**DATED** ……………………………………………………**2025**

**CONSULTANCY AGREEMENT**

Between

**WASTE LONDON WASTE AUTHORITY**

And

**INSERT NAME OF CONSULTANT COMPANY**

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Relating To The Provision of Health and Safety Advisor Services

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London Borough of Harrow

HCH

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Harrow

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Ref: WLWA/002/2025

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**THIS AGREEMENT** is dated **202[ ]**

Parties

1. **WASTE LONDON WASTE AUTHORITY of Unit 6, Britannia Court, The Green, West Drayton UB7 7PN.**(Client).
2. [**INSERT FULL COMPANY NAME**] [incorporated and registered in England and Wales with company number [*insert company number*.]] **OR** [a charity registered in England and Wales with charity number (*insert charity number*.) and company number [*insert company number*.]] whose [registered office **OR** principal address] is at [*insert address*] (Consultant).

Background

1. The Consultant submitted a tender on [*insert date and remove square brackets*.] (reference: [*insert reference if applicable and remove square brackets*]) in response to the Client's request for tenders issued on [*insert date and remove square brackets*.] (reference: [*insert reference if applicable and remove square brackets*]).
2. The Client has (based on the Consultant’s tender referred to above), appointed the Consultant to supply the consultancy services and the Consultant has agreed to do so on the terms and conditions of this Agreement.

Agreed Terms

# Definitions And Interpretation

1.1 The following definitions and rules of interpretation apply in this Agreement:

Agreement**:** the terms and conditions of contract and the Schedules.

Bribery Act**:** the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

Business Day**:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Business Hours: the hours between 9.00am and 5.00pm on a Business Day.

Client Data**:** all Documents, information and materials provided by the Client relating to the Services.

Client's Manager**:** the Client's manager appointed in accordance with clause 5.1 and whose details are set out in Schedule 3 (*Contract Management*).

Client’s Equipment**:** any equipment, including tools, systems, cabling or facilities, provided by the Client.

Commencement Date**:** [TBC][[1]](#footnote-2).

**Commercially Sensitive Information:** the information of a commercially sensitive nature relating to the Consultant, its intellectual property rights or its business or which the Consultant has indicated (in writing) to the Client that, if disclosed by the Client, would cause the Consultant significant commercial disadvantage or material financial loss.

Consultant's Equipment**:** any equipment, including tools, systems, cabling or facilities, provided by the Consultant or its sub-contractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Client.

Consultant's Manager**:** the Consultant's manager for the Services appointed under clause 3.3 and whose details are set out in Schedule 3 (*Contract Management*).

Consultant's Personnel**:** all employees, staff, other workers, agents and consultants of the Consultant and of any sub-contractors who are engaged in the provision of the Services from time to time.

[Consultant's Proposal**:** the Consultant's document submitted in response to the Client’s invitation to tender and which is attached as Schedule 5 (*Consultant’s Proposal*) to this Agreement.][[2]](#footnote-3)

1. Coronavirus: the disease known as coronavirus disease (COVID-19) and the virus known as severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).
2. Data Controller: shall have the same meaning as set out in the Data Protection Legislation.
3. Data Processor: shall have the same meaning set out in the Data Protection Legislation.
4. Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.
5. Data Subject: shall have the same meaning set out in the Data Protection Legislation.
6. **Data Subject Access Request:** shall have the same meaning set out in the Data Protection Legislation.

Deliverables**:** all Documents, products and materials developed by the Consultant or its agents, sub-contractors, consultants and employees in relation to the Services in any form.

Document**:** includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

EIRs**:** the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

Expiry Date**:** [TBC].

Force Majeure Event**:** any cause affecting the performance by a party of its obligations under this Agreement arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding a Coronavirus Event or Public Health Event, any industrial dispute relating to the Consultant, the Consultant's Personnel or any other failure in the Consultant's supply chain.

FOIA**:** the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

Government Prevent Strategy: a policy forming part of HM Government’s counter-terrorism strategy, available at:

<http://www.homeoffice.gov.uk/publications/counter-terrorism/prevent/prevent-strategy/prevent-strategy-review?view=datBinary>

as may be amended from time to time.

Human Rights Act 1998: the Human Rights Act 1998 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

Intellectual Property Rights**:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

1. Key Personnel: the Consultant's personnel, identified in Schedule 3 (*Contract Management*) as may be removed or replaced from time to time.
2. KPIs: the key performance indicators set out in Schedule 1 (*Specification*) and/or the Task Order Instruction Form.

Law**:** any law, statute, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which apply to the provision of the Services or with which the Consultant is bound to comply.

Local Government Transparency Code: means the government guidance of the same name published by the Department for Communities and Local Government on 27 February 2015, as amended from time to time.

1. **London Living Wage:** the rate which is set as the London Living Wage by the Mayor of London, the Greater London Authority, the Living Wage Commission, the Resolution Foundation and/or another relevant person, body or agency (before tax, other deductions and any increase for overtime), as may be revised from time to time by the Mayor of London, the Greater London Authority, the Living Wage Commission, the Resolution Foundation and/or another relevant person, body or agency.
2. Modern Slavery Act 2015: the Modern Slavery Act 2015 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
3. Personal Data: shall have the same meaning set out in the Data Protection Legislation.

Pre-existing Materials**:** all Documents, information and materials provided by the Consultant relating to the Services which existed prior to the commencement of this Agreement.

Prohibited Act**:** the following constitute Prohibited Acts:

### to directly or indirectly offer, promise or give any person working for or engaged by the Client 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 Agreement;

### to commit any offence:

#### under the Bribery Act;

#### under legislation or common law concerning fraudulent acts;

#### relating to defrauding, attempting to defraud or conspiring to defraud the Client.

### any activity, practice or conduct which would constitute one of the offences listed under clause (c) above, if such activity, practice or conduct had been carried out in the UK.

1. Public Health Event: an event or delay caused by, or arising from or in relation to, a Coronavirus epidemic or pandemic or any other epidemic or pandemic that prevents or delays the performance of the Services or the performance of any obligations under this Agreement, including (but not limited to):

### (a) absences or unavailability of the Consultant’s Personnel, and any loss of, or disruption to, any of their facilities;

### (b) any illness, quarantining, shielding or self-isolation (including, but not limited to, precautionary self-isolation) of the Consultant’s Personnel;

### (c) any recommended or mandatory measures introduced by the UK Government intended to prevent or delay the spread of Coronavirus or any other organism causing an epidemic or pandemic.

Request for Information**:** a request for information or an apparent request for information under the Code of Practice on Access to Government Information, FOIA or the EIRs.

1. Required Standard: best skill, care and diligence to be expected of a qualified and experienced member of the Consultant's profession undertaking the Services on works/projects similar in scope and character to the Services.

