

# WEEE Allocation Scheme

Guaranteeing Service – Allocating Cost



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# 1. Part 1 – Introduction to the Bid

## 1.1 Preliminary statement

This document is a response to the invitation to submit proposals for the Producer Compliance Scheme (PCS) Balancing System published by the Department for Environment, Food & Rural Affairs (Bid).

The Bid is submitted by WEEE Allocation Scheme UK Limited. WEEE Allocation Scheme UK Limited is registered in England with company no. 10934842 and its registered office address is Corner Oak 1, Homer Road, Solihull, West Midlands, England, B91 3QG. The current sole director of WAS is Martin Fortune, who is also a director of Key Waste Solutions Limited.

The Bid is made in accordance with Regulations 34A, 34B and Schedule 8A of the WEEE Regulations and responds directly to the Waste Electrical and Electronic Equipment Regulations: Guidance on submitting proposals for the PCS Balancing System January 2019.

All contract documents submitted with this Bid are subject to any amendments or alterations required by DEFRA.

## 1.2 Summary of the legislative framework

On 1 January 2019, the Waste Electrical and Electronic Equipment (Amendment) (No. 2) Regulations 2018 (SI 2018/1214) (**Amendment Regulations**) came into force. Regulation 11 of the Amendment Regulations inserted a new Regulation 34A into the Waste Electrical and Electronic Equipment Regulations 2013 (SI 2013/3113) whereby “Any person or body may, on or before 1st March 2019, propose a PBS for approval by the Secretary of State.”

In early February 2019 DEFRA released the ITT, setting out how it will assess PBS Bids, consultation arrangements on any Bids received and a time scale for the Secretary of State to announce the approved PBS. The deadline for submission of this Bid is 1 March 2019.



## 2. Part 2 – Structure and Interpretation

### 2.1 Bid Contents

2.1.1 The Bid comprises the following Parts 1 to 8:

- Part 1. Introduction to the Bid
- Part 2. Structure and Interpretation
- Part 3. Bid Rationale and Approach
- Part 4. Executive Summary of the Proposed PBS
- Part 5. Background to the Existing PBS
- Part 6. Information about WAS
- Part 7. ITT Response – detail
- Part 8. Schedules

### 2.2 Interpretation and notes

2.2.1 To assist with interpretation, it is useful to note the referencing used. Except where otherwise stated, in this Bid, references to:

2.2.1.1 a Part means the relevant Part as referred to in paragraph 2.1.1 above;

2.2.1.2 a Section means a section of the relevant Part as denoted under a heading;

2.2.1.3 a paragraph means an individual paragraph of the relevant Section.

2.2.2 Part 7 provides a detailed response to each requirement of the ITT. For ease of reference, the bullet points listed below the section headings in the ITT have been replaced with paragraph numbers and appear in italics. Responses to those numbered points follow the same numbering format and do not follow the numbering of the rest of this document.

2.2.3 Each Part contains information which is relevant to the Bid and is referred to within the Bid.

2.2.4 All Parts including the Schedules and appendices form part of the Bid.

2.2.5 **The names of clients of AECOM identified in this Bid are commercially sensitive and should not be disclosed during consultation without the express consent of WAS (which will liaise with AECOM as appropriate).**



## 2.3 Glossary of terms

To assist with interpretation, the following terms used in this Bid shall have the following meanings:

<b>AATF</b>	Approved Authorised Treatment Facility.
<b>AECOM</b>	AECOM Infrastructure and Environment Limited with company registration number 00880328. The administrator for the WAS PBS solution.
<b>Bid</b>	This bid document, comprising Parts 1 to 8 inclusive.
<b>Code of Practice</b>	Collection of waste electrical and electronic equipment (WEEE) from designated collection facilities (DCF) : Code of Practice <sup>1</sup>
<b>DCF</b>	Designated Collection Facility.
<b>DCF WEEE Categories</b>	The five categories of WEEE (A to E) referred to in the Code of Practice.
<b>ICER</b>	Industry Council for Electronic Equipment Recycling.
<b>Incumbent PCS</b>	The PCS who has a contract with the relevant LA for collection of one or more WEEE categories.
<b>Interim collections</b>	A Regulation 34 request collection which occurs within three weeks of a Regulation 34 request being made.
<b>Interim rates</b>	The lowest interim tender price submitted by a PCS per tonne per category on a speculative basis to collect an unknown quantity of WEEE for named LA.
<b>ITT</b>	The invitation to tender documentation, published by the Department for Environment, Food and Rural Affairs Waste entitled Electrical and Electronic Equipment Regulations: Guidance on submitting proposals for the PCS Balancing System January 2019.
<b>LA</b>	Local Authority or any person whom the Local Authority has designated responsibility for the operation of a DCF.
<b>Nil-cost bid</b>	Where a PCS offers to undertake a collection free of charge and retain all evidence.
<b>PBS</b>	Producer Compliance Scheme Balancing System.
<b>PCS</b>	Producer Compliance Scheme authorised by the appropriate agency as per the WEEE Regulations.
<b>Portal</b>	A web-based Portal set up and administered by the Administrator to facilitate Regulation 34 requests, bid responses and communications between the administrator and other stakeholders

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<sup>1</sup> <https://www.gov.uk/government/publications/waste-electrical-and-electronic-equipment-weee-collection-code-of-practice>



<b>Regulation 34 request</b>	A request made to a PCS by the LA pursuant to Regulation 34 of the WEEE Regulations where the Participant receiving the request has satisfied itself that the criteria set down in Regulation 34 of the WEEE Regulations and any relevant guidance have been met.
<b>WAS</b>	WEEE Allocation Scheme UK Limited as more particularly defined in Part 1, Section 1 Paragraph 1.
<b>WEEE evidence</b>	Evidence of reuse or treatment of WEEE by an AATF or export of whole appliance by an approved exporter, collected in the form of evidence notes issued on the WEEE Settlement Centre.
<b>WEEE Regulations</b>	Waste Electrical and Electronic Equipment Regulations 2013 (SI 2013/3113) as amended by the Waste Electrical and Electronic Equipment (Amendment) Regulations 2015/1968, the Waste Electrical and Electronic Equipment (Amendment) Regulations 2018/102 and the Waste Electrical and Electronic Equipment (Amendment) (No. 2) Regulations 2018 (SI 2018/1214).
<b>WEEE categories</b>	The categories of WEEE as defined in the WEEE Regulations.
<b>WSF</b>	WEEE Scheme Forum.



## 3. Part 3 – Bid Rationale and Approach

- 3.1 This Bid is based largely on the existing PBS, which has been in operation since 2016 as a voluntary scheme. The current PBS is familiar to stakeholders including Local Authorities (LA), PCSs, Producers, DEFRA and the wider waste industry.
- 3.2 WAS considers that there are considerable benefits in maintaining the existing methodology and procedures and seeks to do so where possible. Benefits of minimising changes in approach include:
- 3.2.1 Minimising disruption to collections;
  - 3.2.2 Ease of transitional arrangements;
  - 3.2.3 Familiarity with systems and procedures;
  - 3.2.4 Maintaining stakeholder engagement; and
  - 3.2.5 Proven track record of collections by existing PCS members.
- 3.3 During discussions with PCS members and other stakeholders, WAS has identified modifications which can be made to the existing PBS to improve it for the PCS, LA and producers. These modifications are expected to reduce administration costs and will positively address the following concerns:
- 3.3.1 A lack of IT infrastructure including a Portal;
  - 3.3.2 An absence of information supplied to PCS members about the value of winning bids and the cost of Regulation 34 collections by WEEE category;
  - 3.3.3 This lack of information makes it more difficult for PCS members to plan ahead for their share of those costs;
  - 3.3.4 No breakdown of figures on PBS invoices to allow PCS members to apportion costs to each WEEE category;
  - 3.3.5 Difficulties surrounding accurately apportioning invoice costs to producers;
  - 3.3.6 No breakdown of PBS administration costs on invoices to PCS members;
  - 3.3.7 A lack of information surrounding the operation and administration of the PBS;
  - 3.3.8 Short time scales (one working day) for submitting nil-cost bids in relation to Regulation 34 requests, which makes due diligence enquiries difficult for PCS members without existing knowledge of the DCF and its operations;
  - 3.3.9 Nil-cost bids are dealt with on a first come, first served basis which means that the LA does not learn of other nil bids arriving after the first one and are not able to choose where there is more than one nil-cost bid; and
  - 3.3.10 The first come, first served approach provides an unfair advantage to the incumbent PCS or those with an existing knowledge of the DCF.
- 3.4 It is assumed that those assessing PBS Bids will have a good working knowledge of the existing PBS. Where this Bid replicates the methodology and procedures of the existing PBS, it states this and gives a general summary of similarities. Where this Bid proposes a departure from the existing PBS it will detail that departure, and state why the departure is an improvement over the current PBS. This will enable those considering the Bid to assess it against ITT criteria.



## 4. Part 4 – Executive Summary of the Proposed PBS

- 4.1 The proposed PBS issued by WAS seeks to operate in broadly the same way as the existing PBS operates, but seeks to address the concerns summarised in section 3.3 and Part 5 of this ITT response. The administrator of the PBS will be AECOM.
- 4.2 Part 7 of this ITT response addresses the similarities and differences between the proposed PBS and the existing PBS.
- 4.3 The key similarities include;
- 4.3.1 The PBS operator and administrator will be different entities, and the relationship will be covered by a contract. PCS and the PBS will enter into formal contracts.
  - 4.3.2 Confidentiality will be strictly maintained between the administrator and the operator, and between each PCS and the administrator.
  - 4.3.3 Regulation 34 requests will be made by a LA to a PCS who may forward it on to the PBS after notifying the LA concerned.
  - 4.3.4 Valid Regulation 34 requests will be notified to all PCS members with an invitation for them to make bids. Responses will be submitted to the PBS administrator to be validated and assessed.
  - 4.3.5 Nil-cost bids will remove the recycling from the Regulation 34 process. All WEEE evidence generated after a nil-cost bid shall be retained by that PCS.
  - 4.3.6 Where no nil-cost bids are received the winning bid will be the lowest bid, assessed against all relevant WEEE categories.
  - 4.3.7 Collections must be made within five working days of appointment of the PCS if required by the LA.
  - 4.3.8 Winning bidders where there are no nil-cost bids will ask the AATF to submit WEEE evidence to the administrator's WEEE Settlement Centre account for approval and payment.
  - 4.3.9 Costs associated with Regulation 34 requests, excluding nil-cost bid responses will be shared amongst all PCS on a market share basis.
- 4.4 It is proposed to keep the system broadly the same to ensure consistency, familiarity with the way it operates within the waste industry, and to ensure compliance with the WEEE Regulations.

