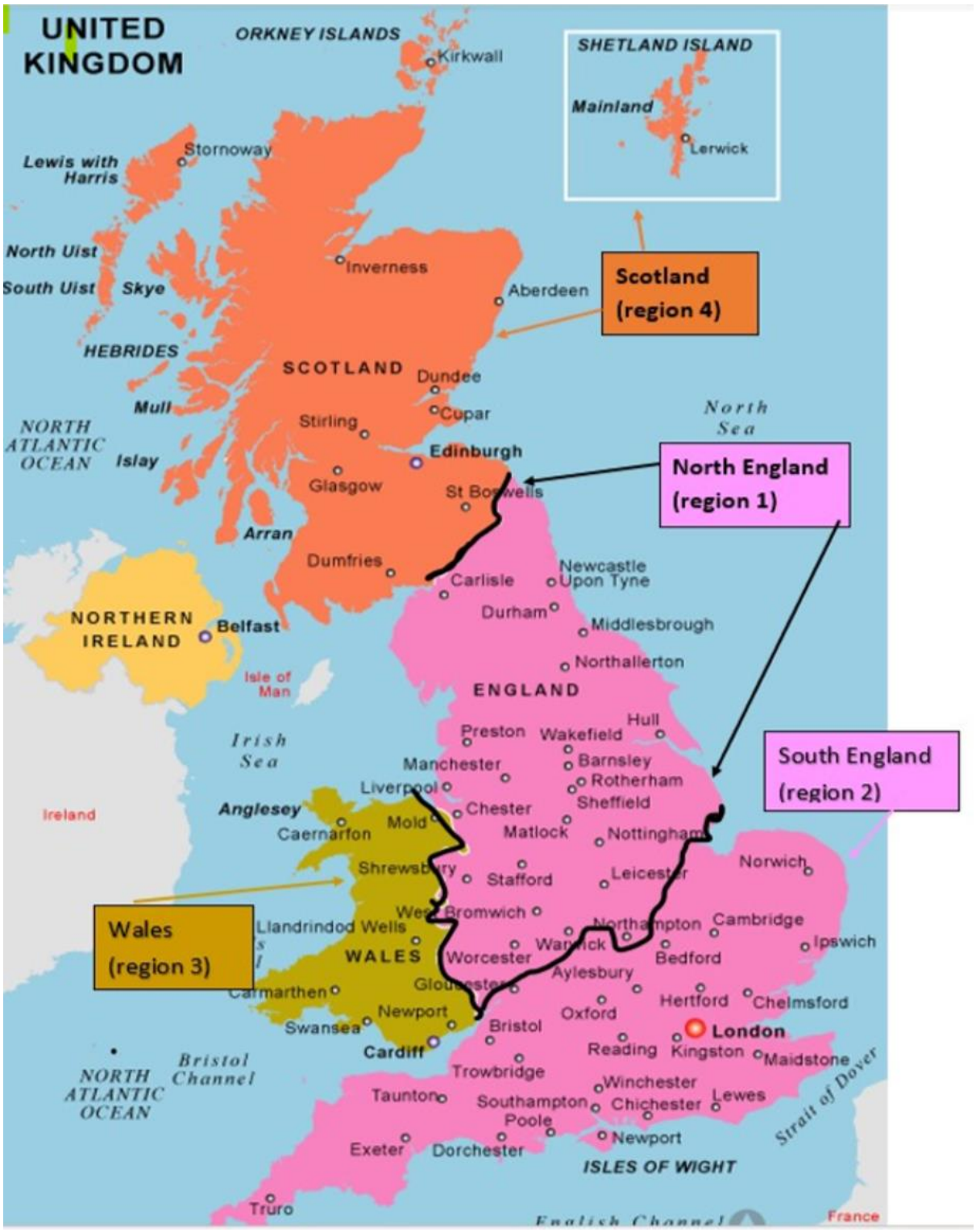
**Table 1: Summary of DWP's Current Professional Services Providers (currently appointed up to 31st March 2023)**

| Type of Professional Service | Supplier |
|---|---|
| Cost management services to support LCW and minor business as usual projects | McBains Ltd |
| Multi-disciplinary services to support LCW and minor business as usual projects | Gleeds Advisory Ltd |
| Project management to support major Capex projects | Gleeds Advisory Ltd |
| Design Team (North) and cost management to support major Capex projects | McBains Ltd |
| Design Team (South) and cost management to support major Capex projects | Ridge & Partners LLP |

**Table 2: The Client's 'Taxi Rank Rotational Procedure' Contractors**

| Suppliers | LOT A | | | | LOT B | | | | LOT C | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | £0-£300,000 | | | | £300,000- £5m | | | | £5m- £10m | | | |
| | North | South | Scotland | Wales | North | South | Scotland | Wales | North | South | Scotland | Wales |
| AMEY DEFENCE SERVICES LIMITED | | | | | X | | X | X | | | | |
| BEARD CONSTRUCTION | | | | | | X | | | | | | |
| CLARK | | | X | | | | X | | | | | |
| CONAMAR BUILDING SERVICES LIMITED | | X | | | | X | | | | | | |
| F. PARKINSON LIMITED | X | | | | X | | | | | | | |
| FES SUPPORT SERVICES LIMITED | X | X | X | X | X | X | X | X | | | | |
| GHI CONTRACTS | | | X | | | | X | | | | | |
| MORRIS & SPOTTISWOOD LIMITED | X | | X | | X | | X | | | | | |
| ROSSLEE | X | | | | X | | | | | | | |
| SEDDON CONSTRUCTION LTD | X | | | | X | | | | | | | |
| LOGAN CONSTRUCTION (SOUTH EAST) LTD | | | | | X | X | | | | | | |
| BOWMER&KIRKLAND | | | | | | | | | X | | X | |
| CONLON CONSTRUCTION LIMITED | | | | | | | | | X | | | |
| ISG CONSTRUCTION LIMITED | | | | | | | | | X | X | X | X |
| JOHN GRAHAM CONSTRUCTION LIMITED | | | | | | | | | | X | X | |
| KIER CONSTRUCTION LIMITED | | | | | | | | | X | | X | |
| MCLAUGHLIN & HARVEY LIMITED | | | | | | | | | X | X | X | |
| SPELLER METCALFE LIMITED | | | | | | | | | X | | | |
| TILBURY DOUGLAS | | | | | | | | | X | X | X | X |
| VINCI CONSTRUCTION UK LIMITED | | | | | | | | | | X | | X |
| WATES CONSTRUCTION LIMITED | | | | | | | | | X | | X | X |