Services**:** the consulting and related services to be supplied, and obligations to be performed, by the Consultant as set out in Schedule 1 (*Specification*) and the Task Order Instruction Form.

1. Task **Order Instruction Form:** the Client’s written instruction to the Consultant requesting delivery of the Services and/or Deliverables. It shall also detail the total fee that the Consultant can invoice for the Services. The Client shall also detail any KPIs that the Consultant must follow.
2. Target KPI**:** the minimum level of performance for a KPI which is required by the Client as set out against the relevant KPI in Schedule 1 (*Specification*) and/or the Task Order Instruction Form.
3. UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

VAT**:** value added tax or any similar tax from time to time replacing it or performing a similar function.

## Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.

## A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

## The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

## Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.

## Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender.

## A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

## A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

## A reference to **writing** or **written** includes e-mail but excludes fax.

## Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

## References to clauses and Schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.

## Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## All undefined words and expressions are to be given their normal English meaning.

## If there is an inconsistency between any of the provisions in the main body of this Agreement and the Schedules, the provisions in the main body of this Agreement shall prevail. Where there is any conflict between any of the other schedules and the Consultant’s Proposal the provisions of the relevant schedule(s) will prevail over the Consultant’s Proposal.

# Engagement

## The Consultant shall provide the Services to the Client from the Commencement Date until the Expiry Date and this Agreement shall terminate automatically on the Expiry Date unless extended in accordance with clause 2.2 below.

## The Client may extend this Agreement beyond the Expiry Date by a further period or periods of up to 12 (twelve) months. If the Client wishes to extend this Agreement, it shall give the Consultant at least one (1) months' written notice of such intention before the Expiry Date. If the Client gives such notice, then the term shall be extended by the period set out in the notice.

# Consultant's Obligations And Warranties

## The Consultant shall use their best endeavours to provide the Services and to deliver the Deliverables to the Client to the Required Standard, in accordance with the Schedule 1 (*Specification*) and the Consultant’s Proposal (Schedule 5) in all material respects.

## The Consultant shall meet any performance dates or milestones specified in Schedule 1 (*Specification*) and/or the Task Order Instruction Form. Unless otherwise agreed by the parties, time shall be of the essence in delivering the Services.

## The Consultant shall appoint the Consultant's Manager who shall have authority contractually to bind the Consultant on all matters relating to the Services. The Consultant shall ensure that the same person acts as the Consultant's Manager throughout the term of this Agreement but may replace him from time to time where reasonably necessary in the interests of the Consultant's business.

## The Consultant’s Manager or a duly authorised and competent representative of the Consultant shall be available to meet the Client’s Manager at the intervals set out in Schedule 3 (*Contract Management*) and at all reasonable times as may be required by the Client and the Consultant shall provide such written reports as set out in Schedule 3 (*Contract Management*) or as the Client’s Manager may reasonably require prior to any meeting or generally.

## Whilst on the Client’s premises, the Consultant shall and shall ensure that its agents, employees and sub-contractors, observe all health and safety rules and regulations and any other reasonable security requirements that apply at the Client's premises and that have been communicated to it under clause **Error! Reference source not found.**, provided that it shall not be liable under this Agreement if, as a result of such observation, it is in breach of any of its obligations under this Agreement.

## In providing the Services and/or the Task Order Instruction Form, the Consultant shall:

### co-operate with the Client in all matters relating to the Services, and comply with all instructions of the Client;

### perform the Services with the best care, skill and diligence in accordance with best practice in the Consultant's industry, profession or trade;

### use personnel who are suitably skilled and experienced to perform tasks assigned to them and in sufficient number to ensure that the Consultant's obligations are fulfilled in accordance with this Agreement;

### ensure that the Services and Deliverables will conform with all descriptions and specifications set out in Schedule 1 and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Consultant by the Client;

### provide all equipment, tools and such other items as are required to provide the Services;

### obtain and at all times maintain all necessary licences and consents and comply with all applicable Laws and regulations;

### hold all Client Data in safe custody at its own risk, maintain the Client Data in good condition until returned to the Client, and not dispose of or use the Client Data other than in accordance with the Client's written instructions or authorisation;

### not do or omit to do anything which may cause the Client to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business and the Consultant acknowledges that the Client may rely or act on the Services;

### if delivering Services at the Client’s premises, observe all of the Client’s policies and procedures in force at such premises as notified to the Consultant from time to time;

### at all times comply with the provisions of the Modern Slavery Act 2015, the Human Rights Act 1998, the Government Prevent Strategy and all equality Laws in force from time to time. The Consultant shall also undertake, or refrain from undertaking, such acts as the Client requests so as to enable the Client to comply with its obligations under the Human Rights Act 1998 and all equality Laws in force from time to time;

### comply with all environmental and other Laws applicable to the performance of its obligations under this Agreement;

### be responsible for the accuracy of all drawings, documents and information supplied to the Client and shall pay the Client any extra costs occasioned by any discrepancies, errors or omissions therein;

### in accordance with any legislation, regulations, guidance as amended and applicable together with the Client’s policies or procedures for working during a Public Health Event; and

### notify the Client as soon as it is aware of any matter adversely affecting or threatening the Services or its own responsibilities under this Agreement.

## The Consultant shall at all times comply with any and all relevant guidance, legislation, and established good practice applicable to the provision of the Services under this Agreement, including but not limited to any specific requirements outlined in the Task Order Instruction Form. The Consultant shall ensure that all actions, conduct, and deliverables under this Agreement meet or exceed the standards expected of a competent and diligent provider of similar services.

## The Consultant shall ensure that the Consultant's Manager and the Key Personnel:

### devote sufficient time and attention fulfilling their respective roles;

### are not removed without the Client's prior written consent (such consent not to be unreasonably withheld or delayed), except in the event of:

#### death;

#### permanent incapacity;

#### an illness making the relevant individual unavailable for work; or

#### the relevant individual leaving the Consultant's employment.

## The Client may at any time instruct the Consultant to remove any person engaged in performing the Services if, in the Client's reasonable opinion, that person's performance or conduct is unsatisfactory. The Consultant shall remove any such person promptly.

## Any personnel appointed by the Consultant to replace staff removed under clause 3.8(b) or 3.9 shall be subject to the written approval of the Client (such approval not to be unreasonably withheld or delayed).

## Where any Service is stated in Schedule 1 (*Specification*) and/or the Task Order Instruction Form to be subject to a specific KPI, the Consultant shall provide that Service in such a manner as will ensure that the achieved KPI in respect of that Service is equal to or higher than the corresponding Target KPI to such specific KPI. A failure by the Consultant to monitor the Services or monitor the Services against the specific KPI or to provide the Client with a monthly report or to provide the Client with accurate and truthful information or other details in accordance with this clause 3.11 shall be deemed to be a service failure and the Consultant will be deemed to have failed to achieve those Target KPIs in respect of which it has failed to report.