### Differences between the existing and proposed PBS

- 4.5 Significant differences between the current and proposed PBS include:
- 4.5.1 All PCS members will be entitled to a single shareholding in WAS as part of their membership of the PBS.
  - 4.5.2 Directors of WAS shall be appointed from PCS members which have a shareholding in WAS. WAS will be chaired by an independent person. PCS members will be entitled to provide input into how the PBS operates.
  - 4.5.3 A Portal will be established by the administrator to deal with Regulation 34 requests, ten-





der responses, and communications between stakeholders. Regulation 34 requests and responses will be made in standardised formats.

- 4.5.4 WAS will initially operate by email (in the same way as the existing PBS) to ensure continuity and to allow members to become familiar with the Portal. Email communications will continue to be accepted after the Portal is operational.
- 4.5.5 An online chat facility will be available to offer immediate, convenient support to users of the web site during office hours. On line communications will be between the administrator on one hand and either a LA, AATF or PCS on the other.
- 4.5.6 The LA will be able to specify whether they want all DCF WEEE category collections made by the same PCS or by different PCS members and bids must comply with the LA's request. The LA will be entitled to reject a PCS member's winning bid where previous complaints have been made to the PBS and upheld about the performance of that PCS or its agents and or its subcontractors within a defined time period.
- 4.5.7 The LA will be entitled to request a WEEE collection contract of up to 12 months.
- 4.5.8 Response times for nil-cost bids and chargeable bids will be extended from one and two working days respectively to eight working days. Where there is more than one nil-cost bid, the LA will receive details of all nil-cost bids and will be able to select their preferred PCS.
- 4.5.9 Collections must be made within five working days of appointment of the PCS. There will be interim arrangements in place for any collections required within three weeks of the Regulation 34 request, based on interim rates.
- 4.5.10 The PBS will notify all PCS members of the total amount of the winning bid.
- 4.5.11 Invoicing by the PBS to the PCS will be made on a monthly basis, setting out:
  - 4.5.11.1 a breakdown of the administration costs;
  - 4.5.11.2 tonnage in relation to each category alongside the average price per tonne and the total cost for each WEEE category.
- 4.5.12 The Portal will include a list of current WEEE collection and recycling contracts from DCFs which have been awarded after Regulation 34 requests. This will allow PCS members to make direct contact with LA if they would like to contract directly with the LA in future and remove the WEEE from the PBS system.



## 5. Part 5 – Background to the Existing PBS Scheme

### 5.1 2013 changes to WEEE Regulations

- 5.1.1 Prior to 2013 PCS were guaranteed to sell any surplus WEEE evidence to other PCS. Therefore, Local Authorities (**LA**) had little difficulty finding a PCS to collect their household WEEE.
- 5.1.2 Changes to the WEEE Regulations in 2013 made it more difficult for PCS to sell surplus WEEE evidence to other PCS, because the guaranteed buyer provision was removed. This resulted in a more cautious approach by PCS, collecting and processing only that WEEE needed to meet their evidence targets. This cautious approach meant that some LA found it difficult to find a PCS willing to collect their WEEE.
- 5.1.3 In July 2016 some members of the WEEE Scheme Forum (**WSF**) set up the voluntary Producer Compliance Scheme Balancing System (**PBS**) to apportion the costs of Regulation 34 collections from LA DCFs.
- 5.1.4 Following a consultation in 2017 the Government has decided that membership of a PBS shall be compulsory for all PCSs from 2019.

### 5.2 Concerns expressed by stakeholders regarding the current PBS

- 5.2.1 Concerns with the current PBS are summarised in paragraph 3.3 above.
- 5.2.2 All communications between PCS members and PBS are currently via email. There is no Portal or means to make on line submissions. Regulation 34 requests by LAs and Regulation 34 bids (or nil-cost bids) by PCS members are made via email. A Portal would allow the PCS more flexibility in relation to communications with the PBS, reduce administration and improve traceability.
- 5.2.3 No detail surrounding winning Regulation 34 bids are made available to PCS members. Therefore, a PCS cannot budget for their share of these costs in advance, nor accurately allocate costs to their producer members. PCS members do not know how much of their quarterly invoice relates to PBS administration charges. It is not possible to reconcile the sum invoiced against the WEEE categories shown on the invoice.
- 5.2.4 Under the current PBS, bidders for Regulation 34 collections have one working day to offer to take the WEEE for free. This is known as a nil-cost bid. A nil-cost bid allows the PCS concerned to retain all of the WEEE evidence generated. This process favours those PCS members who have prior information of the LA and its DCF(s).
- 5.2.5 DCFs are not all the same and there are variables which need to be factored into bids, for example access arrangements, restrictions on operating hours, the use of vehicles or containers etc. It may also be difficult for a PCS to arrange subcontractors in some locations, and this will be a cost variable to consider.
- 5.2.6 As nil-cost bids currently operate on a 'first reply wins' basis a PCS with advanced information or details about the DCF can submit a successful nil-cost bid before other PCS members have a chance to bid. The LA only receives the first nil-cost bid and cannot choose between two or more nil-cost bidders.



- 5.2.7 Currently, if no nil-cost bids are received, bidders for Regulation 34 collections have a further two working days to make a bid. This is often insufficient time to complete due diligence, source hauliers and an AATF. An Incumbent PCS which has detailed knowledge of the DCF is at an advantage.
- 5.2.8 The PBS system allows bids for individual waste streams in a Regulation 34 tender. A bidding PCS cannot assume that they will be successful in relation to every WEEE category. The LA can have up to five separate PCS collecting from a single site as there are five DCF WEEE categories to collect from a DCF. Multiple PCSs lead to duplicate contracts, extra management time, vehicle movements and increased environmental impacts.
- 5.2.9 There is a perception by some stakeholders that the current PBS operation and administration does not reflect the diversity of the sector and does not represent the interests of all PCS members which are part of the PBS. A lack of information and transparency are concerns that are frequently expressed.



## 6. Part 6 – Information about WAS

### 6.1 Current Corporate Structure

- 6.1.1 WAS incorporated as a private limited company under the name Shadowclass Limited on 29 May 2017 with company registration number 10934842.
- 6.1.2 WAS changed its name to WEEE Allocation Scheme UK Limited on 4 May 2018.
- 6.1.3 WAS's registered office address is Corner Oak 1, Homer Road, Solihull, West Midlands B91 3QG.
- 6.1.4 WAS has an issued share capital of £10 divided into 10 ordinary shares of £1 each.
- 6.1.5 The sole shareholder of WAS is currently Martin Fortune who is also the sole director.

### 6.2 Shareholding in WAS

- 6.2.1 Whilst not mandatory, each PCS will have the option of becoming a shareholder in WAS.
- 6.2.2 A shareholders' agreement will be entered into by each PCS who becomes a shareholder along with WAS setting out the rights and obligations upon WAS and the PCS members as shareholders of WAS. Amongst other things this shareholders' agreement shall confirm that:

#### Shareholding

- 6.2.2.1 Each shareholder shall have one share. If a shareholder is no longer a PCS or is no longer a member of the PBS due to termination of the WAS Membership Terms and Conditions, it shall be required to sell its share back to WAS at its original value;

#### Not for Profit

- 6.2.2.2 WAS is a not for profit company and no funds shall be distributed amongst its shareholders;

#### Terms and Conditions

- 6.2.2.3 The shareholders shall agree to comply with the terms of the WAS Membership Terms and Conditions; and

#### Board of Directors

- 6.2.2.4 WAS will have a board of directors comprising of an independent chair person who is not employed or closely aligned to any shareholder along with senior representative from at least three of its shareholders. Each director shall stand for election every year and may serve for a maximum of two consecutive years. Board meetings shall take place at least every six months and DEFRA and other appropriate authorities will be entitled to attend every WAS board meeting and receive copies of minutes from every such meeting.



6.2.2.5 In accordance with sections 170 to 177 (inclusive) of the Companies Act 2006 the directors will owe various duties to WAS. These duties will be reaffirmed within the shareholders agreement so that the directors act in the best interests of WAS.

#### Annual General Meeting

6.2.2.6 It is intended that the PCS members who are shareholders of WAS shall meet at least on an annual basis. It is envisaged that both the board of directors and a representative from AECOM shall attend such a meeting to provide a summary to all such shareholders of the events of the previous 12 months.

#### Information

6.2.2.7 Each PCS who is a shareholder shall be allowed access at all reasonable times to examine the books and records of WAS and to discuss WAS's affairs with its directors.

6.2.2.8 The board of directors shall procure that WAS shall supply each PCS who is a shareholder with the financial and other information necessary to keep the party informed about how effectively WAS is performing.

6.2.2.9 Those PCS members who have board representation (as set out in paragraph 6.2.2.4 above) shall agree not to use such information to which it is privy as a result of its board representation to its advantage or to the detriment of any other PCS.

#### Committees

6.2.2.10 WAS will have a Continuous Improvement Committee whose main function is to look for ways of improving the system and processes in response to PCS feedback and concerns.

6.2.2.11 Membership of this committee will be open to all PCS members and the chair of the committee shall be a director of WAS.

6.2.2.12 The Continuous Improvement Committee will report any findings and proposals to all PCS members.

## 6.3 Administrator

### AECOM

6.3.1 WAS is currently a dormant non-trading entity. As such it intends to appoint an administrator to administer the PBS.

6.3.2 WAS has identified AECOM as its preferred administrator of the PBS.

6.3.3 Further details of AECOM and its credentials are contained within Part 7 of this Bid.

### Subsequent Administrator(s)

6.3.4 A working committee set up by WAS and comprising a representative of each PCS who is a shareholder and wishes to participate shall select and appoint any Administrator for those Compliance Periods following the First Compliance Period and the Second Compliance Period. The Administrator's appointment shall continue for one such Compliance Period



unless extended for a further Compliance Period (save in respect of the initial appointment of AECOM which shall run for the First Compliance Period and the Second Compliance Period).

### 6.3.5

There will be contingency arrangements in place should the administrator be unable to fulfil its functions during the term of its contract.



## 7. Part 7 – ITT Response – Detail

### 7.1 Explanation

- 7.1.1 Sections 7.2 to 7.16 of this ITT response is an overview of the methodology of WAS’s PBS proposal. It is also the substantive response to section 1.1 of the ITT. It sets out the methodology with reference to the similarities and differences between the current voluntary PBS and the PBS proposed by WAS.
- 7.1.2 Differences to the existing PBS methodology and operating procedures are set out in section 7.4 and expanded upon elsewhere in Part 7. They have been proposed to address concerns and perceived shortcomings raised by stakeholders in relation to the current PBS, and designed to improve the way the PBS operates, provide greater transparency and openness, improve information sharing, accountability, service levels and reduce administrative burdens.
- 7.1.3 Although not specifically expressed, all of the changes proposed should also improve the process of WEEE recycling and re-use and provide an environmental benefit as well as better value for money for all stakeholders.
- 7.1.4 This proposal should be read together in full.