**Figure 2: The Client's 'Taxi Rank Rotational Procedure' Regions**




**Annex C - The Client's Expenses Policy**

This policy is subject to change as updates are periodically made by the Client.

**1. Circumstances where the Client will not reimburse expenses incurred**

The Client will not reimburse costs incurred for travel to, or accommodation at, the main base location.

Additionally, in order to comply with Propriety and Regularity, Audit and Tax rules the Client will not pay, or be responsible for the payment of any fines or penalty charges in respect of private vehicles etc. during the undertaking of duties for the Client.

**2. Circumstances where the Client will reimburse expenses incurred**

The Client will reimburse necessary and reasonable business travel and accommodation costs incurred during the undertaking of duties for the Client. This is subject to:

- All such expenses being agreed with the Client in advance;
- The rules for claiming expenses must be in accordance with the Client's Expenses Policy in force at the time the expense is incurred;
- All such expenses must have been incurred in performing the Client's services away from their main base location of the Client's work, and be minus the cost of travel to the usual place of work;
- Appropriate documentary evidence, such as receipts and tickets, of such expenses being incurred is provided to the appropriate contact of the Client;
- The expenses must be submitted at the same time as the relevant weekly timesheet.

**3 General statements on Business Travel and Accommodation**

3.1 Before committing to any travel arrangements, the Consultant must discuss travelling needs with the Client's manager and assess:

- Whether the following could be used:
    - video conferencing;
    - telephone conferencing;
    - web conferencing;
    - audio conferencing;
    - The business need to travel; and
    - The most economical and suitable means of travel, taking into account value for money and sustainability factors.

3.2 Business journeys must only be made when face-to-face meetings are essential. Authorisation to travel must be received from the Client's manager before committing to make travel arrangements.

3.3 The most cost effective/value for money option should be obtained and consultants can use their own organisations' booking agent(s) or low cost alternatives. Advantage should be taken of any offers for reduced travel (including Restricted and Advanced Purchase

Tickets/Advanced Booking for Rooms) or room rates. Any claims for the cost of travel and accommodation must be evidenced with supporting documentation and receipts.

3.4 No organisational or personal benefit must be obtained arising from the promotions, offers, or reward schemes that ensue from official travel or accommodation paid for by the Client, whether in advance or by refund. Where such promotions or offers are available, the Consultant should agree with the Client, whenever possible, how to use any such benefits to offset against other expenses payable by the Client.

3.5 The Client reserves the right to reject claims for unreasonable expenses, or expenses which could have been avoided if a journey had been better planned.

**4. Rates and Expenses type**

The types of expenses and the rates payable are given at Annex A below and are applicable from 1st March 2015. The rates payable are subject to change.

4.1 Claims for Mobile Phone calls and Internet Use

Costs for mobile telephone calls and Internet use cannot be claimed.

4.2 Public Transport including Rail Travel

On public transport standard class travel must be used. First class travel is strictly prohibited irrespective of the duties undertaken.
The use of Rail, Oyster and other discount cards or schemes is encouraged if evidence is shown that these will save the Client more than their cost.

4.3 Taxis
Taxi fares may be reimbursed for Business Travel where their use is reasonable in the circumstances. Actual fares only can be claimed in the following circumstances:

- Where there is no other suitable method of public transport;
- In exceptional and infrequent circumstances where the saving of official time is important;
- When heavy luggage has to be handled; and
- When shared by colleagues and the fare overall is cheaper than public transport.

4.4 Air Travel

Claims for domestic air travel are not permitted unless the flight is over 300 miles. This limit is for one-way flights within the British mainland. In particular, for travel between the destinations shown below air travel is not permitted, journeys must be taken by rail:

- Newcastle and London
- Birmingham and Newcastle
- Manchester and London

Economy Class air travel must always be booked when travelling on domestic flights within the UK. No Business Class or First Class tickets must be booked on domestic flights regardless of the length/duration of journey.

4.5 Private Motor Vehicles

Private Vehicle Use

The Client aims to reduce mileage travelled in private motor vehicles undertaken by the Consultant. When considering the use of a vehicle on official business, Consultant Personnel must only use their own vehicle for business journeys when there is no other practicable mode of transport including public transport. Permission must be gained from the Client for each business journey carried out in a private vehicle.

Before undertaking such journeys, the Client's manager must check that Consultant Personnel hold a full current driving licence. The private vehicle must be roadworthy and, where required, have a valid MOT Test Certificate. All Consultant Personnel must ensure their motor vehicle insurance policy includes an Client Indemnity clause in addition to the Business Use clause. It is the policyholder's responsibility to check with their insurance company that they have both types of cover and for the Client to validate this.

There are mileage restrictions of a maximum of 1000 miles per financial year and 100 miles per day once authorisation has been obtained. Consultant Personnel who genuinely need to travel more than 1000 miles per year or 100 miles per day in their own vehicle must have written permission from the Client in the form of Business Case authorised at least UG7 Grade.

Note: For daily journeys over 100 miles, an exemption is required only if it is likely to be a regular occurrence. One-off situations can be approved locally with no form required. Reasons for granting permission must be clearly documented in a Business Case (Annex B) and retained for audit purposes.