## The Client reserves the right, at its sole discretion, to set, vary, and add to the KPIs at any time during the term of this Agreement. The Consultant agrees to adhere to and meet all such KPIs, including any changes or additions, and shall promptly adjust its performance to comply with the updated KPIs upon receiving reasonable written notice from the Client.

# Public Health Event

## The Client acknowledges that a Public Health Event may create uncertainty amongst consultants, suppliers, suppliers, contractors and local authorities alike. The Client is also conversant with previous government guidance in such circumstances and in particular the need to be flexible in both requiring the provision of Services and the manner in which consultants, service providers, suppliers and contractors should be paid.

## The Consultant warrants and undertakes that as part of its proposal it considered and/or part of its delivery plan it has considered the likely implications of a Public Health Event on service delivery and the performance of its obligations under this agreement and has (and shall continue to have) contingencies in place to address those in line with current UK Government Guidance.

## If the Consultant considers that a Public Health Event or the development of an epidemic or pandemic is likely to have an effect upon its ability to provide the Services which were not reasonably foreseeable at the time that this Agreement was entered into and accordingly not included within its initial proposals or delivery plan, then the Consultant shall notify the Client promptly, setting out why it considers that to be the case, the effect it would have on the provision of the Services and a proposal to mitigate the situation to secure continuity of supply and service.

## The Client may within 20 (twenty) Business Days of receiving the notice under clause 4.3, also put forward for consideration by the Consultant any proposals it considers are practicable and appropriate in the circumstances and meet with the Consultant within seven (7) Business Days to consider the proposals by the Consultant and the Client’s proposal (if any) with a view to agreeing a plan of action to mitigate the situation in line with the applicable UK Government Guidance at the time.

## Any plan or actions agreed by the parties will be evidenced in writing, signed by the parties and will form a part of this Agreement for as long as the Public Health Event subsists.

# Client's Obligations

## The Client shall:

### co-operate with the Consultant in all matters relating to the Services and shall appoint the Client's Manager in relation to the Services who shall have the authority contractually to bind the Client on matters relating to the Services; and

### provide, in a timely manner, such Client Data and other information as the Consultant may reasonably require, and ensure that it is accurate in all material respects.

# Change Control

## If either party wishes to change the scope or execution of the Services, it shall submit details of the requested change to the other in writing.

## If either party requests a change to the scope or execution of the Services, the Consultant shall, within a reasonable time, provide a written estimate to the Client of:

### the likely time required to implement the change;

### any necessary variations to the Consultant's charges arising from the change;

### the likely effect of the change on the Services; and

### any other impact of the change on this Agreement.

## If the Client wishes the Consultant to proceed with the change, the Consultant has no obligation to do so unless and until the parties have agreed the necessary variations to its charges, the Services and any other relevant terms of this Agreement to take account of the change and this Agreement has been varied in accordance with clause 20 (*Variation*).

## Notwithstanding clause 6.3, the Consultant may, from time to time but always with a minimum of 20 (twenty) Business Day’s written notice to the Client, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not affect the nature, scope of, or the charges for the Services.

# Charges, Payment And Audit

## Subject to Clause 8 (Task Order Instruction Form) the Client shall pay the Consultant a fee which are always subject to the total fee as detailed in the Task Order Instruction Form. Subject to the agreed total fee as further detailed in the Task Order Instruction Form, on the last Business Day of each month the Consultant shall submit to the Client an invoice which gives details of the days which the Consultant has worked, the Services provided and the amount of the fee payable (plus VAT) for the Services during that month.

## The fees set out in clause 7.1 shall only be payable to the Consultant following the achievement of the Deliverables (as set out more particularly in Schedule 1 (Specification) and the Task Order Instruction Form) to the satisfaction of the Client. The Consultant shall submit invoices, in each case, within 30 (thirty) days of achievement of the Deliverables and Services to the satisfaction of the Client.

## Subject to clause 7.1 the total charges for the Services under this Agreement during the term shall be as set out in Schedule 2 (*Pricing*) and shall be the full and exclusive remuneration of the Consultant in respect of the performance of the Services. Unless otherwise agreed in writing by the Client, the charges shall include every cost and expense of the Consultant directly or indirectly incurred in connection with the performance of the Services.

## The Consultant shall submit to the Client an invoice for each instalment of charges, together with any supporting documents that are reasonably necessary to check the invoice. The invoice and supporting documents (if any) shall specify the sum that the Consultant considers will become due on the payment due date in respect of the instalment of the fee, and the basis on which that sum is calculated.

## The Client will not process or pay against pro forma invoices, account statements or remittance advice notes.

## All invoices submitted by the Consultant must meet the following criteria otherwise they may be rejected by the Client:

### in PDF format and is sent as a single PDF (not as multiple invoices/credit notes on 1 PDF) without password protection;

### addressed to the Client in the Client’s name;

### contains a valid purchase order number;

### has a unique invoice number;

### has an invoice date;

### shows the net, gross and VAT amounts;

### has a VAT registration number (where applicable).

## The Client shall pay each invoice submitted to it by the Consultant, in full and in cleared funds, within thirty (30) days of receipt to a bank account nominated in writing by the Consultant.

## All amounts payable by the Client under this Agreement are exclusive of amounts in respect of VAT chargeable from time to time. Where any taxable supply for VAT purposes is made under this Agreement by the Consultant to the Client, the Client shall, on receipt of a valid VAT invoice from the Consultant, pay to the Consultant such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

## The Consultant shall indemnify the Client against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on the Client at any time in respect of the Consultant’s failure to account for, or to pay, any VAT relating to payments made to the Consultant under this Agreement.

## If a party fails to make any payment due to the other party under this Agreement by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 4% (four per-cent) per annum above The Bank of England’s base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments that the defaulting party disputes in good faith.

## Notwithstanding any other clause in this Agreement the Client reserves the right to withhold, in whole or in part, payment for any and all of the Services that: (i) have not been completed by the Consultant; (ii) are inadequate or defective and have not been remedied or resolved in a manner satisfactory to the Client; and/or (iii) fail to comply with the terms and conditions of this Agreement.

## The Consultant shall maintain complete and accurate records of the resources applied to and cost of providing the Services and the Consultant shall allow the Client to inspect such records at all reasonable times on request.

## Where the Consultant enters into a sub-contract with a supplier or contractor for the purpose of performing this Agreement, it shall cause a term to be included in such a sub-contract that requires payment to be made of undisputed sums by the Consultant to the sub-contractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice, as defined by the sub-contract requirements.