### 7.2 WAS observations on the existing PBS

- 7.2.1 Under the current PBS a LA makes a Regulation 34 request to a PCS. A PCS which receives the request and is a member of the current voluntary PBS, and does not wish to fulfil that request, notifies the LA that it will be submitted to the PBS, and does so.
- 7.2.2 The PBS then circulates the Regulation 34 request by email to PCS members and invites tender responses. PCS members have one working day to make a nil-cost response, and a further two working days to make a response with a price. Communications between all parties are by email.
- 7.2.3 All communications are dealt with by the current PBS administrator, Anthesis UK Limited. The PBS Operator is WSF, but it does not play an active role in the day to day administration of the PBS. Bid responses and other communications are confidential and Anthesis do not disclose details to other parties, including the PBS operator.
- 7.2.4 A Regulation 34 request from the LA will include the LA’s details, the name, number and email address of the contact person, the number of DCF sites included with the Regulation 34 request, their addresses, the quantities of all WEEE categories to be collected and recycled.
- 7.2.5 There is no standard template in use amongst LAs for Regulation 34 requests. Any additional information provided by an LA is included in the email from the PBS to the PCS when the request is circulated.
- 7.2.6 The first nil-cost bid response received by the administrator is deemed the winning bid and any further nil-cost bids are not considered. Details of the first nil-cost bid response are sent to the LA and that PCS is informed that they have been successful.



- 7.2.7 Where no nil-cost bids are received, the lowest priced response from a PCS is awarded the contract. At present, a PCS can bid for one or more of the WEEE categories to be collected, and the LA has no control or input into the number of PCSs appointed to collect and dispose of that LA's WEEE categories.
- 7.2.8 The successful PCS will enter a contract with the LA and begin collections. Through its nominated AATF, WEEE evidence is submitted to the PBS administrator's WEEE Settlement Centre account, is checked and approved by the administrator and payment is made to the PCS for that evidence.
- 7.2.9 PCS members of the PBS are then invoiced on a quarterly basis for their share of the cost of that WEEE evidence, on a market share basis, together with their share of administration costs. No breakdowns of those charges are provided on those invoices.

### 7.3 **Similarities between current PBS and WAS proposed PBS**

- 7.3.1 WAS's PBS proposal adopts a very similar methodology to the existing PBS, which is outlined in paragraph 7.3.3 below. Improvements or changes to the existing methodology are set out in Section 7.4 onwards.
- 7.3.2 These improvements address perceived concerns raised by stakeholders during the engagement process, as summarised in section 3.3 of Part 3 and in Part 5 of this Bid.

#### **Similarities between current and proposed PBS**

- 7.3.3 The proposed PBS shares the following similarities to the existing PBS methodology;
  - 7.3.3.1 The PBS operator and administrator will be different entities, and the relationship will be covered by a contract.
  - 7.3.3.2 The PCS members and the PBS will enter into formal contracts. A PCS joining at a later date will also sign the same contract or deed of adherence.
  - 7.3.3.3 Confidentiality will be strictly maintained between the administrator and the operator, and between each PCS and the administrator.
  - 7.3.3.4 The operator (WAS) will not be entitled to view confidential information held by the administrator.
  - 7.3.3.5 Regulation 34 requests will be made by a LA to a PCS who will forward it on to the PBS after notifying the LA concerned.
  - 7.3.3.6 Once a valid Regulation 34 request is made, it will then be distributed to PCS members with an invitation to them to make bids (also referred to as a tender response or bid response).
  - 7.3.3.7 Bid responses will be submitted to the PBS administrator by the due date. Bid responses will be validated and assessed by the administrator.
  - 7.3.3.8 Where one nil-cost bid is received by the due date it shall be the winning bid. The collection request will be removed from the Regulation 34 process at that point and the winning PCS shall be entitled to retain all WEEE evidence generated.
  - 7.3.3.9 Where no nil-cost bids are received the winning bid will be the lowest bid, assessed against all relevant WEEE categories.





- 7.3.3.10 The winning PCS shall enter into a contract with the LA and arrange for its subcontractors or agents to collect the WEEE in accordance with that contract and take it to an AATF for recycling.
- 7.3.3.11 Collections must be made within five working days of appointment of the PCS if required by the LA, as per the Code of Practice.
- 7.3.3.12 Winning bidders will submit WEEE evidence to the administrator's WEEE Settlement Centre account through their chosen AATF for approval and subsequent payment. Submission of this WEEE evidence will normally be done by the AATF on behalf of the PCS arranging the collection of the WEEE.
- 7.3.3.13 The PBS administrator will check the WEEE evidence against the bid and the Regulation 34 request before it is approved.
- 7.3.3.14 Once approved, the PBS administrator will make payment to the relevant PCS quarterly in accordance with normal payment arrangements.
- 7.3.3.15 Costs associated with Regulation 34 requests, excluding nil-cost bid responses will be shared amongst all PCS on a market share basis.
- 7.3.3.16 The PBS administrator will calculate the market share of each PCS by WEEE category and raise an invoice to them for their share of the WEEE evidence.
- 7.3.3.17 The PCS share of WEEE evidence will be transferred to it on a quarterly basis, based on their market share by WEEE category.
- 7.3.3.18 There will be confidentiality agreements in place between
- the administrator and the individual PCS; and
  - between the PBS operator and the PCS members; and
  - between the PBS operator and the administrator.

7.3.4 It is proposed to keep the system broadly the same to ensure consistency, familiarity with the way it operates within the waste industry, and to ensure continued compliance with the WEEE Regulations.

## 7.4 Differences between the existing and proposed PBS

7.4.1 Differences between the current and proposed PBS are summarised as follows:

- 7.4.1.1 Under Regulation 34B of the WEEE Regulations all PCSs are now obligated to be a member of the PBS. This is a key difference to the existing arrangements and requires the PBS to operate in a way which adequately represents the interests of all PCSs.
- 7.4.1.2 All PCS members will be entitled to a single shareholding in WAS as part of their membership of the PBS. This will entitle a PCS to receive shareholder information and voting rights where applicable.
- 7.4.1.3 Directors of WAS shall be appointed from the PCS members which have a shareholding in WAS. Maximum periods of directorships and minimum stand down periods will apply to ensure that directorships are shared amongst PCS in an equitable way.



- 7.4.1.4 WAS will operate independently from all PCS members, but PCS members will be entitled to provide input into how the PBS operates. There will be a Continuous Improvement Committee established from PCS members who will ensure that the PBS continues to develop and refine its services.
- 7.4.1.5 A Portal will be established by the administrator to deal with Regulation 34 requests, tender responses, and communications between stakeholders. Key stakeholders will have access to the Portal which, depending on who they are, will allow them to make a Regulation 34 request, forward such a request to the PBS, receive notification of Regulation 34 requests, submit bid responses, make and update interim bids, and communicate directly with the administrator.
- 7.4.1.6 WAS will initially operate by email (in the same way as the existing PBS) to ensure continuity and to allow members to become familiar with the Portal. The Portal will be introduced after the PBS is operational. Email communications will continue to be accepted after the Portal is operational.
- 7.4.1.7 The Portal and associated website will have an on-line chat facility which will assist with urgent communications or enquiries between the administrator and other stakeholders.
- 7.4.1.8 Regulation 34 requests by the LA and bid responses by PCS members will be made on standardised web pages or template documents. Incomplete requests or bid responses will not be accepted.
- 7.4.1.9 LAs will be able to specify whether they want all WEEE category collections made by the same PCS or by different PCS members.
- 7.4.1.10 Where a LA requires more than one WEEE category collected and recycled by the same PCS, bidders must bid in accordance with the LA's requirements.
- 7.4.1.11 Response times for nil-cost bids and bids will be extended from one and two working days respectively to eight working days to give the PCS members more opportunity to make due diligence enquiries before submitting bid responses.
- 7.4.1.12 Information relating to the LA and its DCF(s) will be made available to the PCS members when the Regulation 34 request is circulated to assist with the bidding process, and to create a level playing field amongst PCS members who wish to bid, ensuring value for money.
- 7.4.1.13 Where there is more than one nil-cost bid, the LA will receive details of all of these and will be able to select its preferred PCS.
- 7.4.1.14 The LA will be entitled to require a contract of up to 12 months to ensure consistency and reduce administrative costs and the need to make further Regulation 34 requests within a 12 month period. Shorter collection periods can be requested, including one off collections.
- 7.4.1.15 The LA will be entitled to reject a PCS that has won the bidding process where previous complaints have been made to the PBS and upheld about the performance of that PCS or its agents and/or its subcontractors.



- 7.4.1.16 The LAs will be grouped into geographical regions and each geographical region will have a set collection rate for each WEEE category within that region. This will be known as the interim rate. Interim rates will apply to urgent collections to ensure that collections at very short notice are serviced.
- 7.4.1.17 A PCS can submit interim rate bids at any time. The PCS with the lowest interim rate bid for that WEEE category in the relevant region will hold the interim rate. Interim rate bids can be updated at any time.
- 7.4.1.18 Collections must be made within five working days of the appointment of the PCS. There will be interim arrangements in place for any collections required within three weeks from the Regulation 34 request.
- 7.4.1.19 Interim collection arrangements will be carried out by the PCS which has the lowest interim rate for the region in which the DCF is located. This applies to one off urgent collections, urgent collections which form part of a longer contract period and ongoing collections where no other bids are received to carry out the work.
- 7.4.1.20 The PBS will notify all PCS members of the total amount of the winning bid. A PCS can check this amount against their own bid to ensure it is lower. Details of the successful PCS and costs per WEEE category will not be provided to ensure confidentiality is maintained.
- 7.4.1.21 Invoicing by the PBS to the PCS members will be made on a monthly basis, setting out:
- a breakdown of the administration costs; and
  - the tonnage in relation to each category alongside the average price per tonne and the total cost for each WEEE category.
- 7.4.1.22 WEEE evidence will be transferred quarterly to each PCS. The PCS will know in advance how much tonnage of evidence by category they will receive and how much cost has been incurred due to monthly invoicing.
- 7.4.1.23 The Portal will also include a list of current WEEE collection and recycling contracts that apply to LAs and which have been awarded after Regulation 34 requests. This will show expiry dates but will not show any other financial information or the identity of the Incumbent PCS. This information is useful to PCS members as it is an indicator of the market as well as offering future opportunities to collect WEEE directly should a PCS need to meet its recycling obligation.
- 7.4.1.24 The PBS administrator will grant access to the appropriate agencies (NRW, EA etc) to access the Portal to check on PBS membership by PCS. PBS membership information will also be provided to those agencies on a quarterly basis (see section 2.11)
- 7.4.1.25 A complaints procedure will be in place (see section 7.15).