Mileage rates can be claimed as detailed in Annex A.

Car parking fees can be claimed on production of the appropriate documentary evidence. Receipts and tickets should be provided to the appropriate contact of the Client. However, the Client will not provide remuneration for travel on Toll Roads.

4.6 Overnight Accommodation

4.6.1 Hotel

Where it is necessary for consultants to stay away from their main base location(s) for the performance of the contract then:

a) Expenses will only be reimbursed where it is not possible for Consultant Personnel to stay at their home; and

b) The following two principles must apply to any accommodation booking:

i) It must be as close to the traveller's end location as possible and within a 5 mile radius; and

ii) It must be the most economical option, having taken into account the whole trip cost, such as public transport costs, taxi fares and travelling time.

Regional maximum limits for claims for overnight hotel accommodation are included at Annex A.

4.6.2 Overnight stay with relatives or friends

Where Consultant Personnel elect to stay with friends or relatives rather than in a hotel or other commercial establishment, then the Overnight Accommodation rates do not apply. Alternatively, the friends and relatives allowance is payable at a flat rate to cover accommodation.

Annex A: Expenses Rates

| **Expense Type** | **Conditions/Category** | **Rate as at 1 March 2015** |
|---|---|---|
| **Lodging** | Friends and relatives - Nightly | £25.00 |
| **Mileage rates (amount per mile)** | Higher standard rate (up to 1,000) | £0.45 |
| | Lower standard rate (over 1,000)* | £0.25 |
| | Motor cycle | £0.24 |

*Restrictions apply and Business Case is required - see para 5.5.

Regional Limits on Claims for Overnight Hotel Accommodation

| Hotel allowance – Upper Limits | (£ per night) |
|---|---|
| London | £130 |
| Rest of the country (except London) | £80 |

Annex B: Business Case for Approval to Exceed the DWP Mileage Restrictions of 100 miles per day or 1000 miles per year

| | |
|---|---|
| **Business Unit:** | |
| **Name of proposer:** | |
| **Grade of proposer:** | |
| **Home Office:** | |
| **Name of Consultant Personnel the exemption covers** | |
| **Short description of journeys undertaken including daily mileage** | |
| | |

| | | |
|---|---|---|
| **Are there any reasons, through health or disability, that an exemption should be granted. If yes do not fill in any further.** | | |
| | | |
| **Reasons why Tele-Conference or Video Conference are unsuitable** | | |
| | | |
| **Reasons why Public Transport is unsuitable** | | |
| | | |
| **Authorising Person** | | |
| **Grade of Authorising Person** | | **Date:** |

1. When exemption is granted, please retain a copy of this form for audit purposes.

## Contract Schedule 2 - Activity Schedule

REDACTED

## Contract Schedule 3 - Consultant Proposal dated June 2022

REDACTED

## Contract Schedule 4 - Government Commercial Function Supplier Code of Conduct

You can find the latest version of the Supplier Code of Conduct published on: https://www.gov.uk/government/publications/supplier-code-of-conduct unless specified otherwise

# Contract Schedule 5 - Client Security Policy

## 1. GENERAL

The Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, comply with the Client's security requirements as set out in the contract which include the requirements set out in this Schedule 5 to the contract (the "**Security Policy**"). The Security Policy includes, but is not limited to, requirements regarding the confidentiality, integrity and availability of Client Assets, the Client's Systems Environment and the Consultant's Systems Environment.

Terms used in this Schedule 5 which are not defined below shall have the meanings given to them in the Contract Data and/or clause Z1 (Interpretation and the law) of this contract.

| | |
|---|---|
| "**Availability Test**" | shall mean the activities performed by the Consultant to confirm the availability of any or all components of any relevant ICT system as specified by the Client. |
| "**Breach of Security**" | means the occurrence of:<br><br>(I) any unauthorised access to or use of Client Data, the Client's Systems Environment (or any part thereof) or the Consultant's Systems Environment (or any part thereof);<br><br>(II) the loss and/or unauthorised disclosure of any Client Data, the Client's Systems Environment (or any part thereof) or the Consultant's Systems Environment (or any part thereof);<br><br>(III) any unauthorised event resulting in loss of availability of any Client Data, the Client's Systems Environment (or any part thereof) or the Consultant's Systems Environment (or any part thereof);<br><br>(IV) any unauthorised changes or modification to any Client Data, the Client's Systems Environment (or any part thereof) or the Consultant's Systems |

| | |
|---|---|
| | Environment (or any part thereof). |
| "**CHECK**" | shall mean the scheme for authorised penetration tests which scheme is managed by the NCSC. |
| "**Client Assets**" | mean any *Client* Devices and *Client* Data. |
| "**Client Data**" | means the data, guidance, specifications, instructions, toolkits, plans, databases, patents, patterns, models, design, 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:-<br><br>(i) supplied to the *Consultant* by or on behalf of the Client; or<br><br>(ii) which the *Consultant* is required to generate, process, store or transmit pursuant to this contract. |
| "**Client Device**" | means any asset that provides an ICT function and is used by the Buyer to conduct its business and operations; |
| "**Client's Systems Environment**" | means all of the Client's ICT systems which are or may be used for the provision of the *services*. |
| "**Cloud**" | shall mean an off-premise network of remote ICT servers on the Internet to store, process, manage and transmit data. |
| "**Consultant's Systems Environment**" | means any ICT systems provided by the Consultant (and any Sub-consultant) which are or may be used for the provision of the *services*. |
| "**Cyber Essentials**" | shall mean the Government-backed, industry-supported scheme managed by the NCSC to help organisations to protect themselves against online threats or the relevant successor or replacement scheme which is published and/or formally recommended by the NCSC. |