## During the term and for a period of twelve (12) years after termination or expiry of this Agreement, the Client (acting by itself or through its representatives) may conduct an audit of the Consultant, including for the following purposes:

* + 1. to verify the accuracy of charges charged (and proposed or actual variations to them in accordance with this Agreement) and/or the costs of all suppliers;
    2. to review the integrity, confidentiality and security of any data relating to the Client or any service users;
    3. to review the Consultant's compliance with the Data Protection Legislation, the FOIA, in accordance with clause 12 (*Confidentiality, Freedom of Information and Transparency*) and clause 13 (*Data Protection*) and any other legislation applicable to the Services;
    4. to review any records created during the provision of the Services;
    5. to inspect, audit and take copies of relevant records, and other documents as necessary to verify the Consultant’s compliance with the terms and conditions of this Agreement;
    6. to review any books of account kept by the Consultant in connection with the provision of the Services; and
    7. 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 Client’s obligations of confidentiality, the Consultant at their sole cost and expense shall on demand provide the Client and any relevant regulatory body (and/or their agents or representatives) with all reasonable co-operation and assistance in relation to each audit.

## The Client shall endeavour to (but is not obliged to) provide at least fifteen (15) Business Days' notice of its intention or, where possible, a regulatory body's intention, to conduct an audit.

## The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations relating to any audits, unless the audit identifies a material failure to perform its obligations under this Agreement in any material manner by the Consultant in which case the Consultant shall reimburse the Client for all the Client's reasonable costs incurred in the course of the audit.

# Task Order Instruction Form

## The Client may from time to time require the Consultant to supply the Services and Deliverables in accordance with the fees detailed in this Agreement at a pro-rata or daily rate but always subject to the total fee outlined in the Task Order Instruction Form. The Consultant shall use their best endeavours to provide the requested/required Services and Deliverables promptly or at the times agreed by the Client.

## The Client shall issue the Consultant a Task Order Instruction Form. Each order for the Services shall be made under, and shall incorporate, the terms of this Agreement.

## Within three (3) Business Days of the Client issuing a Task Order Instruction Form the Consultant shall either accept or reject, in writing, the Task Order Instruction Form and intimate (in writing) such rejection or acceptance to the Client.

## The Consultant shall not perform any of the Services without the prior written approval of the Client as evidenced in a Task Order Instruction Form. Where the Consultant performs Services/Deliverables without a Task Order Instruction Form, the Client will not be obliged to pay any fees or costs relating to that work.

## The Client shall be entitled to set any KPIs in the Task Order Instruction Form which the Consultant must adhere to. Failure to adhere to any set KPI shall allow the Client to terminate this Agreement for material breach,

# Social Value

## The parties acknowledge that the Client has obligations under the Public Services (Social Value) Act 2012 (**‘SVA’**) to secure that Services delivered under this Agreement will improve the economic, social and environmental well-being in a way that achieves value for money as well as generating benefits to society and the economy, whilst minimising damage to the environment and that to meet the Client’s obligations under the SVA the Consultant has made a commitment to deliver the social value targets set out in the Consultant’s Proposal (**‘SV KPIs’**).

## The Client will measure the required social value deliverables under this Agreement against the commitments (**‘SV Deliverables’**) set out in the Consultant’s Proposal by applying the SV KPIs. The Client will monitor and use the data reported against each SV KPI to record progress against the Consultant achieving the SV Deliverables.

## Where the Consultant is not achieving the agreed SV Deliverables after any measurement period, the parties will seek to remedy the Consultant’s default by serving a Dispute Notice and following the procedure in clause 32 (*Dispute Resolution Procedure*).

## Notwithstanding any clause in this Agreement if the Consultant fails to achieve the SV Deliverables in accordance with the SV KPIs the Client, at their absolute and sole discretion, reserves the right to deliver the SV Deliverables (or where the agreed SV Deliverables cannot be delivered by the Client then the Client may deliver similar or equivalent SV Deliverables). The Client shall be entitled to seek reimbursement for any and all reasonable costs (including any professional fees and expenses, and any VAT) for the delivery of the SV Deliverables or similar/equivalent SV Deliverables and this shall be reimbursed directly by the Consultant to the Client, be set off against any liability of the Client to the Consultant and/or be a debt due from the Consultant to the Client and payable on demand.

# London Living Wage

## The Consultant shall:

1. pay all the Consultant's Personnel, a wage which is equal to or exceeds the London Living Wage;
2. ensure that all staff employed or engaged by its sub-contractors (if any) pay an equivalent wage which is equal to or exceeds the London Living Wage;
3. where the Consultant’s Personnel are paid the London Living Wage and not a salary higher than the London Living Wage, the Consultant agrees to increase the amount which it pays the Consultant’s Personnel by the same amount as any increase to the London Living Wage within six (6) months of the date on which any increase in the London Living Wage is announced by the Greater London Authority, the Living Wage Commission and/or the Resolution Foundation;
4. provide the Client such information concerning the London Living Wage Rate as the Client or its nominees may reasonably require from time to time, such information to be provided as part of the contract management requirements to include evidence that the Consultant is complying with the provisions of this Agreement; and
5. co-operate with the Client and provide all reasonable assistance to the Client in monitoring the effect of the London Living Wage rate.

## Unless stated otherwise in this Agreement, if the London Living Wage increases during the term of this Agreement, the Consultant shall not be entitled to adjust the charges and the parties agree and acknowledge that any increases in the London Living Wage anticipated during the term of this Agreement have been factored into the charges.

# Intellectual Property Rights

## The Consultant assigns to the Client, with full title guarantee and free from all third party rights, the Intellectual Property Rights and all other rights in the products of the Services (including the Deliverables).

## At its own expense, the Consultant shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to this Agreement, including securing for the Client all right, title and interest in and to the Intellectual Property Rights and all other rights assigned to the Client in accordance with clause 11.1.

## The Consultant shall obtain waivers of any moral rights in the products of the Services (including the Deliverables) to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of Law in any jurisdiction.

# Confidentiality, Freedom Of Information And Transparency

## A party (**‘Receiving Party’**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**‘Disclosing Party’**), its employees, agents or sub-contractors, and any other confidential information concerning the Disclosing Party's business, its products and services which the Receiving Party may obtain. The Receiving Party shall only disclose such confidential information to those of its employees, agents and sub-contractors who need to know it for the purpose of discharging the Receiving Party's obligations under this Agreement, and shall ensure that such employees, agents and sub-contractors comply with the confidentiality obligations set out in this clause 12.1 as though they were a party to this Agreement. The Receiving Party may also disclose such of the Disclosing Party's confidential information as is required to be disclosed by Law, any governmental or regulatory authority or by a court of competent jurisdiction.