## 7.5 Use of a Portal

7.5.1 The web based data Portal (**Portal**) will be set up by the administrator within eight weeks of the PBS becoming operational. Within that period training will be made available to stakeholders. It is expected that this will become the main platform for all PBS related communications.

7.5.2 The Portal will be constructed using the gov.uk front end framework for the basis of the user interface (**UI**). The UI will therefore be familiar to users, straightforward and accessible (following Web Content Accessibility Guidelines (WCAG 2.1)). Screen shots of a mock-up of the Portal are included with this Bid at Schedule 8.1. The demonstration website can be accessed using the following details:

Url	<a href="https://wasuk.org">https://wasuk.org</a>
Username	localauthority@wasuk.org
Password	L0c4l-Auth0rity!

7.5.3 The Portal will enable LAs to use a standard form for each Regulation 34 request. Over time, LAs will become familiar with using this standard document and inputting into all fields.

7.5.4 The Portal will be accessible to all LAs, PCS members and the PBS. The Portal will enable the LA to submit their Regulation 34 request to one, more than one or all of the PCS members. A submission of the request to the PBS shall be deemed to be a submission to all PCS. The Portal will require all Regulation 34 requests and all PCS bid responses to be complete before they can be submitted.

7.5.5 The PBS administrator will check all Regulation 34 requests to ensure they are valid before they are circulated to all PCS members. The Portal will send email prompts to all PCS members to immediately alert them to new bidding opportunities.

### Online chat facility

7.5.6 The Portal will have a chat facility which will allow the LA and PCS members to communicate with the PBS administrator directly (but not with each other). This type of facility is helpful for users who need assistance with the Portal, or who have queries that can be resolved or directed to the right person.

7.5.7 Screen shot pages of a mock-up of the Portal, credentials for accessing the WAS demonstration Portal and a sample invoice to PCS are at Schedule 8.1.

7.5.8 The demonstration website can be accessed using the following details:

Url	<a href="https://wasuk.org">https://wasuk.org</a>
Username	localauthority@wasuk.org
Password	L0c4l-Auth0rity!

## 7.6 Provision of information by the Local Authority

7.6.1 Information required to accompany a Regulation 34 request will include the details of the requestor (contact name, contact number, contact council office address, email addresses) and details of service requested (location of DCF sites, singular collection or ongoing service, description of WEEE to be collected). The LA will also confirm whether the first collection is required within three weeks of the date of the request.



- 7.6.2 Where ongoing WEEE collection is requested, the LA must supply aggregate quantities of each WEEE type, date of commencement, date of completion (up to a maximum of 12 months from commencement), WEEE container details, DCF site addresses, site contact details, forecast site tonnages, opening times, site restrictions and other considerations. All of that information will be held on the Portal.
- 7.6.3 In addition, the LA will be requested to include useful information such as loading times, access restrictions, Incumbent contractors (but not Incumbent PCS details) to assist the PBS to respond to Regulation 34 request.
- 7.6.4 LAs will be entitled to specify whether they wish collections from multiple PCS members for various WEEE categories or whether the LA wants a single PCS appointed to collect all categories of WEEE. Bidding must be in accordance with the LA wishes.
- 7.6.5 Details of the Incumbent PCS subcontractors are useful so that a bidding PCS has the opportunity to maintain existing subcontracting relationships and reduce administrative burdens on PCS and LA.

## 7.7 Interim Rates for Collection and Recycling of WEEE

- 7.7.1 PCS members will be invited to submit bids for interim collection and recycling of the five WEEE categories in the Code of Practice. Bids will be based either on a geographical area or by DCF and will be submitted to the Portal (or by email in the transition period). A PCS will be able to select multiple LAs in a geographic area when submitting interim bids to reduce the administration burden.
- 7.7.2 The winning interim rate bid is the lowest interim rate bid received for that LA for that particular WEEE category or categories and is known as the interim rate. The interim rate remains current until it is outbid or withdrawn by the PCS. Interim rate bids can be withdrawn or amended at any time. Where contracts for collection have already been awarded on an interim rate, that rate will stand for the duration of the contract period i.e. for up to a maximum of 12 months.
- 7.7.3 Interim rates for collection and recycling for the five WEEE categories in the Code of Practice will be assigned to the relevant LA or region.
- 7.7.4 Where a collection of WEEE is required within three weeks of the request being made, either as a one off collection or as the first collection within a specified time period, the PBS will arrange for that collection to be made by the PCS with the lowest interim rate. This could be a nil-cost bid.
- 7.7.5 Both the LA making the urgent Regulation 34 request and the PCS with the lowest interim rate will be informed of the other's details and the award of the contract. Where two PCS members have equal interim rates, the LA will be given details of both and can choose between them.
- 7.7.6 If required, the appointed PCS shall be obliged to make a collection within five working days of appointment by the PBS in accordance with the Code of Practice.

## 7.8 Where No Bids are Received

- 7.8.1 In the unlikely event that a Regulation 34 request receives no responses from the PCS members, the interim rate would apply for the duration of that request period. The LA would be free to resubmit the Regulation 34 request within that time with any modifications, for example by reducing the length of contract or allowing collection of separate WEEE categories.



7.8.2 If there are no interim bids in place for a LA or region and no bids are received, then a PCS will be chosen at random by the administrator to deliver the Regulation 34 request. The PCS will ask the AATF recycling the WEEE to raise the evidence to the PBS WEEE Settlement Centre account and the PCS will invoice the PBS at cost plus 10%. The administrator will be provided with copies of invoices to verify the correct rate is being charged by the PCS. It is highly unlikely that this scenario will occur but the methodology is in place to deal with any such occurrence.

## 7.9 Time for submitting bid responses

7.9.1 Currently PCS members have one working day to submit nil-cost bids, and two working days to submit bids for Regulation 34 request. It is proposed that PCS will have eight working days to respond, which will enable due diligence enquiries. More information will be available to PCS bidders to assist with the bidding process.

7.9.2 All bids will be sealed. Bids will include a price per tonne for each WEEE category to be collected and recycled. PCS members will select their own working partners as is the current system.

7.9.3 Where the request specifies a collection within three weeks, the interim bid process (referred to above) shall apply to all collections required within that three week period.

## 7.10 Nil-cost bids

7.10.1 If nil-cost bids are received, the request ceases to be a Regulation 34 request as is currently the case. WEEE evidence is retained by the PCS who wins with a nil-cost bid.

7.10.2 Whereas the current PBS system appoints the contract to the first nil bid response, it is proposed to send all nil bid responses to the LA and allow the LA to select the PCS of its choice.

## 7.11 Use of sample contracts

7.11.1 Contracts will be entered into between the LA and the chosen PCS. The PBS will have sample contracts available for use if required but these are optional and will be provided for convenience only.

7.11.2 Sample contracts can be downloaded from the Portal by stakeholders if they wish to use them.

## 7.12 Provision of information following the bidding process

7.12.1 There is currently no sharing of information as a result of the competitive process. It is proposed that the administrator will inform all PCS members of the total value of the winning bid. This will not be broken down by category and will not identify the successful PCS.

7.12.2 Confidentiality will be maintained but all PCS members will receive information on the outcome of the bid process before receiving their monthly invoice.

7.12.3 The Portal will display the number of bids received in each region for each category (but no further detail). This will allow greater transparency and will also inform PCS members of the level of interest in each WEEE category in that region. It will also encourage bids in regions where there is limited interest. This should assist LA and create better value for all stakeholders.



## 7.13 Duration of Contracts

7.13.1 The current PBS scheme offers a contract for a maximum of 6 months, if requested by the LA. It is proposed to allow contracts of up to 12 months if requested by the LA.

7.13.2 This extension to contract lengths, coupled with a greater choice to the LA over the number of WEEE categories collected by the same PCS should give greater consistency and certainty to LAs. It should also reduce the administrative burden on AATFs, PCSs and other stakeholders.

## 7.14 Greater input by LA

7.14.1 The LAs are important stakeholders that WAS has engaged with. The LA will be able to specify whether or not they wish all or a certain number of WEEE categories to be dealt with by the same PCS. Where the LA specifies this as part of the Regulation 34 request, bidders will need to bid in accordance with the request. A PCS will not be allowed to bid for fewer WEEE categories than the LA has specified.

7.14.2 This should give LA greater flexibility and certainty around WEEE collections and help to reduce the administrative burden involved with frequent Regulation 34 requests and multiple PCS contracts.

7.14.3 The LA will be entitled to reject a PCS's winning bid where previous complaints have been made to the PBS and upheld about the performance of that PCS or its agents and or its subcontractors in relation to that LA. The ability to reject a bid shall only apply for the duration of the compliance period in which the complaint was made or 6 months, whichever is longer. If a winning bid is rejected the administrator will award the contract to the next lowest bidder.

7.14.4 This will promote accountability, good service levels and oversight of subcontractors.

## 7.15 Internal and external complaints procedure

7.15.1 WAS will set up an internal complaints procedure to investigate and report on complaints regarding:

7.15.1.1 The PBS administrator;

7.15.1.2 LA;

7.15.1.3 PCSs, AATFs and their subcontractors; and

7.15.1.4 Billing, invoicing and financial matters.

7.15.2 WAS will also establish an independent mechanism to deal with complaints concerning WAS, its directors and the expulsion of a PCS from the scheme.

7.15.3 Complaints procedures will be documented and in place at the commencement of the PBS.

7.15.4 Without affecting the overall scope of the complaints procedures, WAS proposes that any complaints of discrimination between PCS members will be carefully scrutinised in particular.



**PLEASE NOTE:** The remaining sections of this Part 7 are purposefully numbered 1 to 5 rather than following the sequential numbering of the foregoing sections of this Part 7. That is because the following reflect the requirements of, and provide a detailed response to, each requirement of the ITT. For ease of cross referencing, the bullet points listed below the section headings in the ITT have been replaced with paragraph numbers as set out in the remainder of this Part 7 and appear in italics. Responses to those numbered points follow the same numbering format and accordingly do not follow the numbering of the rest of this document.

## 1. Proposed methodology for fulfilling the requirement of regulation 34 and dispersing requests to PBS members

**Weighting 5 = 20 marks available**

Proposals should:

- 1.1 *Set out a methodology for arranging for the fulfilment of the requirements of Regulation 34 by one or more of its participating PCSs across each of the WEEE collection streams. The methodology should clearly set out how this would be arranged on the basis of either a one-off collection or of an ongoing service to a local authority designated collection facilities (DCF) for a minimum of 6 months if requested by the local authority DCF;*
  - 1.1.1 The WAS methodology is summarised in Part 7 sections 7.1 to 7.15 above and in further detail throughout this Part. It describes the methodology by reference to similarities with the existing voluntary PBS and improvements that are proposed.
- 1.2 *describe the mechanism by which a PCS can submit a received Regulation 34 request to the PBS if it decides not to fulfil the request itself but to refer it to the PBS instead;*

### PCS submission of Regulation 34 request

- 1.2.1 A PCS can submit to the PBS a Regulation 34 request which it has received from a LA and does not wish to fulfil, in the same manner as it currently does under the existing voluntary PBS.
- 1.2.2 The LA will be notified by the relevant PCS that it intends to forward the request on to the PBS. The PCS and the LA will agree between them who uploads the information on to the Portal (or submits an email as applicable), subject to it being the PCS's responsibility to ensure it is done.
- 1.2.3 Submission of new Regulation 34 requests will follow the same procedure as existing, with upgrades to the communication methods, for example, use of a Portal, standardised information and template submission documents referred to in section 7.5 and 7.6 above.