| | |
|---|---|
| "**Cyber Security Information Sharing Partnership**" or "**CiSP**" | shall mean the cyber security information sharing partnership established by the NCSC or the relevant successor or replacement scheme which is published and/or formally recommended by the NCSC. |
| "**Good Security Practice**" | shall mean:<br><br>a) the technical and organisational measures and practices that are required by, or recommended in, nationally or internationally accepted management standards and codes of practice relating to Information Security (such as published by the International Organization for Standardization or the National Institute of Standards and Technology);<br><br>b) security standards and guidelines relating to Information Security (including generally accepted principles regarding the segregation of the duties of governance, implementation and control) provided to the general public or Information Security practitioners and stakeholders by generally recognised authorities and organisations; and<br><br>c) the Government's security policies, frameworks, standards and guidelines relating to Information Security. |
| "**Information Security**" | shall mean:<br><br>a) the protection and preservation of:<br><br>i) the confidentiality, integrity and availability of any Client Assets, the Client's Systems Environment (or any part thereof) and the Consultant's Systems Environment (or any part thereof);<br><br>ii) related properties of information including, but not limited to, authenticity, |

| | |
|---|---|
| | accountability, and non-repudiation; and<br><br>b) compliance with all Law applicable to the processing, transmission, storage and disposal of Client Assets. |
| "**Information Security Manager**" | shall mean the person appointed by the Consultant with the appropriate experience, authority and expertise to ensure that the Consultant complies with the Security Policy. |
| "**Information Security Management System ("ISMS")**" | shall mean the set of policies, processes and systems designed, implemented and maintained by the Consultant to manage Information Security Risk as specified by ISO/IEC 27001. |
| "**Information Security Questionnaire**" | shall mean the Client's set of questions used to audit and on an ongoing basis assure the Consultant's compliance with the Security Policy. The Information Security Questionnaire is the Security Management Plan. |
| "**Information Security Risk**" | shall mean any risk that might adversely affect Information Security including, but not limited to, a Breach of Security. |
| "**ISO/IEC 27001, ISO/IEC 27002 and ISO 22301** | shall mean<br><br>a) ISO/IEC 27001;<br>b) ISO/IEC 27002/IEC; and<br>c) ISO 22301<br><br>in each case as most recently published by the International Organization for Standardization or its successor entity (the "**ISO**") or the relevant successor or replacement information security standard which is formally recommended by the ISO. |
| **Landed Resources** | When the Consultant or its Sub-contractor causes foreign nationals to be brought to the United Kingdom to provide the Services. |
| "**NCSC**" | shall mean the National Cyber Security Centre or its successor entity (where applicable). |
| **"Parties"** | the Consultant or the Client (as appropriate) and "Parties" shall mean both of them; |

| | |
|---|---|
| "**Penetration Test**" | shall mean a simulated attack on any Client Assets, the Client's Systems Environment (or any part thereof) or the Consultant's Systems Environment (or any part thereof). |
| "**PCI DSS**" | shall mean the Payment Card Industry Data Security Standard as most recently published by the PCI Security Standards Council, LLC or its successor entity (the "**PCI**"). |
| **Regulatory Bodies** | means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Client and "Regulatory Body" shall be construed accordingly. |
| "**Risk Profile**" | shall mean a description of any set of risk. The set of risks can contain those that relate to a whole organisation, part of an organisation or as otherwise applicable. |
| "**Security Test"** | shall include, but not be limited to, Penetration Test, Vulnerability Scan, Availability Test and any other security related test and audit. |
| "**Security Policies**" | means the Client's security policy attached as a Contract Schedule as may be updated from time to time |
| "**Security Policies and Standards**" | mean the Security Policies and the Security Standards. Security Policies are set out in Annex A. |
| "**Security Standards**" | mean the Client's Security Standards published by the Client from time to time and shall include any successor, replacement or additional Security Standards. The Security Standards are set out in Annex B. |
| "**Sub-consultant**" | shall mean any third party appointed by the Consultant which through its employees or agents directly delivers the *services.* |
| "**Tigerscheme**" | shall mean a scheme for authorised penetration tests which scheme is managed by USW Commercial Services Ltd. |

| | |
|---|---|
| "**Vulnerability Scan**" | shall mean an ongoing activity to identify any potential vulnerability in any Client Assets, the Client's Systems Environment (or any part thereof) or the Consultant's Systems Environment (or any part thereof). |
| **"Working Day"** | shall mean a day (other than a Saturday or Sunday) on which banks are open for business in the City of London. |

## 2. PRINCIPLES OF SECURITY

2.1 The Consultant shall at all times comply with the Security Policy and provide a level of security which is in accordance with the Security Policies and Standards, Good Security Practice and Law.

## 3. ISO/IEC 27001 COMPLIANCE AND AUDIT

3.1 The Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, comply with ISO/IEC 27001 in relation to the *services* during the Contract.

3.2 The Consultant shall appoint an Information Security Manager and shall notify the Client of the identity of the Information Security Manager on the *starting date* and, where applicable, within 5 Working Days following any change in the identity of the Information Security Manager.

3.3 The Consultant shall ensure that it operates and maintains the Information Security Management System during the contract and that the Information Security Management System meets the Security Policies and Standards, Good Security Practice and Law and includes:

a) a scope statement (which covers all of the Services provided under this contract);

b) a risk assessment (which shall include any risks specific to the Services);

c) a statement of applicability;

d) a risk treatment plan; and

e) an incident management plan

in each case as specified by ISO/IEC 27001.

The Consultant shall provide the Information Security Management System to the Client upon request within 10 Working Days from such request.

3.4 The Consultant shall carry out regular Security Tests in compliance with ISO/IEC 27001 and shall within 10 Working Days after completion of the relevant audit provide any associated security audit reports to the Client.

3.5 Notwithstanding the provisions of paragraph **Error! Reference source not found.** to paragraph 3.4, the Client may, in its absolute discretion, notify the Consultant that it is

not in compliance with the Security Policy and provide details of such non-compliance. The Consultant shall, at its own expense, undertake those actions required in order to comply with the Security Policy within one calendar month following such notification or on a date as agreed by the Parties. For the avoidance of doubt, any failure to comply with the Security Policy within the required timeframe (regardless of whether such failure is capable of remedy) shall constitute a substantial failure by the Consultant to comply with his obligations.