## The Consultant acknowledges that the Client is subject to the requirements of the FOIA and the EIRs. The Consultant shall:

### provide all necessary assistance and cooperation as reasonably requested by the Client to enable the Client to comply with its obligations under the FOIA and EIRs;

### transfer to the Client all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 (two) Business Days of receipt;

### provide the Client with a copy of all Information belonging to the Client requested in the Request For Information which is in its possession or control in the form that the Client requires within 5 (five) Business Days (or such other period as the Client may reasonably specify) of the Client's request for such Information; and

### not respond directly to a Request for Information unless authorised in writing to do so by the Client.

## The Consultant acknowledges that the Client may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Consultant. The Client shall take reasonable steps to notify the Consultant of a Request for Information (in accordance with the Cabinet Office's Freedom of Information Code of Practice issued under section 45 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Client shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

## The Client, in line with the Government’s ongoing drive to open up the activities of the public sector to greater scrutiny, adheres to the Local Government Transparency Code (which the Consultant hereby accepts and acknowledges) and the Consultant hereby agrees that, notwithstanding anything set out in this Agreement, the Client shall be entitled to publish this Agreement in whole or in part (including from time to time any agreed changes to this Agreement), in whatever form the Client may decide. The Consultant further agrees that the Client may publish any payments made by the Client to the Consultant under this Agreement.

# Data Protection

## Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 13 (*Data Protection*) is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

## Notwithstanding the general obligation in clause 13.1, where the Consultant is processing Personal Data as a Data Processor for the Client as Data Controller, the Consultant shall ensure that it has in place appropriate technical, organisational and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Data Protection Legislation and the Consultant shall:

### process the Personal Data only in accordance with the documented instructions from the Client which may be specific instructions or instructions of a general nature as set out in Schedule 4 (*Data Processing Instructions*) to this Agreement or as otherwise notified by the Client to the Consultant (in writing) from time to time and for no other purpose;

### process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by the Data Protection Legislation;

### obtain prior written consent from the Client in order to transfer the Personal Data to any sub-contractors, agents or other third parties for the provision of the Services and oblige by way of contract or other binding legal arrangement any such parties to comply with the same data protection obligations as those set out in this clause 13 (*Data Protection*);

### not transfer Personal Data outside of the United Kingdom unless the prior written consent of the Client has been obtained and the following conditions are fulfilled:

#### the Client or the Consultant has provided appropriate safeguards in relation to the transfer in accordance with Data Protection Legislation as determined by the Client;

#### the Data Subject has enforceable rights and effective legal remedies;

#### the Consultant 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 Client in meeting its obligations); and

#### the Consultant complies with any reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;

### take all reasonable steps to ensure the reliability of any of the Consultant's Personnel who have access to the Personal Data;

### ensure that the Consultant's Personnel without appropriate authority do not have access to the Personal Data;

### ensure that all the Consultant's Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 13 (*Data Protection*);

### ensure that all the Consultant's Personnel receive an adequate level of training in data protection;

### ensure that the Consultant's Personnel do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Client;

### notify the Client within 24 (twenty-four) hours if it becomes aware of a breach or alleged breach of the Data Protection Legislation;

### provide the Client with full co-operation and assistance in relation to investigating breaches to include inspection of premises and security arrangements if requested;

### notify the Client (within two (2) Business Days), if it receives a Data Subject Access Request under the Data Protection Legislation or a complaint relating to the Client’s obligations and promptly notify the Client of any breach of the security measures required to be put in place pursuant to this clause 13 (*Data Protection*); and

### provide the Client with full co-operation and assistance in relation to any complaint or request made under the Data Protection Legislation including by:

### (i) providing the Client with full details of the complaint or request;

(ii) providing the Client with any information requested by   
 the Client within the timescales required by the Client.

## The Consultant shall, upon reasonable notice, allow officers of the Client to have reasonable rights of access at all times to the Consultant’s premises, Consultant’s Personnel and records for the purposes of monitoring the Consultant’s compliance with the Data Protection Legislation including its security requirements.

## The Consultant shall at the written direction of the Client, delete or return Personal Data (and any copies of it) to the Client on termination of this Agreement unless the Consultant is required by Law to retain the Personal Data.

## The provisions of this clause 13 (*Data Protection*) shall apply during the continuance of this Agreement and indefinitely after its expiry or termination.

# Indemnity

## The Consultant shall keep the Client indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of anticipated savings, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Client as a result of or in connection with:

### the Consultant’s breach, reckless and/or negligent performance or non-performance of this Agreement;

### the Consultant’s omission or default in the provision of the Services;

### the enforcement of this Agreement;

### wasted expenditure as a result of the Consultant’s breach, reckless and/or negligent performance or non-performance of this Agreement;

### additional costs of procuring and implementing replacements for, or alternatives to, the Services not provided in accordance with the Agreement which include but are not limited to consultancy costs and additional costs of management time, provided that the Client shall seek to mitigate such costs and the Consultant shall only be liable for such costs that are reasonably incurred;

### losses arising out of or in connection with any claim, demands, fines, penalties, actions, investigations or proceedings, including those made or commenced by sub-contractors, the Consultant’s Personnel, regulators and customers of the Client;

### any claim made against the Client for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the Services, to the extent that the claim is attributable to the acts or omissions of the Consultant, its employees, agents or sub-contractors;

### any claim made against the Client by a third party for death, personal injury or damage to property arising out of, or in connection with, the Services, which are attributable to the acts or omissions of the Consultant, its employees, agents or sub-contractors; and

### any claim made against the Client by a third party arising out of or in connection with the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the Consultant, its employees, agents or sub-contractors.

## Liability under this indemnity is unlimited.

## This clause 14 (*Indemnity*) shall survive termination of this Agreement.

# Insurance

## The Consultant shall be liable for any and all losses, liabilities or costs (including all reasonable legal costs) incurred by the Client in connection with the Consultant’s performance of the Services and shall maintain in force during the period of this Agreement and for six (6) years thereafter as a minimum the following insurance cover with reputable insurers acceptable to the Client:[[3]](#footnote-4)

### Employer’s Liability Insurance of not less than £10,000,000 (ten million pounds sterling) for each and every claim, act or occurrence or series of claims, acts or occurrences; and

### Public Liability Insurance of not less than £2,000,000 (two million pounds sterling) for each and every claim, act or occurrence or series of claims, acts or occurrences; and

### Professional Indemnity Insurance of not less than £5,000,000 (five million pounds sterling) for each and every claim, act or occurrence or series of claims, acts or occurrences.

## The Consultant shall give the Client, on request, copies of all insurance policies referred to in this clause 15 (*Insurance*) or a broker's verification of insurance to demonstrate that the appropriate cover as required by this clause 15 (*Insurance*) is in place, together with receipts or other evidence of payment of the latest premiums due in respect of such insurances.

## If, for whatever reason, the Consultant fails to give effect to and maintain all the insurance policies referred to in this clause 15 (*Insurance*), the Client may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Consultant.