### LA submission of Regulation 34 request

- 1.2.4 The LA will be able to make a regulation 34 request to any PCS or any number of PCS through the Portal. Where the LA makes the request to the PBS administrator directly it shall be deemed to be a request to all PCS members.

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- 2 <https://www.gov.uk/government/publications/waste-electrical-and-electronic-equipment-weee-collection-code-of-practice>





1.2.5 Because all PCSs will be members of the PBS it is anticipated that over time LA will make Regulation 34 requests through the Portal to all PCS. This is authorised under Regulation 34 of the WEEE Regulations. The advantage of making a Regulation 34 request to all PCSs is that it increases the chance of a nil-cost bid and reduces the admin costs of the LA.

1.2.6 It will not make a difference to the bidding or fulfilment process whether the request is submitted by the LA to one or more PCS but it will be the responsibility of the PCS to whom the request is made to ensure that the request is submitted to the Portal (or by email to the PBS as the case may be).

1.3 *describe how effective communication with the local authority that has submitted the Regulation 34 request will be maintained;*

### **Communications from the Portal and administrator**

1.3.1 The administrator, via the Portal (or by email as appropriate) will:

1.3.1.1 acknowledge a Regulation 34 Request made to both the LA and any PCS making that request;

1.3.1.2 acknowledge a complete Regulation 34 request when it has been assessed by the PBS administrator;

1.3.1.3 submit a completed Regulation 34 request to all PCS within one working day;

1.3.1.4 advise of incomplete email requests to the person submitting it (the Portal will not allow incomplete requests to be uploaded);

1.3.1.5 notify LA of any or all nil-cost responses and provide details of bidding PCS;

1.3.1.6 communicate the details of the winning PCS to the LA;

1.3.1.7 in the event there are no bids or where urgent collections are required, will notify the LA of the PCS with the current interim rate for the relevant LA (or where no bids and no interim rates the details of the PCS who has been allocated by the PBS), and will notify that PCS of the collection requirements; and

1.3.1.8 confirm to unsuccessful PCSs that the bid process has concluded, with details of the total cost of the winning bid.

1.3.2 The Portal will generate acknowledgements and communications in response to enquiries and completed submissions of requests and bids.

1.3.3 The Portal and email system will be managed and supervised by the administrator, with IT capabilities and support referred to in Part 7, sections 5.1 and 5.2 below.

### **Communications by the LA or PCS**

1.3.4 The LA will have log-in details for authorised officers. The LA can check the Portal to ensure their Regulation 34 request has been received and check it.

1.3.5 Sample contracts will be available on the Portal for use between the LA and the winning PCS if required. Parties will be free to use their own contracts or use sample contracts if they prefer and these sample contracts will be provided for convenience only.

1.3.6 The LA will be provided with the contact details of the administrator in the event they need to raise a query or speak to the administrator directly.



- 1.3.7 There will be a live chat function on the Portal and on the administrator’s dedicated website which the LA will be able to utilise to communicate with the administrator.

### Transitional provisions

- 1.3.8 Before the Portal is implemented all communications referred to above will be dealt with by email in accordance with the current methods of communication. The same process will apply to Regulation 34 requests made by email and bid responses made by email.

### Information to be submitted

- 1.3.9 The details that will be provided by the LA (or PCS referring the request) will include the name of the LA and PCS, the name and contact phone number and email of the relevant person at both organisations. Refer to section 7.6 for details of the information to be provided by the LA.

- 1.3.10 Screen shots of a mock-up of the Portal and sample invoice to the PCSs are attached at Schedule 8.1. The demonstration website can be accessed using the following details:

Url	<a href="https://wasuk.org">https://wasuk.org</a>
Username	localauthority@wasuk.org
Password	L0c4l-Auth0rity!

- 1.4 *demonstrate that the proposed mechanism is consistent with the Code of Practice;*

- 1.4.1 This proposal has been assessed and designed to ensure that it is compliant with the Code of Practice.

- 1.4.2 At Schedule 8.2 is a summary of the review which took place by the director of WAS, confirming consistency with the Code of Practice.

- 1.4.3 In the event of changes to the Code of Practice, the PBS operating procedures and contracts will be checked to ensure ongoing compliance.

- 1.5 *Set out what information must be provided by member PCSs; taking on the Regulation 34 requests referred to the PBS and how commercial confidentiality will be maintained;*

### PCS access to the Portal

- 1.5.1 Each PCS will have their own secure log in details to the Portal with PIN and password protection which can only be accessed by their own authorised officers.

- 1.5.2 All PCSs can bid for any Regulation 34 request by completing the bid template on the Portal or by submitting an email with all necessary information.

- 1.5.3 All PCSs will be notified of new bidding opportunities as they arise.

### Information from a PCS making a bid in response to a Regulation 34 request

- 1.5.4 The information that must be provided by a PCS making a bid includes:

- 1.5.4.1 a price per tonne for each category of WEEE that requires collection and recycling;

- 1.5.4.2 where there are multiple DCFs included in the bid, a PCS must state whether there are different prices per tonne for different DCFs;



- 1.5.4.3 a PCS making bids by email will be required to submit details as set out in paragraph 1.5.5.

### Populations of bids by the Portal

1.5.5 Bids submitted through the Portal will populate the PCS details and will therefore contain contact names, telephone numbers, email addresses and other vital information. Bids submitted by email must contain this information.

1.5.6 Refer to Schedule 8.1 for mock-up bids via the Portal by a PCS. Screen shots of a mock-up of the Portal and sample invoice to PCSs are attached at Schedule 8.1. The demonstration website can be accessed using the following details:

Url	<a href="https://wasuk.org">https://wasuk.org</a>
Username	localauthority@wasuk.org
Password	L0c4l-Auth0rity!

1.5.7 The Portal will not allow incomplete bids to be submitted.

### Transitional provisions

1.5.8 Before the Portal is implemented all communications referred to above will be dealt with by email in accordance with the current methods of communication. Bids by email will be checked by the administrator.

1.5.9 Emails that are incomplete will be notified as incomplete bids by the administrator to the relevant PCS.

### Completion of bidding process

1.5.10 When a tender closes and the winning PCS has been identified by the administrator, either as the sole nil-cost bid response or the lowest bid response, that PCS will be notified.

1.5.11 The contract between the PCS and the LA will only be completed after the winning PCS is notified. It is the responsibility of the PCS and LA to complete the contract.

1.5.12 Where there is more than one nil-cost bid response or two identical responses, the LA will be provided with information and shall choose their preferred PCS. The LA will notify the administrator of the preferred PCS and that PCS will then be notified that they are the winning bidder. Allowing the LA to select the supplier will encourage added value, re-use and engaging local suppliers and charities.

### Information to be submitted for payment

1.5.13 The AATF will generate relevant WEEE evidence on to the PBS administrator's WEEE Settlement Centre account on behalf of the relevant PCS in the same manner as the existing PBS.

1.5.14 This evidence will be checked and accepted by the administrator and payment will be made against the evidence uploaded. Only the PCS, the administrator and the AATF will see this information.



## Confidentiality

- 1.5.15 Unsuccessful PCSs will be notified of the overall value of the winning bid. They will not be notified of the identity of the winning bidder, nor any details of the bid structure. This does not currently occur, and provision of this information should allow a PCS to cross reference the winning bid against their own bid, and help budget for likely future costs and WEEE evidence.
- 1.5.16 Unsuccessful PCSs will not be given details which identify the winning PCS, nor the amounts bid per WEEE category.
- 1.5.17 No PCS in the bidding process shall receive details of any PCS bids and the bidding process shall remain completely confidential. WAS shall not be entitled to receive bidding information from the administrator.
- 1.5.18 The administrator's systems to ensure confidentiality are detailed in its Privacy Program Client statement (Schedule 8.3) and its Data Protection and IT Security Policy (Schedule 8.4). WAS Membership Terms and Conditions and the contract between WAS and the administrator is also relevant (Schedule 8.5 and Schedule 8.6).
- 1.5.19 Confidentiality will also be addressed in a procedures manual issued to PCSs.

## 1.6

*ensure that the cost of fulfilling any regulation 34 requests be shared between all participating PCS on a market share basis. The market share for each PCS will be calculated as  $A/B$  where "A" is the total amount in tonnes of EEE intended for use by private households and falling within one of the categories of EEE that has been placed on the market in the United Kingdom by all producer members of the scheme in question in the previous compliance period, or part of the previous compliance period; and "B" is the total amount in tonnes of EEE intended for use by private households and falling within the relevant category that has been placed on the market in the United Kingdom by all producers in the same compliance period used in "A";*

## Submission of WEEE evidence and payment of PCS

- 1.6.1 PCSs making Regulation 34 collections and recycling will arrange for relevant WEEE evidence to be uploaded to the PBS WEEE Settlement Centre account by the AATF in a similar manner as they do under the existing voluntary PBS.
- 1.6.2 Once this information has been checked and accepted by the PBS administrator, an invoice will be raised and payment will be made quarterly to the relevant PCS against that WEEE evidence. Details of this payment will be loaded on to the Administrator's IT system, which will apportion collection and recycling costs as set out below.

## Apportionment of WEEE evidence amongst PBS members

- 1.6.3 Under this proposal, each PCS will authorise the appropriate authority to release data to the PBS administrator showing their Market Share Household Obligation Report.
- 1.6.4 The Market Share Household Obligation Report will set out the market share of each PCS in relation to the 14 WEEE categories. The Market Share Household Obligation Report is a way of calculating the market share of a PCS by virtue of their members' collective obligations. For example, a PCS is made up of members who each have an obligation in relation to one or more of the WEEE categories. Those obligations are aggregated together to equate to that PCS's total obligation.
- 1.6.5 The Market Share Household Obligation Report shows the WEEE placed on the market by category for each PCS during the compliance period. This data is then used to calculate



each PCS share of Regulation 34 collection and recycling.

- 1.6.6 The method of calculation is set out within paragraph 1.6 of the ITT document. The proposed PBS will use that calculation to determine each PCS's share of Regulation 34 request costs.
- 1.6.7 All PCSs will be invoiced for their market share of evidence using the formula defined in Regulation 28 of the WEEE Regulations at an aggregated average cost per category across all the Regulation 34 collections.
- 1.6.8 Invoicing is dealt with in Part 7 section 1.7 below.