## 4. CYBER ESSENTIALS SCHEME

4.1 The Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, obtain and maintain certification to Cyber Essentials (the "Cyber Essentials Certificate") in relation to the *services* during the *Contract*. The Cyber Essentials Certificate shall be provided by the Consultant to the Client annually on the dates as agreed by the Parties.

4.2 The Consultant shall notify the Client of any failure to obtain, or the revocation of, a Cyber Essentials Certificate within 2 Working Days of confirmation of such failure or revocation. The Consultant shall, at its own expense, undertake those actions required in order to obtain a Cyber Essentials Certificate following such failure or revocation. For the avoidance of doubt, any failure to obtain and/or maintain a Cyber Essentials Certificate during the Contract after the first date on which the Consultant was required to provide a Cyber Essentials Certificate in accordance with paragraph 4.1 (regardless of whether such failure is capable of remedy) shall constitute a substantial failure by the Consultant to comply with his obligations.

## 5. RISK MANAGEMENT

5.1 The Consultant shall operate and maintain policies and processes for risk management (the **Risk Management Policy**) during the Contract which includes standards and processes for the assessment of any potential risks in relation to the *services* and processes to ensure that the Security Policy is met (the **Risk Assessment**). The Consultant shall provide the Risk Management Policy to the Client upon request within 10 Working Days of such request. The Client may, at its absolute discretion, require changes to the Risk Management Policy to comply with the Security Policy. The Consultant shall, at its own expense, undertake those actions required in order to implement the changes required by the Client within one calendar month of such request or on a date as agreed by the Parties.

5.2 The Consultant shall carry out a Risk Assessment (i) at least annually, (ii) in the event of a material change in the Consultant's Systems Environment or in the threat landscape or (iii) at the request of the Client. The Consultant shall provide the report of the Risk Assessment to the Client, in the case of at least annual Risk Assessments, within 5 Working Days of completion of the Risk Assessment or, in the case of all other Risk Assessments, within one calendar month after completion of the Risk Assessment or on a date as agreed by the Parties. The Consultant shall notify the Client within 5 Working Days if the Risk Profile in relation to the Services has changed materially, for example, but not limited to, from one risk rating to another risk rating.

5.3 If the Client decides, at its absolute discretion, that any Risk Assessment does not meet the Security Policy, the Consultant shall repeat the Risk Assessment within one calendar month of such request or as agreed by the Parties.

5.4 The Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, co-operate with the Client in relation to the Client's own risk management processes regarding the *services*.

5.5 For the avoidance of doubt, the Consultant shall pay all costs in relation to undertaking any action required to meet the requirements stipulated in this paragraph 5.4. Any failure by the Consultant to comply with any requirement of this paragraph 5.4 (regardless of whether such failure is capable of remedy), shall constitute a substantial failure by the Consultant to comply with his obligations.

## 6. SECURITY AUDIT AND ASSURANCE

6.1 The Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, complete the information security questionnaire in the format stipulated by the Client and embedded within this paragraph 6.1 (the "**Information Security Questionnaire**") at least annually or at the request by the Client. The Consultant shall provide the completed Information Security Questionnaire to the Client within one calendar month from the date of request.

6.2 The Consultant shall conduct Security Tests to assess the Information Security of the Consultant's Systems Environment and, if requested, the Client's Systems Environment. In relation to such Security Tests, the Consultant shall appoint a third party which i) in respect of any Penetration Test, is duly accredited by CHECK, CREST (International), or Tigerscheme and, ii) in respect of any Security Test to which PCI DSS apply, is an approved scanning vendor duly accredited by the PCI. Such Security Test shall be carried out (i) at least annually, (ii) in the event of a material change in the Consultant's Systems Environment or in the Client's System Environment or (iii) at the request of the Client which request may include, but is not limited to, a repeat of a previous Security Test. The content, and format of any report of such Security Tests shall be approved in advance of the Security Test by the Client. The Consultant shall provide any report of such Security Tests within one calendar month following the completion of such Security Test or on a date agreed by the Parties. The Consultant shall, at its own expense, undertake those actions required to rectify any risks identified by any Security Test in the manner and within the timeframe required by the Client in its absolute discretion.

6.3 The Client shall be entitled to send the Client's Agent or such other person it shall reasonably require to witness the conduct of any Security Test. The Consultant shall provide to the Client notice of any Security Test at least one month prior to the relevant Security Test.

6.4 Where the Consultant provides code development services to the Client, the Consultant shall comply with the Security Policy in respect of code development within the Consultant's Systems Environment and the Client's Systems Environment.

6.5 Where the Consultant provides software development services, the Consultant shall comply with the code development practices specified in The Statement of Requirements and Scope or in the Security Policy.

6.6 The Client, or an agent appointed by it, may undertake Security Tests in respect of the Consultant's Systems Environment after providing advance notice to the Consultant. If any Security Test identifies any non-compliance with the Security

Policy, the Consultant shall, at its own expense, undertake those actions required in order to rectify such identified non-compliance in the manner and timeframe as stipulated by the Client at its absolute discretion. The Consultant shall provide all such co-operation and assistance in relation to any Security Test conducted by the Client as the Client may reasonably require.

6.7 The Client shall schedule regular security governance review meetings which the Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, attend.

## 7. PCI DSS COMPLIANCE AND CERTIFICATION

7.1 Where the Consultant obtains, stores, processes or transmits payment card data, the Consultant shall comply with the PCI DSS.

7.2 The Consultant shall obtain and maintain up-to-date attestation of compliance certificates ("**AoC**") provided by a qualified security assessor accredited by the PCI and up-to-date self-assessment questionnaires ("**SAQ**") completed by a qualified security assessor or an internal security assessor, in each case accredited by the PCI (each with the content and format as stipulated by the PCI and such reports the "PCI Reports"), during the Contract. The Consultant shall provide the respective PCI Reports to the Client upon request within 10 Working Days of such request.