## The terms of any insurance or the amount of cover shall not relieve the Consultant of any liabilities under this Agreement.

# Limitation Of Liability

## Nothing in this Agreement limits or excludes either party’s liability for:

### death or personal injury caused by its negligence; or

### fraud or fraudulent misrepresentation; or

### destruction or damage of the Client’s property; or

### breach of clause 7.9, clause 8 (*Social Value*), clause 11 (*Intellectual Property Rights*), clause 12 (*Confidentiality, Freedom of Information and Transparency*), clause 13 (*Data Protection*), clause 14 (*Indemnity*), clause 15 (*Insurance*) and clause 25 (*Prevention of Bribery*); or

### any and all indemnities provided for in this Agreement; or

### those arising under Part 1 of the Consumer Protection Act 1987; or

### breach of its obligations arising under any of section 12 of the Sale of Goods Act 1979, section 2 of the Supply of Goods and Services Act 1982 or section 8 of the Supply of Goods (Implied Terms) Act 1973; or

### any matter for which it is not permitted by law to exclude or limit, or to attempt to exclude or limit, its liability.

## Subject to clause 14.1 and 16.1, neither party shall be liable to the other party, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Agreement for:

### loss of profits;

### loss of sales or business;

### loss of agreements or contracts;

### loss of anticipated savings;

### any indirect or consequential loss.

## Subject to clause 14.1, clause 16.1 and clause 16.2, each party’s total liability to the other party, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Agreement shall be limited to the greater of £250,000 (two hundred and fifty thousand pounds sterling) per claim.

# Termination

## Without affecting any other right or remedy available to it, the Client may terminate this Agreement in whole or in part at any time by giving one (1) months written notice to the Consultant.

## Without affecting any other right or remedy available to it, the Client may terminate this Agreement with immediate effect by giving written notice to the Consultant if:

### the Consultant commits a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of seven (7) days after being notified in writing to do so;

### the Consultant commits any serious or repeated breach or non-observance of any of the terms or conditions of this Agreement;

### the Consultant repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;

### the Consultant suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (as amended);

### the Consultant commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Consultant with one or more other companies or the solvent reconstruction of the Consultant;

### a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Consultant (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Consultant with one or more other companies or the solvent reconstruction of the Consultant;

### an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the Consultant (being a company);

### the holder of a qualifying floating charge over the assets of the Consultant (being a company) has become entitled to appoint or has appointed an administrative receiver;

### a person becomes entitled to appoint a receiver over the assets of the Consultant or a receiver is appointed over the assets of the Consultant;

### a creditor or encumbrancer of the Consultant attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Consultant's assets and such attachment or process is not discharged within fourteen (14) days;

### any event occurs, or proceeding is taken, with respect to the Consultant in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 17.2(d) to clause 17.2(j) (inclusive);

### the Consultant suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

## For the purposes of clause 17.2(a), **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from:

### a substantial portion of this Agreement; or

### any of the obligations set out in clause 3 (*Consultant’s Obligations and Warranties*), [clause 8 (*Social Value*)],[[4]](#footnote-5) [clause 10 (*London Living Wage*)][[5]](#footnote-6) clause 11 (*Intellectual Property Rights*), clause 12 (*Confidentiality, Freedom of Information and Transparency*), clause 13 (*Data Protection*), clause 14 (*Indemnity*), clause 15 (*Insurance*), clause 25 (*Prevention of Bribery*) and clause 26 (*Publicity*).

## The Client may give the Consultant written notice of its intention to terminate if it considers that a termination ground listed in [regulation 73(1) of the Public Contracts Regulations 2015 (SI 2015/102) **OR** section 78(2) of the Procurement Act 2023] applies. A notice of an intention to terminate under this clause must:

### set out which termination ground the Client considers applies pursuant to [section 73(1) of the Public Contracts Regulations 2015 (SI 2015/102) **OR** section 78(2) of the Procurement Act 2023] together with the Client's reasons for deciding to terminate on this basis;

### invite the Consultant to make representations to the Client about the existence of the termination ground and the Client's decision to terminate;

### specify the means by which, and the time by which, such representations must be made[. **OR** ;and]

### [insofar as it states the Client's intention to terminate by reference to the status of a sub-contractor under section 78(2)(c) of the Procurement Act 2023, specify a time by which the Consultant may terminate the sub-contract and, if necessary, appoint an alternative sub-contractor.]

## On expiry of the time for the Consultant to make representations under clause 17.4(c), if, after considering any representations, the Client is satisfied that the termination ground applies, it may terminate the Agreement with immediate effect by giving final written notice to the Consultant.

# Consequences Of Termination

## On termination or expiry of this Agreement:

### the Client shall pay to the Consultant all of the Consultant's outstanding undisputed invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Consultant may submit an invoice, which shall be payable within 30 (thirty) days of receipt;

### each party shall, within a reasonable time, return all of the other party’s property in its possession or under its control. Until they have been returned, the party with custody or control of such property shall be solely responsible for their safe keeping;

### any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect;

### the following clauses shall continue in force: clause 11 (*Intellectual Property Rights*), clause 12 (*Confidentiality, Freedom of Information and Transparency*), clause 13 (*Data Protection*), clause 14 (*Indemnity*), clause 15 (*Insurance*), clause 16 (*Limitation of Liability*), clause 26 (*Publicity*), clause 31 (*Notices*), clause 32 (*Dispute Resolution*), clause 33 (*Governing Law*) and clause 34 (*Jurisdiction*).

## Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

# Force Majeure

## Provided it has complied with clause 19.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this Agreement by a Force Majeure Event (**‘**Affected Party’), the Affected Party shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

## The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.

## The Affected Party shall:

### as soon as reasonably practicable after the start of the Force Majeure Event but no later than [insert number and remove square brackets] days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under this Agreement;

### use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations; and

### notify the other party in writing as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Agreement. Following such notification, this Agreement shall continue to be performed in accordance with the terms of this Agreement and on the terms existing immediately before the occurrence of the Force Majeure Event unless agreed otherwise by the parties in writing.

## If the Consultant is the Affected Party, it shall not be entitled to claim relief to the extent that the consequences of the relevant Force Majeure Event should have been foreseen and prevented or avoided by a prudent provider of the Services.

## If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than two (2) weeks, the party not affected by the Force Majeure Event may terminate this Agreement by giving seven (7) days written notice to the Affected Party. On the expiry of this notice period, this Agreement will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

## Where the Consultant is, for any reason, unable to perform any of its obligations under this Agreement the Client may employ another service provider to provide that part of the Services which the Consultant is unable to perform and recover any additional costs reasonably and properly incurred in doing so from the Consultant.

# Variation

No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

# Waiver

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

# Rights And Remedies

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by Law.

# Severance

## If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, subject to clause 23.2, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

## If any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

# Entire Agreement

## This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

## Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.

## Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

## Each party acknowledges, understands, and agrees that they have had opportunity to receive independent legal counsel before executing this Agreement.

## Nothing in this clause 24 (*Entire Agreement*) shall limit or exclude any liability for fraud.

# Prevention Of Bribery

## The Consultant represents and warrants that neither it, nor to the best of its knowledge any of its employees, agents or sub-contractors, have at any time prior to the Commencement Date:

### committed a Prohibited Act or been formally notified that they are subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/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.

## The Consultant shall not during the term of this Agreement:

### commit a Prohibited Act; and/or

### 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 provisions of the Bribery Act or otherwise incur any liability in relation to the Bribery Act.

## The Consultant shall during the term of this Agreement:

### establish, maintain and enforce, and require that its sub-contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Bribery Act and prevent the occurrence of a Prohibited Act; and

### keep appropriate records of its compliance with its obligations under clause 25.3 and make such records available to the Client on request.

## The Consultant shall immediately notify the Client in writing if it becomes aware of any breach of clause 25.1 and/or clause 25.2, or has reason to believe that it has or any of the Consultant's Personnel (including its advisors, agents and sub-contractors) 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; and/or

### received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Agreement or otherwise suspects that any person or Party directly or indirectly connected with this Agreement has committed or attempted to commit a Prohibited Act.

## If the Consultant makes a notification to the Client pursuant to clause 25.4, the Consultant shall respond promptly to the Client's enquiries, co-operate with any investigation, and allow the Client to audit any books, records and/or any other relevant documentation in accordance with this Agreement.

## If the Consultant is in default under clause 25.1 and/or clause 25.2, the Client may by notice:

### require the Consultant to remove from performance of this Agreement any Consultant's Personnel whose acts or omissions have caused the default; or

### immediately terminate this Agreement.

## Any notice served by the Client under clause 25.6 shall specify the nature of the Prohibited Act, the identity of the party who the Client believes has committed the Prohibited Act and the action that the Client has elected to take (including, where relevant, the date on which this Agreement shall terminate).

# Publicity

## The Consultant shall not make, or permit any person to make, any press or public announcement concerning the existence, subject matter or terms of this Agreement, the wider transactions contemplated by it, or the relationship between it and the Client, without the prior written consent of the Client except as required by law, any governmental or regulatory authority, any court or other authority of competent jurisdiction.

## The Consultant shall at no time make any public announcement nor provide any information to the press, media or publish online or on social media that the Client reasonably believes could place the Client in disrepute (reputationally or otherwise).

## The Consultant shall not use the Client’s name or logo in any promotion or marketing or announcement of orders without the Client’s prior written consent.

# Assignment, Sub-Contracting And Other Dealings

## This Agreement is personal to the Consultant and the Consultant shall not assign, novate, transfer, mortgage, charge, sub-contract, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement without the prior written consent of the Client which consent shall not be unreasonably delayed or withheld.

## The Client may at any time assign, novate, transfer, mortgage, charge or deal in any other manner with any or all of its rights and obligations under this Agreement.

## The Consultant will supply to the Client copies of any assignation, novation and/or sub-contract that the Consultant enters into as they relate to the Services.

## The Consultant shall ensure that the terms of any sub-contract appropriately ensure that the Consultant complies with their obligations under this Agreement. The Consultant shall not enter into, amend, novate, assign, or agree to the novation or assignation of, any sub-contract without the prior consent of the Client, such consent not to be unreasonably withheld by the Client.

## Any sub-contracting shall not relieve the Consultant from any liability or obligation under this Agreement and the Consultant shall be responsible for the acts, omissions, defaults or neglect of any sub-contractor and its agents or employees in all respects as if they were the acts, omissions, defaults or neglect of the Consultant.

# No Partnership Or Agency

## Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute one party the agent of the other party, or authorise one party to make or enter into any commitments for or on behalf of the other party.

## Each party confirms it is acting on its own behalf and not for the benefit of any other person.

# Set-Off and Non-Exclusivity

## The Client may at any time, without limiting any of its other rights or remedies, set off any liability of the Consultant to the Client against any liability of the Client to the Consultant, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement.

## The parties acknowledge and agree that the supply of the Services/Deliverables under this Agreement is not an exclusive arrangement and that the Client may purchase services that are the same as or similar to the Services from any third party.

# Third Party Rights

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no one other than a party to this Agreement shall have any right to enforce any of its terms.

# Notices

## A notice given to a party under or in connection with this Agreement shall be in writing and sent to the party at the address or email address given in this Agreement or notified by that party in writing to the other party.

## The addresses and email addresses for service of notices are:

### For the Client

#### Address: [ADDRESS]

#### For the attention of: [POSITION OF CONTACT]

#### Email address: [EMAIL ADDRESS]

### For the Consultant

#### Address: [ADDRESS]

#### For the attention of: [POSITION OF CONTACT]

#### Email address: [EMAIL ADDRESS]

## This clause 31.3 sets out the delivery methods for sending a notice to a party under this Agreement and, for each delivery method, the date and time when the notice is deemed to have been received:

### if delivered by hand, at the time the notice is left at the address;

### if sent by pre-paid first class post or other next working day delivery service providing proof of postage or delivery, at 9.00am on the second Business Day after posting;

### if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or

### if sent by email, at the time of transmission.

## If deemed receipt under clause 31.3 would occur outside Business Hours in the place of receipt, it shall be deferred until Business Hours resume.

## This clause 31 (*Notices*) does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

# Dispute Resolution Procedure[[6]](#footnote-7)

## If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it (**‘**Dispute’) then the parties shall follow the procedure set out in this clause:

### either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**‘**Dispute Notice’), together with relevant supporting documents. On service of the Dispute Notice, the Operations Manager of the Client and [insert employee title and remove square brackets] of the Consultant shall attempt in good faith to resolve the Dispute;

### if the Operations Manager of the Client and [insert employee title] of the Consultant are for any reason unable to resolve the Dispute within twenty (20) days of service of the Dispute Notice, the Dispute shall be referred to the Operations Director of the Client and [insert senior officer title and remove square brackets] of the Consultant who shall attempt in good faith to resolve it;

### if the Operations Director of the Client and [insert senior officer title and remove square brackets] of the Consultant are for any reason unable to resolve the Dispute within twenty (20) days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (**‘**ADR notice’) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR; and

### unless otherwise agreed between the parties, the mediation will start not later than five (5) days after the date of the ADR notice.

## The commencement of mediation shall not prevent the parties commencing or continuing court proceedings.

## If for any reason the Dispute is not resolved within five (5) Business Days of commencement of the mediation, the Dispute shall be referred to and finally resolved by the courts of England and Wales in accordance with clause 33 (*Governing Law*) and clause 34 (*Jurisdiction*).