### Adjustment of market shares

- 1.6.9 Appropriate agencies will notify the administrator of any revised notifications of obligations during the compliance period and this information will be used by the Administrator to revise the market share in line with that data.

### Maintaining confidentiality

- 1.6.10 The data obtained by the administrator will be held confidentially and will not be shared with WAS or any other PCS.
- 1.6.11 The Administrator's systems to ensure confidentiality are detailed in its Privacy Program Client statement (Schedule 8.3) and its Data Protection and IT Security Policy (Schedule 8.4). WAS Membership Terms and Conditions and the contract between WAS and the administrator is also relevant (Schedule 8.5 and Schedule 8.6).
- 1.6.12 Confidentiality will also be addressed in a procedures manual issued to PCS.

- 1.7 *describe the mechanism by which PCS would pay for their market share of fulfilling Regulation 34 requests, including evidence of auditing arrangements, to ensure invoices are reliable, and how commercial confidentiality will be maintained;*

### Notification of winning bids

- 1.7.1 The total value of winning bids for Regulation 34 requests will be published to all PCSs on completion of a tender. The identity of the winning bidder and the details of their bid will not be published. Every PCS that bids can check that the total cost of the winning bid was lower than their own bid. Each PCS can also help budget for WEEE evidence costs by aggregating the forecast Regulation 34 WEEE evidence and expected evidence costs. This will ensure both transparency and confidentiality, and should improve value for money for the WEEE system.

### Payment of the PCS submitting WEEE evidence.

- 1.7.2 The methodology for uploading WEEE evidence on to the WEEE Settlement Centre account is set out in section 1.8 below.
- 1.7.3 The administrator will calculate the cost of the WEEE evidence uploaded by the AATF and approve it once it has been checked. The administrator will calculate the amount owing to the PCS based upon the winning bid price.
- 1.7.4 The administrator will then either send the PCS a purchase order for the evidence or if an agreement exists between the administrator and the relevant PCS, the administrator will raise a self-billing invoice.



1.7.5 The PCS is paid for the WEEE evidence by the administrator as set out in section 1.8 below.

### Apportioning WEEE evidence amongst PCS

1.7.6 When the administrator receives approved WEEE evidence in the Settlement Centre each month, they will aggregate the weight of evidence across all of the Regulation 34 contracts for that month by category. The administrator will calculate an aggregated average cost per tonne by category to be recharged to PCS by market share. The market share calculation is referred to in section 1.6 above.

1.7.7 Before WEEE evidence is approved and before invoices are raised by the PBS administrator to a PCS, a checking process will take place, including tender rates, quantities, LA and DCF details and WEEE categories. This will help to ensure that payment and invoicing is accurate.

### Invoices issued by the administrator to PCS for its WEEE category share

1.7.8 At the end of the calendar month the administrator will calculate the aggregate evidence weights and costs per tonne by category from all WEEE evidence submitted to it and approved during that month. The administrator will also calculate its administration costs and apportion part of those on a pro-rata basis (by market share) to all PCSs and part as a standing monthly charge.

1.7.9 The administrator will then raise an invoice to each PCS for the PCS's share of WEEE evidence by category from Regulation 34 requests, together with its share of administration costs.

### Information on invoices

1.7.10 Invoices from the existing PBS currently contain a single figure with no breakdown of how that figure has been calculated by reference to the collection and recycling costs of each specific WEEE category. Invoices do not include any breakdown in relation to PBS administration costs. The proposed PBS will show the tonnage in relation to each category, the average price per tonne and the total cost for each WEEE category. That will be aggregated to an invoice amount, VAT will be added and a total gross cost amount will be provided.

1.7.11 A PCS's share of management and administration costs will be broken down on an invoice showing the fixed monthly management fee and the pro-rata administration fee. This should allow the PCS to apportion these costs more precisely amongst their members. It will also give greater transparency and clarity than the existing arrangements.

### Frequency of invoices

1.7.12 At present, PCSs are invoiced quarterly by the PBS. It is proposed that the PCS will be invoiced each month by the PBS administrator.

1.7.13 It is in the interests of clarity and transparency that invoices include WEEE evidence weights and average aggregated costs by category, plus separate administration charges. The PCS will then be able to budget for likely WEEE evidence costs.

1.7.14 The PCS will understand how the invoice has been calculated and will be able to check this against its records. All calculations and WEEE evidence will not be disclosed to the PCS and will be subject to internal and external auditing arrangements described below.



## Payment of invoices

- 1.7.15** The PCS will be required under the terms and conditions between them and the proposed PBS to make payment to the administrator within seven working days by direct debit into an escrow account. Payments are made from this account to the PCSs for future submissions of Regulation 34 WEEE evidence. Administration costs will be drawn from amounts paid into that account by the administrator following payment of the invoice.
- 1.7.16** Non-payment of invoices would lead to a reminder and administration charges. Payments not made within 28 working days of reminder mean that the PCS may be expelled from the PBS until payment is made, in accordance with the provisions of section 7 of the WAS Membership Terms and Conditions (Schedule 8.5) (see paragraph 2.3.4).

## Maintaining confidentiality and accuracy

- 1.7.17** All the calculations and evidence will be retained securely and confidentially by the administrator.
- 1.7.18** Commercially sensitive and confidential information will not be made available to WAS, PCSs, AATFs or other stakeholders. For more information in relation to commercial confidentiality arrangements please refer to the Administrator's Privacy Program Client statement (Schedule 8.3) and its Data Protection and IT Security Policy (Schedule 8.4). WAS Membership Terms and Conditions and the contract between WAS and the administrator is also relevant (Schedule 8.5 and Schedule 8.6) and in responses contained elsewhere in this Part 7 including para 2.5.2, dealing with confidential information held by the administrator.

## Auditing of the administrator

- 1.7.19** The administrator will be audited on an annual basis by an independent auditor. It is proposed to use RSM UK for the first audit. WAS directors will have an ability to nominate future auditors.
- 1.7.20** The PBS administrator has internal auditing procedures which are summarised as follows:
- 1.7.20.1** AECOM plans and programs internal and external provider audits, when deemed necessary, to assess compliance with the applicable Integrated Management System (IMS) procedures; the requirements of ISO 9001:2015, ISO 14001:2015 and OHSAS 18001:2007, where applicable; and the objectives established by management. Internal audits are designed to gauge the effectiveness of the Quality Management System and are conducted consistent with the needs of the organization;
  - 1.7.20.2** Audit criteria, scope, frequency and methodology are established by management representatives to provide objectivity and to maintain the impartiality of the audit process. Auditors are prohibited from auditing their own work;
  - 1.7.20.3** The frequency, extent and focus of audits consider the importance of the processes to be reviewed, management objectives and the results of previous audits. More frequent internal audits may be deemed advisable for business units new to the AECOM IMS; if the results of previous audits have been unsatisfactory; or if there have been significant client complaints, corrective actions, errors, and omissions concerns or similar issues in the business unit; and



1.7.20.4 Audit results are reported to the management of the unit or functional area audited; they shall take timely action to address and correct identified non-compliant conditions.

1.7.21 A summary audit report will be made available to WAS and the full report will be made available to DEFRA upon request.

1.8 *describe the mechanism by which evidence of tonnage collected under a Regulation 34 request submitted to the PBS would be allocated to participating PCSs on a market share basis and how that would be "issued" by approved authorised treatment facilities (AATF) and "accepted" by a PCS on the Settlement Centre managed by the Environment Agency;*

1.8.1 The methodology for uploading WEEE evidence on to the WEEE Settlement Centre account is identical to current arrangements.

1.8.2 Allocation by market share is dealt with in Part 7 section 1.6.

### **Creation of PBS administrator's WEEE Settlement Centre account**

1.8.3 In the 30 days between approval of this PBS and its commencement the appropriate authority will be requested to set up an account for the administrator on the WEEE Settlement Centre. This is identical to the one that the current PBS administrator has.

1.8.4 During the transitional period there will be separate WEEE Settlement Centre accounts for the original PBS administrator and the new PBS administrator. AATF will be instructed as to which account to raise WEEE evidence to during this period.

1.8.5 From the date when the new PBS commences operation, WEEE evidence will be submitted to the administrator's WEEE Settlement Centre account by AATF on behalf of the PCS in the manner outlined in sections 1.6 and 1.7.

### **Creation of WEEE evidence**

1.8.6 At present, PCSs are invoiced quarterly by the PBS. Invoices contain a single figure with no breakdown of how that figure has been calculated by reference to the collection and recycling costs of each specific WEEE category. It also does not include any breakdown in relation to PBS administration costs.

1.8.7 Where a PCS has completed collections under Regulation 34, their chosen AATF which is treating the WEEE on their behalf will provide that PCS with an ICER report. The ICER report is a recognised method of communicating information within the industry.

1.8.8 The PCS will check the ICER report and instruct the AATF to draft an evidence note for submission to the PBS WEEE Settlement Centre account. This will normally be submitted to the PBS WEEE Settlement Centre account by the AATF on behalf of the PCS. This is identical to the current system that is in place and no amendment is proposed.

1.8.9 The AATF will authorise the evidence note issued to the PBS WEEE Settlement Centre account. AATF will upload WEEE evidence to the PBS WEEE settlement centre account in the same way as the current PBS system and no changes are proposed in this regard.

### **Calculation of cost of all WEEE evidence in relevant period**

1.8.10 The PBS administrator will maintain a programme or spreadsheet which records all WEEE evidence notes arising from Regulation 34 contracts and that information will be retained by the administrator.





- 1.8.11 The administrator will calculate the cost of the WEEE evidence uploaded by the AATF (or PCS) during the preceding month which results from Regulation 34 requests.

### Payment from the PCS for WEEE evidence

- 1.8.12 Provided these tonnages have been approved by the administrator, it will calculate the amount owing to the PCS recycling the Regulation 34 request based upon the winning bid. The administrator will then either send that PCS a purchase order for the WEEE evidence or if an agreement exists between the administrator and that PCS, it will raise a self-billing invoice.
- 1.8.13 That PCS is then paid by the administrator in accordance with the terms of the contract between the PBS and the PCS as outlined in sections 1.7 and 1.8 of Part 7. Payment will be made quarterly.

### Apportioning WEEE evidence

- 1.8.14 All payments made to a PCS for Regulation 34 collections and recycling will be recharged to PBS members by market share. The methodology for calculation of market share has been referenced in section 1.6 above. The PBS administrator will apportion the WEEE evidence amongst PCSs using that methodology and the PCS will be invoiced monthly.
- 1.8.15 The PCS will make payment by direct debit as outlined in section 1.7 above.