7.3 The Consultant shall notify the Client of any failure to obtain a PCI Report or a revocation of a PCI Report within 2 Working Days of confirmation of such failure or revocation. The Consultant shall, at its own expense, undertake those actions required in order to obtain a PCI Report following such failure or revocation within one calendar month of such failure or revocation.

## 8. SECURITY POLICIES AND STANDARDS

8.1 The Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, comply with the Security Policies and Standards set out Annex A and B.

8.2 Notwithstanding the foregoing, the Security Policy applicable to the services may be subject to change following certain events including, but not limited to, any relevant change in the delivery of the Services. The Client may issue instructions to the Consultant to comply with any amended Security Policy as required by the Client, provided that where such amended Security Policy increases the burden on the Consultant pursuant to this contract, the novation shall be a compensation event. Accordingly a new clause 60.1(14) shall be added that reads "An amendment to a Security Policy pursuant to paragraph 8.2 of Contract Schedule 5 occurs which increases the burden on the Consultant pursuant to this contract".

8.3 The Consultant shall, and shall procure that any Sub-consultant (as applicable) shall, maintain appropriate records and is otherwise able to demonstrate compliance with the Security Policies and Standards.

## 9. CYBER SECURITY INFORMATION SHARING PARTNERSHIP

9.1 The Consultant may require a nominated representative of the Consultant to join the Cyber Security Information Sharing Partnership on behalf of the Consultant during

the Term, in which case the Consultant's nominated representative shall participate in the Cyber Security Information Sharing Partnership for the exchange of cyber threat information.

9.2 If the Consultant elects a nominated representative to join the Cyber Security Information Sharing Partnership in accordance with Paragraph 9.1 above, it shall review the NCSC weekly threat reports on a weekly basis and implement recommendations in line with the Consultant's Risk Management Policy.

## 10. OFFSHORING

**Protection on Information**

10.1 The Consultant and any of its Sub-contractors, shall not access, process, host or transfer Client Data outside the United Kingdom without the prior written consent of the Client, and where the Client gives consent, the Consultant shall comply with any reasonable instructions notified to it by the Client in relation to the Client Data in question. The provisions set out in this paragraph shall apply to Landed Resources.

10.2 Where the Client has given its prior written consent to the Consultant to access, process, host or transfer Client Data from premises outside the United Kingdom:-

a) the Consultant must notify the Client (in so far as they are not prohibited by Law) where any Regulatory Bodies seek to gain or has gained access to such Client Data;

b) the Consultant shall take all necessary steps in order to prevent any access to, or disclosure of, any Client Data to any Regulatory Bodies outside the United Kingdom unless required by Law without any applicable exception or exemption.

## ANNEX A – CLIENT SECURITY POLICIES AND STANDARDS

The Security Policies are published on:

https://www.gov.uk/government/publications/dwp-procurement-security-policies-and-standards unless specified otherwise:

a) Acceptable Use Policy

b) Information Security Policy

c) Physical Security Policy

d) Information Management Policy

e) Email Policy

f) Technical Vulnerability Management Policy

g) Remote Working Policy

h) Social Media Policy

i) Forensic Readiness Policy

j) SMS Text Policy

k) Privileged Users Security Policy

l) User Access Control Policy

m) Security Classification Policy

n) Cryptographic Key Management Policy

o) HMG Personnel Security Controls – May 2018
(published on https://www.gov.uk/government/publications/hmg-personnel-security-controls)

p) NCSC Secure Sanitisation of Storage Media
(published on https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media)

## ANNEX B – SECURITY STANDARDS

The Security Standards are published on:
https://www.gov.uk/government/publications/dwp-procurement-security-policies-and-standards:

a) SS-001 - Part 1 - Access & Authentication Controls
b) SS-001 - Part 2 - Privileged User Access Controls
c) SS-002 - PKI & Key Management
d) SS-003 - Software Development
e) SS-005 - Database Management System Security Standard
f) SS-006 - Security Boundaries
g) SS-007 - Use of Cryptography
h) SS-008 - Server Operating System
i) SS-009 - Hypervisor
j) SS-010 - Desktop Operating System
k) SS-011 - Containerisation
l) SS-012 - Protective Monitoring Standard for External Use
m) SS-013 - Firewall Security
n) SS-014 - Security Incident Management
o) SS-015 - Malware Protection
p) SS-016 - Remote Access
q) SS-017 - Mobile Devices
r) SS-018 - Network Security Design
s) SS-019 - Wireless Network
t) SS-022 - Voice & Video Communications
u) SS-023 - Cloud Computing
v) SS-025 - Virtualisation
w) SS-027 - Application Security Testing
x) SS-028 - Microservices Architecture
y) SS-029 - Securely Serving Web Content
z) SS-030 - Oracle Database
aa) SS-031 - Domain Management
bb) SS-033 - Patching

# Contract Schedule 6 - Key Performance Indicators

Waste Management KPI.xlsx

# Contract Schedule 7 - Financial Distress

**1. Definitions**

1.1. In this Schedule 7 the following definitions apply:

"Credit Rating Threshold" means the minimum credit rating level for the *Consultant* as set out in Annex 1

“Financial Distress Event” means the occurrence or one or more of the events listed in this Schedule 7.

"Financial Distress Service Continuity Plan" means a plan setting out how the *Consultant* will ensure the continued performance in accordance with this contract in the event that a Financial Distress Event occurs;

"Rating Agency" means Fame.

**2. Credit rating and duty to notify**

2.1. The *Consultant* warrants and represents to the *Client* for the benefit of the *Client* that as at the Contract Date the long-term credit ratings issued for the *Consultant* by the Rating Agency.