## The parties agree that notwithstanding any Dispute, the Consultant will continue to deliver the Services and the Client will continue to pay for such Services in accordance with this Agreement.

# Governing Law

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the Law of England and Wales.

# Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

This Agreement has been executed by the parties and takes effect on the date stated at the beginning of it.

|  |  |
| --- | --- |
|  |  |
| |  |  | | --- | --- | | EXECUTED |  | | by **WASTE LONDON WASTE AUTHORITY** acting by and under the signature of |  | |  |  | |  | Signature | |  |  | |  |
| |  |  | | --- | --- | |  |  | | …………………………………………  Authorised Signatory  Name: | ................................. | |  | SIGNATURE | | Position: |  | |  |
| **EXECUTED** |  |
| by **NAME OF CONSULTANT COMPANY** |  |
| acting by and under the signature of: |  |
| Name: | ................................. |
|  | Signature |
| Position: |  |
|  |  |
|  |  |
|  |  |

1. Specification
2. Pricing
3. Price

[DETAILS OF PRICE, FOR EXAMPLE THE FIXED PRICE OR DAILY RATE.]

1. Payment

[THE PAYMENT SCHEDULE, WHICH SHOULD INCLUDE THE DATES ON WHICH INSTALMENTS ARE TO BE INVOICED AND THE AMOUNT OF EACH INSTALMENT.]

1. Contract Management
2. Authorised Representatives
   1. The Client’s Manager: Jaz Ahluwalia, Operations Manager.
      1. 07584631706
      2. Unit 6, Brittania Court, West Drayton, UB7 7PN.
      3. jazahluwalia@westlondonwaste.gov.uk
   2. The Consultant’s Manager: [insert name, role/position, address, email address and telephone number].
3. Key Personnel
   1. The Client's Key Personnel are: Jaz Ahluwalia, Operations Manager;
   2. The Consultant’s Key Personnel are: [insert name, role/position, email address and telephone number]; [insert name, role/position, email address and telephone number]; [insert name, role/position, email address and telephone number].
4. Meetings
   1. Type: monitoring, review, contract management and anything else the Client may require.
   2. Quorum: A representative from the Client and Consultant.
   3. Frequency: quarterly or as the Client may require.
   4. Agenda: The agenda for each meeting will be prepared by the Client with input from the Consultant and circulated by the Client at least three (3) days before the relevant meeting.
5. Reports

Without prejudice to the generality of the foregoing the Consultant shall ensure that all reports are of a good standard and all the required information is presented clearly, concisely, and accurately. The Consultant shall provide the following reports:-

* 1. Type: the response and quality of the Services delivered by the Consultant in accordance with this Agreement and anything else the Client may require.
  2. Contents: Achieved KPIs, KPIs and anything else as the Client may require.
  3. Frequency: quarterly.
  4. Circulation list: [insert the names, job titles and email addresses of the people entitled to receive the reports. Include also people from third party organisations who must receive reports and remove square brackets].

1. Type: Social Value Deliverables Monitoring Report
   1. Contents: As per Section 5 Carbon Reduction and Social Value outlined in Annex 2 Specification. Reporting on two main activities:
      1. Carbon Intensity of contract activities an year on year comparison
      2. Social benefits such as local job creation, apprenticeships, skills development, equal opportunities, diversity and embedding fair employment practices and wages.
   2. Frequency: Annually.
   3. Circulation list: Jaz Ahluwalia [Jazahluwalia@westlondonwaste.gov.uk](mailto:Jazahluwalia@westlondonwaste.gov.uk)
2. Data Processing Instructions

The Consultant shall comply with any further written instructions in respect of processing received from the Client.  Any such further instructions shall be incorporated into this Schedule.

* + 1. Processing by the Consultant

Scope

The processing of Personal Data under this Agreement pertains to the provision of health and safety consultancy services. This includes advice, assessments, and training related to health and safety compliance for the Client’s operations

Nature

The nature of the processing shall include, but is not limited to, the following operations: collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure, or destruction of Personal Data. The Data Processor will primarily process Personal Data in the form of assessments, reports, and training records as required for delivering the Services

Purpose of processing

The purpose of processing Personal Data is to fulfil the following specific objectives:

• To ensure compliance with health and safety legislation.

• To carry out risk assessments and audits.

• To provide training and guidance to the Client’s staff.

• To maintain records required for statutory obligations.

• To support the Client in managing health and safety risks effectively.

The Data Processor shall process Personal Data in accordance with the legal bases and legitimate purposes as outlined under UK GDPR.

Duration of processing

The processing of Personal Data shall commence on the effective date of this Agreement and shall continue until the completion of the consultancy services or until terminated in accordance with the terms of this Agreement. Specific processing activities may have defined timelines based on project deliverables, which will be documented accordingly.

Types of Personal Data

The following categories of Personal Data may be processed:

• Identification details (e.g., name, ID number).

• Contact information (e.g., address, email address, telephone number).

• Employment-related information (e.g., job title, NI number, pay).

• Training records and assessments.

• Health and safety incident reports.

The Data Processor shall take particular care when processing any special categories of data, as defined under UK GDPR.

Categories of Data Subject

The categories of Data Subjects whose Personal Data may be collected and processed include:

• Staff members (including employees, volunteers, agents, and temporary workers).

• Clients and customers of the Client.

• Suppliers and contractors.

• Other individuals involved in health and safety assessments (e.g., trainees, service users).

Data Retention

The Data Processor shall retain Personal Data only for as long as necessary to fulfil the purposes of processing, including any legal obligations. Upon the expiry of this Agreement, the Data Processor shall return all Personal Data to the Client or securely destroy it, as directed by the Client, unless there is a legal requirement to retain such data for a longer period. The specific retention period for different types of data will be documented in the data retention schedule, which will comply with applicable laws and regulations.

1. Consultant’s Proposal[[7]](#footnote-8)

1. Note that the full contract term will include any mobilisation period which will in turn shorten the actual period for service delivery e.g. if mobilisation is three months and the full contract term is twenty-four months, service delivery will be for twenty-one months. [↑](#footnote-ref-2)
2. *Delete if no proposal was submitted by the Consultant and remove all references to ‘the Consultant’s Proposal’ and Schedule 5 throughout the template.* [↑](#footnote-ref-3)
3. Please speak to the Insurance Team and the Client to ascertain whether any further insurance policies are required. [↑](#footnote-ref-4)
4. If the Social Value clause is deleted then this should also be deleted [↑](#footnote-ref-5)
5. If the London Living Wage clause is deleted then this should also be deleted [↑](#footnote-ref-6)
6. *Insert relevant number of days/months and other relevant information in consultation with your service client.* [↑](#footnote-ref-7)
7. *Successful bidder’s proposal to be included after award of contract* [↑](#footnote-ref-8)