### Transfer of WEEE evidence

- 1.8.16 Providing payment has been made, WEEE evidence will be transferred quarterly to each individual PCS account by the PBS administrator.
- 1.8.17 This transfer will take place quarterly to reduce administration costs and time, however invoicing will take place on a monthly basis so PCSs are aware of liabilities, payments due and WEEE evidence. This will also ensure the PBS administrator has a regular income stream from which to pay PCSs.

- 1.9 *Set out how PCSs and local authorities have been involved in developing the proposal and demonstrate how their views have been considered in its development.*

## Background

- 1.9.1 During 2017 and early 2018 concerns were raised over perceived shortcomings in the way the current PBS operated.
- 1.9.2 By November 2017 two large PCSs of the current PBS gave notice of their intention to leave the PBS due to their individual concerns.

## Consultation and formulation of Bid

- 1.9.3 In early 2018 discussions between Martin Fortune (director of WAS) and the two departing PCSs highlighted that the same concerns were jointly held.
- 1.9.4 Those concerns were raised with DEFRA in May 2018. After a presentation to Let's Recycle WEEE Conference in June 2018 and a debate at an AATF forum meeting later that month it was discovered that those concerns, as summarised in section 3.3 and Part 5 above, were more widely held by stakeholders. The Let's Recycle WEEE Conference audience included PCSs, AATFs, LAs and government agency representatives.



1.9.5 In August 2018 a stakeholder engagement meeting in Newark discussed and debated thoughts on how an alternative PBS could operate more efficiently and transparently than the existing PBS and represent the wider interests of the WEEE recycling community. DEFRA were invited to this meeting but were unable to attend due to other work priorities.

1.9.6 The current proposed PBS was devised by WAS as a result of those discussions.

### Consultation with LAs

1.9.7 In early 2019 further consultation with PCSs and LAs sought to identify and address additional concerns.

1.9.8 LA concerns have been expressed to WAS as:

1.9.8.1 Improving service delivery;

1.9.8.2 Minimising the administrative and operational burdens of WEEE collection;

1.9.8.3 Improve communication and information sharing;

1.9.8.4 Ensuring documentation is correct;

1.9.8.5 Ensuring on site processes are safe and correct;

1.9.8.6 Promoting WEEE re-use in accordance with the Code of Practice;

1.9.8.7 The ability to contract for longer periods than 6 months;

1.9.8.8 the ability to consign all WEEE collections to a reduced number of PCSs, including only one if preferred; and

1.9.8.9 concerns about performance of contractors and their sub-contractors.

1.9.8.10 The opportunity for added value such as increased re-use, support of local charities and using local suppliers.

### Final consultation and engagement

1.9.9 On 12 February 2019 a stakeholder meeting was held at the offices of AECOM in Birmingham. A representative of DEFRA attended that meeting. The purpose of that meeting was to table the proposal for discussion and invite comments and further refinements. The proposal was further amended on the strength of comments made at that meeting.

### Aims of the current proposal

1.9.10 WAS has formulated this proposal with four key aims:

1.9.10.1 Where there are no concerns expressed, to keep the PBS as close as possible to the existing model for continuity purposes;

1.9.10.2 to address the concerns of stakeholders, including AATFs and LAs where possible with a range of improvements and refinements;

1.9.10.3 to address concerns of PCSs and make the system more equitable, transparent, broadly representative of the WEEE sector and user friendly; and



#### 1.9.10.4

to promote a reduction in the cost of WEEE recycling through a more competitive, open and transparent PBS process.



## 2. Proposed administration of the PBS

### Weighting 3 = 12 marks available

Where the operator chooses to appoint an independent administrator to undertake some of the PBS functions, references below to the operator can be taken to mean references to the administrator.

Proposals should:

- 2.1 describe how the overhead costs of setting up and administering the PBS will be met, and what steps the proposer has taken to ensure value for money;

### Evaluation of administrator

- 2.1.1 WAS evaluated three parties who it identified as capable of delivering the administration of the PBS functions. Of the three, AECOM was assessed as offering the best mix of capability, flexibility, experience and value for money. It is also one of the world's largest consultancy and management services providers.
- 2.1.2 The administration of the PBS will be carried out by a team formed from existing AECOM staff at their existing premises.

### Initial set up of the PBS

- 2.1.3 Initial set up will involve an email communication system between the PBS, the administrator, PCSs, LAs and other stakeholders to ensure continuity and familiarity with the Regulation 34 request process. Use of this email system in the first instance will minimise initial set up costs.

### Portal

- 2.1.4 Within eight weeks AECOM will establish a web-based data Portal. Regulation 34 requests and tenders will be submitted and received through the Portal. Compliant email requests and bids will also be accepted alongside the Portal for stakeholder ease of use and continuity.

### Initial administration costs

- 2.1.5 AECOM will recharge the initial overhead costs to all PCSs who are members of the PBS as an initial joining fee. The overhead costs will be divided equally amongst PCSs who join the PBS.
- 2.1.6 This initial fee will cover such things as:
- 2.1.6.1 Initial communications with all stakeholders;
  - 2.1.6.2 Setting up internal and external accounts, and other financial administration costs;
  - 2.1.6.3 Development of systems and processes;
  - 2.1.6.4 Development of IT systems facilitating a transparent bid process, payments and invoicing; and



## 2.1.6.5 Training and engagement of the stakeholders.

### Ongoing administration costs and apportionment

- 2.1.7 The on-going costs of administering the scheme will be paid by each PCS as an additional monthly charge appearing on invoices from the administrator to each PCS. There will be two elements to the administration costs:
- 2.1.7.1 A variable monthly cost relating to the number of tendering events that have occurred in the preceding month, the cost of running the tendering events and appointment of the successful bidders; reviewing active contracts which have submitted claims for payment in the preceding month, reviewing the WEEE Evidence notes submitted by each PCS contractor and approving payments; and
  - 2.1.7.2 A fixed monthly administration cost for billing member PCSs, collecting payments and apportioning evidence notes.
- 2.1.8 The variable charge based on WEEE evidence costs, is on a 'user pays' basis is to ensure a more equitable approach and will also reflect the actual structure of administrative costs incurred.
- 2.1.9 This mixture of fixed and variable charges is a compromise between a set charge per member which favours PCSs with a large market share, and a variable charge by market share which favours PCSs with smaller market shares.

### Value for money

- 2.1.10 The ongoing costs of administration are minimised by:
- 2.1.10.1 the use of AECOM's existing software solutions which have been developed while administering large-scale schemes such as the Freight Operators Recognition Scheme (**FORS**); and
  - 2.1.10.2 automating the tendering and billing processes to reduce time costs.
- 2.1.11 Extending the tender periods and providing more information to PCSs to bid against should give each PCS more time to prepare a bid, which should lead to more bids at more competitive rates. This should in turn reduce WEEE recycling costs for the whole system.
- 2.1.12 The AECOM administration contract will be reviewed at the end of 24 months, together with the performance of AECOM and the administrative fees charged. Value for money will be one of the criteria measured in that review.

2.2 *describe the mechanism to be used for ensuring the Environment Agencies receive necessary evidence a PCS is a member of the approved PBS. Validation of membership of the PBS must not place significant additional burdens on the agencies;*

### Quarterly reporting

- 2.2.1 The administrator will send a report each quarter to the appropriate environment agencies listing:
- 2.2.1.1 all PCSs who are paid up members of the WAS scheme;
  - 2.2.1.2 any PCS not in the scheme (for example because they have no household (B2C) WEEE obligation); and



2.2.1.3 any PCS that have left the PBS or had contracts terminated.

## Access to the Portal

2.2.2 The Portal will contain a list of all PBS members. The appropriate agencies will be provided with a log in to the Portal which allows them to see current PCS.

## Public register checks

2.2.3 The PBS administrator will check the public register of a PCS from time to time and identify any PCS which is not a member of the PBS. The PBS administrator will contact that PCS inviting them to join the PBS.

2.2.4 The PBS administrator will also check whether all PCSs obligated by Regulation 34B have joined by aggregating the individual PCS obligations of all the WAS members against the total already calculated by the Agency.

2.3 *describe an appropriate mechanism for payments by PCS for fulfilment of Regulation 34 requests undertaken by the PBS including the mechanism for dealing with late or non-payment of outstanding amounts by PCS;*

## Payment mechanisms

2.3.1 For the appropriate mechanism for invoicing, apportionment and payments by PCS for fulfilment of Regulation 34 requests please refer to sections 1.7 and 1.8 above.

## Late payments

2.3.2 The PBS administrator will invoice each PCS for their share of the WEEE evidence collected under Regulation 34 during the preceding month(s). The invoices will be emailed to the nominated PCS contact for payment within seven working days, by direct debit.

2.3.3 If payment is not received by the deadline then the PCS will receive a reminder notice in writing. A late payment charge will be incurred by the PCS to cover the additional administration costs. Interest will accrue at a rate of 4% per annum above Bank of England base rate from the due date until payment.

## Expulsion and re-instatement

2.3.4 If payment is not received within a further 28 working days of the reminder notice then the PCS may be expelled from the PBS and the relevant agencies will be informed on a quarterly basis. Unpaid sums may be recovered through the courts along with interest, additional charges and costs due.

2.3.5 A PCS that has been expelled will only be re-admitted when all amounts due have been paid including any amounts that would have been due had the PCS remained a member of the PBS throughout the compliance period. A re-joining fee will be payable, calculated as if it was a joining fee for a new PCS.



2.4 describe appropriate provisions for completion of pending obligations and for payment of sums arising under the PBS in the event of withdrawal of approval of the PBS. The proposal should also provide clear transitional arrangements for effective transfer of data from the previous PBS when approval is received for the new PBS, as well as transitional arrangements for effective transfer of data to any new PBS which may be approved in the future;

#### **Future withdrawal of approval of PBS under Regulation 34A(6);**

- 2.4.1 WAS recognises that the transition to any alternative future PBS should be as easy as possible for all parties involved whilst ensuring that confidentiality of market data is maintained.
- 2.4.2 Within two working days of being notified that approval has been withdrawn by the Secretary of State WAS will notify all stakeholders including all PCSs, AATFs and LAs of the withdrawal of approval and the end date. Where known, WAS will also provide details of the successor PBS. The web site and Portal will be immediately updated with these details.
- 2.4.3 The outgoing PBS administrator will await formal communication of the contact within the new PBS administrator from the operator of the new PBS.
- 2.4.4 To maintain confidentiality, the incumbent PBS administrator will ensure that relevant data is only transferred to the administrator of the new PBS (and no other party), upon confirmation from that new administrator that it will handle that data in accordance with the obligations of the outgoing PBS to its members.
- 2.4.5 Once the relevant assurances are received the PBS administrator will securely transfer relevant data to the new administrator in a manner that is approved by the appropriate agencies.
- 2.4.6 This data transfer will include the contact details for all PCSs, LAs and AATFs that are currently involved with the PBS system. The data transfer will also include relevant information on any contracts that will continue under the new PBS operator.
- 2.4.7 Authorisation for the transfer of the data on withdrawal of approval will be dealt with as a contractual term between the PBS and the PCS.
- 2.4.8 All LA will be informed in advance that information provided to the PBS will be transferred to the successor PBS administrators. Changes in the PBS administrator will be dealt with in the same way.
- 2.4.9 The contract between WAS and the PBS administrator contains relevant provisions to deal with transfer of data in the event of withdrawal of approval.
- 2.4.10 The web based Portal will continue to operate until midnight on the final day of operation of the PBS and will then only operate in relation to ongoing matters.. The functionality of the Portal will be changed to reflect the withdrawal of approval and to ensure it cannot receive new Regulation 34 requests beyond the final day.
- 2.4.11 WAS and the administrator will cooperate fully with DEFRA, the appropriate agencies, LAs, DCFs and the new operator of the PBS to ensure a smooth transition.
- 2.4.12 In the transitional period, LA will continue to have their WEEE collected, the PCS making those collections will continue to receive payment for their evidence at the tendered rates and the participant PCS will receive their market share of the resultant evidence and be invoiced at the aggregated costs plus administration costs.