2.2. The *Consultant* promptly notifies (or procures that its auditors promptly notify) the *Client* and the *Service Manager* if there is any significant downgrade in the credit rating issued by any Rating Agency for the *Consultant* (and in any event within seven days from the occurrence of the downgrade).

2.3. If there is any downgrade credit rating issued by any Rating Agency for the *Consultant*, the *Consultant* ensures that the *Consultant's* auditors thereafter provide the *Client* or the *Service Manager* within 14 days of a written request by the *Client* or the *Service Manager* with written calculations of the quick ratio for the *Consultant* at such date as may be requested by the *Client* or the *Service Manager.* For these purposes the “quick ratio” on any date means:

Where

A. is the value at the relevant date of all cash in hand and at the bank of the *Consultant*

B. is the value of all marketable securities held by the *Consultant* determined using closing prices on the working day preceding the relevant date

C. is the value at the relevant date of all account receivables of the *Consultant* and

D. is the value at the relevant date of the current liabilities of the *Consultant*.

2.4. The *Consultant*:

- regularly monitors the credit ratings of the *Consultant* with the Rating Agencies and
- promptly notifies (or shall procure that its auditors promptly notify) the *Client* and the *Service Manager* following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event and in any event, shall ensure that such notification is made within 14 days of the date on which the *Consultant* first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event.

2.5. For the purposes of determining whether a Financial Distress Event has occurred pursuant to the provisions of paragraph, the credit rating of the *Consultant* shall be deemed to have dropped below the applicable Credit Rating Threshold if any of the Rating Agencies have rated the *Consultant* at or below the applicable Credit Rating Threshold.

**3. Consequences of a financial distress event**

3.1. In the event of:

3.1.1. the credit rating of the *Consultant* dropping below the applicable Credit Rating Threshold;

3.1.2. the *Consultant* issuing a profits warning to a stock exchange or making any other public announcement about a material deterioration in its financial position or prospects;

3.1.3. there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the *Consultant*;

3.1.4. the *Consultant* committing a material breach of covenant to its lenders;

3.1.5. a Subcontractor notifying the *Client* that the *Consultant* has not satisfied any sums properly due for a material specified invoice or sequences of invoices that are not subject to a genuine dispute;

3.1.6. any of the following:

- commencement of any litigation against the *Consultant* with respect to financial indebtedness or obligations under this contract;
- non-payment by the *Consultant* of any financial indebtedness; any financial indebtedness of the *Consultant* becoming due as a result of an event of default
- the cancellation or suspension of any financial indebtedness in respect of the *Consultant* in each case which the *Client* or the *Service Manager* reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance of the *Consultant* in accordance with this contract

then, immediately upon notification of the Financial Distress Event (or if the *Client* or the *Service Manager* becomes aware of the Financial Distress Event without notification and brings the event

to the attention of the *Consultant*), the *Consultant* shall have the obligations and the *Client* shall have the rights and remedies as set out in paragraphs 3.2 – 3.6.

3.2. The *Consultant*:

3.2.1 at the request of the *Client* meets the *Client* and the *Service Manager* as soon as reasonably practicable (and in any event within three working days of the initial notification (or awareness) of the Financial Distress Event or such other period as the *Client* or the *Service Manager* may permit and notify to the *Consultant* in writing) to review the effect of the Financial Distress Event on its continued performance in accordance with this contract and

3.2.2. where the *Client* or the *Service Manager* reasonably believes (taking into account any discussions and representations under paragraph 3.2.1) that the Financial Distress Event could impact on the *Consultant's* continued performance in accordance with this Contract:

- submits to the *Client* and the *Service Manager* for approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within 14 days from the initial notification (or awareness) of the Financial Distress Event or such other period as the *Client* or the *Service Manager* may permit and notify to the *Consultant* in writing)
- provides such financial information relating to the *Consultant* as the *Client* or the *Service Manager* may reasonably require.

3.3. The *Client* and the *Service Manager* do not withhold approval of a draft Financial Distress Service Continuity Plan unreasonably. If the *Client* and/or the *Service Manager* do not approve the draft Financial Distress Service Continuity Plan, the *Client* and/or the *Service Manager* inform the Consultant of the reasons and the *Consultant* takes those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which the *Consultant* resubmits to the *Client* and the *Service Manager* within seven days of the rejection of the first or subsequent (as the case may be) drafts. This process is repeated until the Financial Distress Service Continuity Plan is approved by the *Client* and/or the *Service Manager* or referred to the dispute resolution procedure.

3.4. If the *Client* and/or the *Service Manager* consider that the draft Financial Distress Service Continuity Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not remedy the relevant Financial Distress Event, the *Client* and/or the *Service Manager* may either agree a further time period for the development and agreement of the Financial Distress Service Continuity Plan or escalate any issues with the draft Financial Distress Service Continuity Plan using the dispute resolution procedure.

3.5. Following approval of the Financial Distress Service Continuity Plan by the *Client* or the *Service Manager*, the *Consultant*

- reviews on a regular basis (which shall not be less than monthly) the Financial Distress Service Continuity Plan and assesses whether it remains adequate and up to date to ensure the continued performance in accordance with this contract

- where the Financial Distress Service Continuity Plan is not adequate or up to date in, submits an updated Financial Distress Service Continuity Plan to the *Client* and the *Service Manager* for approval, and the provisions of shall apply to the review and approval process for the updated Financial Distress Service Continuity Plan and

- complies with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).

3.6. Where the *Consultant* reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, the Consultant notifies the *Client* and the *Service Manager* and subject to the agreement of the *Client* and/or the *Service Manager*, the Consultant is relieved of its obligations under paragraph 3.

**4. Termination rights**

4.1. The *Client* may terminate the *Consultant's* obligation to Provide the Service (which shall take effect as termination under reason R11) if

- the *Consultant* fails to notify the *Client* and the *Service Manager* of a Financial Distress Event in accordance with paragraph 2.2;

- the *Client* and the *Service Manager* fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with paragraph 3 and/or

- the *Consultant* fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with paragraph 3.

**5. Primacy of credit ratings**

5.1. Without prejudice to the *Consultant's* obligations and the *Client's* rights and remedies under paragraph 3, if, following the occurrence of a Financial Distress Event pursuant to paragraph 2 to the Rating Agencies review and report subsequently that the credit ratings do not drop below the relevant Credit Rating Threshold, then:

- the *Consultant* is relieved automatically of its obligations under paragraph 3 and
- the *Client* is not entitled to require the Consultant to provide financial information in accordance with paragraph 2.3.

**ANNEX 1: CREDIT RATINGS & CREDIT RATING THRESHOLDS**

*Consultant* Credit current rating (long term): Secure

Credit Rating Threshold: Secure

## Contract Schedule 8 - GDPR

The following definitions shall apply to this Schedule 8.

**Agreement** : this contract;

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

## GDPR CLAUSE DEFINITIONS:

Data Protection Legislation : (i) the GDPR, (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy which, pending a decision from the competent authorities of the EU on the adequacy of the UK data protection regime will include the requirements set out or referenced in Part Three, Title VII, Article 71(1) of the Withdrawal Agreement signed by the UK and the EU in December 2019;

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

Controller , Processor , Data Subject , Personal Data , Personal Data Breach , Data Protection Officer take the meaning given in the Data Protection Legislation.

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

Data Subject Request : 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.

DPA 2018 : Data Protection Act 2018

GDPR : the General Data Protection Regulation (Regulation (EU) 2016/679) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the

European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019

Joint Controllers: where two or more Controllers jointly determine the purposes and means of processing

Protective Measures : appropriate technical and organisational measures which may include: pseudonymisation and/or encryption of Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Schedule 5 - Client Security Policy.

Sub-processor : any third party appointed to process Personal Data on behalf of that Processor related to this Agreement

## 1. DATA PROTECTION

1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the *Client* is the Controller and the *Consultant* is the Processor unless otherwise specified in Schedule

The only processing that the Processor is authorised to do is listed in Schedule 8 by the Controller and may not be determined by the Processor.

1.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.

1.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:

(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 *service*;

(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.

1.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

(a) process that Personal Data only in accordance with Schedule 8A, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;

(b) ensure that it has in place Protective Measures, are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures),having taken account of the:

(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 Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule X);

(ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:

(A) are aware of and comply with the Processor's duties under this clause;

(B) are subject to appropriate confidentiality undertakings with the Processor 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 Controller or as otherwise permitted by this Agreement; 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 UK unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

(i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (in accordance with the Data Protection Legislation) as determined by the Controller;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and

(iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;

(e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data;

1.5 Subject to clause 1.6, the Processor shall notify the Controller immediately if it:

(a) receives a Data Subject Request (or purported Data Subject Request);

(b) receives a request to rectify, block or erase any Personal Data;

(c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

(d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;

(e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

(f) becomes aware of a Data Loss Event.

1.6 The Processor's obligation to notify under clause 1.5 shall include the provision of further information to the Controller in phases, as details become available.

1.7 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:

(a) the Controller with full details and copies of the complaint, communication or request;

(b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;

(c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;

(d) assistance as requested by the Controller following any Data Loss Event;

(e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.

1.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:

(a) the Controller determines that the processing is not occasional;

(b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or

(c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

1.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.

1.10 Each Party shall designate its own data protection officer if required by the Data Protection Legislation .

1.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:

(a) notify the Controller in writing of the intended Sub-processor and processing;

(b) obtain the written consent of the Controller;

(c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 1 such that they apply to the Sub-processor; and

(d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

1.12 The Processor shall remain fully liable for all acts or omissions of any of its Sub- processors.

1.13 The Controller 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 Agreement).

1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

1.15 Where the Parties include two or more Joint Controllers as identified in Schedule 8A in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Schedule 8 in replacement of Clauses 1.1-1.14 for the Personal Data under Joint Control.

## ANNEX A - PART 2: SCHEDULE OF PROCESSING,

## PERSONAL DATA AND DATA SUBJECTS SCHEDULE 8A

## PROCESSING, PERSONAL DATA AND DATA SUBJECTS

This Schedule shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Schedule shall be with the Controller at its absolute discretion.

1. The contact details of the Controller's Data Protection Officer are: REDACTED – Email address - REDACTED

2. The contact details of the Processor's Data Protection Officer are: REDACTED

3. The Processor shall comply with any further written instructions with respect to processing by the Controller.

4. Any such further instructions shall be incorporated into this Schedule.

| Description | Details |
|---|---|
| Identity of the Controller and Processor | The Parties acknowledge that for the purposes of the Data Protection Legislation, the *Client* is the Data Controller and the *Consultant* is the Data Processor. |
| Subject matter of the processing | The processing is needed in order to ensure that the Data Processor can effectively deliver the Call Off Contract to provide the *services* to the *Client*. |
| Duration of the processing | Personal Data is processed for the duration of the contract to allow *services* to be performed. |
| Nature and purposes of the processing | The nature of the processing will include the storage and use of names and business contact details of staff of both the *Client* and the *Consultant* as necessary to deliver the services and to undertake contract management. The Contract itself will include the names and business contact details of staff of both the *Client* and the *Consultant* involved in delivery or management of the Contract. |
| Type of Personal Data being Processed | Names, business telephone details and email addresses, office location and position of staff of both the *Client* and the *Consultant.* |
| Categories of Data Subject | Staff of both the *Client* and the *Consultant,* including where those staff are named within the Contract itself or involved in contract management. |
| 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 | Following the *completion date*, the *Consultant* will delete the Personal Data from any computers, storage devices and storage media that are to be retained by the Consultant after the expiry of the Contract. The *Consultant* will certify to the *Client* that it has completed such deletion. |