## Transitional arrangements involving an outgoing PBS

- 2.4.13 This response assumes that the WAS PBS is selected by the Secretary of State to provide the Regulation 34 PBS system during the 2019 consultation and will take over from the current PBS.
- 2.4.14 The PBS operator and administrator intention is to honour existing contracts from the outgoing PBS so that no PCS or LA will be adversely impacted as a result of the change. The PBS will plan for an orderly smooth transition so the main difference that a PCS will notice is a change of operator and administrator, and they will be invoiced monthly rather than quarterly. Invoicing will contain an itemised breakdown of their costs and evidence.
- 2.4.15 The Secretary of State will determine the “Changeover Date” beginning 30 days after the PBS is approved (regulation 34B(2))
- 2.4.16 The incumbent administrator will be requested to provide the new administrator at least 10 working days before the changeover date with details of existing Regulation 34 contracts already in place with following details:
- 2.4.16.1 by LA, for each DCF, the address and WEEE Categories being collected and average weight per month of each category (based upon original LA estimate or actual collected to date);
  - 2.4.16.2 identity of the incumbent PCS who are making the collections and their tendered cost per tonne by category;
  - 2.4.16.3 date when existing contracts expire; and
  - 2.4.16.4 the quantity of WEEE evidence issued to each PCS by category, up to the “changeover date”
- 2.4.17 The incoming administrator will offer the outgoing administrator written assurance in respect of confidentiality and compliance with legislation. The new administrator will treat all confidential and sensitive information in accordance with legal obligations and in the same way it would do had it been submitted to it during operation of the PBS.
- 2.4.18 The identity of the LA and DCF being serviced under Regulation 34 and the date when the existing arrangements are due to expire will be made public as this information is in the public domain. Incumbent PCS identities will remain confidential.

## Transitional arrangements in respect of both scenarios

- 2.4.19 Up to and including the changeover date the incumbent PCS will invoice the outgoing PBS administrator for WEEE evidence and use the outgoing PBS WEEE Settlement Centre account. The incumbent will allocate WEEE evidence and recharge voluntary PBS members for all costs up to and including the changeover date.
- 2.4.20 After the changeover date the incumbent PCS will submit WEEE evidence into the new administrator’s WEEE Settlement Centre account and will invoice the new administrator for this evidence at the rates submitted in their original bid.
- 2.4.21 The new administrator will allocate evidence and recharge the PCS for all costs after the changeover date.





2.4.22 Any new Regulation 34 requests received by the outgoing PBS before the changeover date should be processed by the outgoing PBS as usual. Where requests are still being processed at the changeover date the new PBS administrator will assume responsibility for concluding the tender process.

### **Transitional arrangements relating to a WAS PBS succession**

2.4.23 Any evidence and invoices submitted to the new administrator on or before the 7th of each month will be included in the previous month's totals. Any evidence or invoices received after this date will be carried forward to the following calendar month.

2.4.24 Correct invoices received by the new PBS administrator shall be paid quarterly.

2.4.25 When any pre-existing Regulation 34 arrangements are due to terminate after the changeover date the new administrator will check with the LA whether they intend to submit a fresh Regulation 34 request and if so, this will be tendered to all PCSs using the WAS PBS system immediately after the changeover date or 4 weeks before the contract expires, whichever is the later.

2.4.26 After the changeover date the new administrator will invoice all PBSs, monthly in arrears for their market share of the WEEE costs and evidence not previously invoiced, whether collected by the PCS before or after the changeover date.

2.4.27 A procedures manual will provide information to PCSs on transitional arrangements from one PBS to another.

2.5 *describe what information will be shared and with whom and what information will remain confidential. It will be crucial to demonstrate that commercial confidentiality is maintained whilst ensuring maximising transparency;*

### **Confidential information held by the administrator**

2.5.1 All information received by the administrator in its role as administrator will be kept secure and confidential in accordance with its obligations to the PBS, the PCS and other stakeholders except that which it is authorised to publish in terms of this Bid and the operation of the PBS.

2.5.2 The approach to confidentiality is such that confidentiality is maintained while accounting for the fact that the proposed operation of the PBS will require the publication of certain information which parties may otherwise have treated as confidential. This approach is reflected in (1) the membership terms between WAS and the PCS (Schedule 8.5); (2) the proposed form of contract between WAS and the administrator (Schedule 8.6); and (3) in a suggested form of confidentiality agreement which is included as a schedule to the membership terms and to be entered into between the PBS administrator and each PCS (Schedule 8.5).

2.5.3 To ensure confidentiality and data security, AECOM will operate as administrator in accordance with its Privacy Program, Client Statement, Data Protection and IT Security policies, copies of which are contained at Schedules 8.3 and 8.4.

2.5.4 Financial information relating to PCS Regulation 34 collections, bids (successful and unsuccessful) will be kept confidential between the relevant PCS and administrator and will not be shared other than in accordance with Part 7 of this Bid.

2.5.5 LAs will not receive confidential financial information but will receive details of winning or lowest bidders at the conclusion of the 8 Working Day bid period.



- 2.5.6 The value of bids will be strictly confidential during the bidding process (and afterwards) to ensure a fair bidding process.
- 2.5.7 Where an Interim collection is made from a DCF under Regulation 34 for a period of up to three weeks the value of the winning bid (interim rate) and identity of the winning bidder/ interim rate holder will not be disclosed by the administrator.
- 2.5.8 For more details on management of confidential information please see AECOM's Privacy Program Client statement (Schedule 8.3) Data Protection and IT Security Policies (Schedule 8.4), and draft WAS contract with the administrator (Schedule 8.6), WAS Membership Terms and Conditions (Schedule 8.5) and in responses contained elsewhere in this Part 7 including paragraph 2.5.2.

### Information to be shared

- 2.5.9 All information supplied by LAs regarding contact details, DCF site details, WEEE categories to be collected, estimated WEEE quantities and start and finish dates for existing or previous WEEE contracts will be shared with all PCSs as this is not confidential.
- 2.5.10 PCS membership of the PBS and PCS contact information will not be confidential.

### Information shared by the administrator

- 2.5.11 Where a Regulation 34 tender has been concluded (and not before) the administrator will publish the overall value of the winning bid but not the identity of the winning bidder nor the breakdown of the bid. A bid may include several categories from several DCF sites. This allows all PCSs who bid to satisfy themselves that the winning bidder was cheaper than they were.
- 2.5.12 Monthly itemised invoices to each PCS will show the amount of WEEE evidence that they will receive as their market share. Invoices will also show aggregated average cost per tonne by category that month. Because there will be several contracts, generating different quantities of WEEE evidence at different bid prices, it is extremely unlikely that a PCS will be able to determine the individual contract price structure, and if it was possible, it would only be where there has been one WEEE category collected under Regulation 34 from one LA, and that information would be of very limited use.
- 2.5.13 The details of all member PCSs and LAs will be available on the Portal.

### Information provided to WAS shareholders

- 2.5.14 WAS shareholders shall receive the information referred to in Part 6.2 of this Bid. They shall not be entitled to receive any information from the administrator on any confidential information, including rates bid for WEEE collections.
- 2.5.15 In other respects, sharing of information will be on the same basis as the existing voluntary PBS.
- 2.5.16 Both the PBS operator and PBS administrator will have policies in place in respect of data management, GDPR compliance, duties of confidentiality and they will undertake suitable ongoing training.
- 2.5.17 Reference is made to confidentiality arrangements set out elsewhere in this Bid. Policies and measures in respect of confidentiality and data protection will apply to the management of this information.



2.5.18 For more details on management of confidential information please see AECOM's Privacy Program Client statement (Schedule 8.3) Data Protection and IT Security Policies (Schedule 8.4), and draft WAS contract with the administrator (Schedule 8.5), WAS Membership Terms and Conditions (Schedule 8.6) and in responses contained elsewhere in this Part 7 including paragraph 2.5.2.

2.6 *consider the impact of and compliance with other relevant law. Specifically a description must be provided on how the proposal is consistent with competition law;*

2.6.1 The WAS scheme is structured on the premise that transparency is the best way to reduce the opportunity for covert market manipulation or "insider trading", especially where one or two individuals may have access to more market sensitive information than the remainder.

2.6.2 WAS has considered the impact of relevant law and considers that the proposed PBS is in compliance with the same. WAS considers that the following areas of law are relevant.

### **Environmental law**

2.6.3 The proposed PBS to be operated by WAS has been considered in the context of the WEEE Regulations and other relevant environmental law. The proposed PBS has been structured in such a way as to account for those considerations.

### **Competition law**

2.6.4 There have been claims by some that any transparency of costs offends competition law principles. This is rejected.

2.6.5 WAS has considered its proposal very carefully and has sought the advice of Counsel in relation to the proposal contained in this Bid.

2.6.6 Please refer to the Opinion from Counsel attached at Schedule 8.7 which contains a description on how the proposal is consistent with competition law.

2.6.7 WAS has made amendments to the proposal to address Counsel's comments, for example limiting communications on the on-line chat facility, limiting use of template contracts, and is confident that its entire proposal is consistent with competition law.

2.6.8 In addition, WAS proposes that it will have the right to require that the administrator will monitor trends in the market with a view to detecting any unusual pattern of activity within the market. An example of such activity may include a tendency for there to be only one bid per region despite the display of data on the number of bids which may point to conclusive market positioning.

2.6.9 In addition, WAS proposes to provide a short guide or training to remind directors of WAS of their duties under company law. In addition, WAS proposes to provide a guide or training to the directors of WAS of their duties to comply with competition law.

### **Other law**

2.6.10 It is proposed that the complaints procedure referred to in Part 7, Section 7.15 shall be used to scrutinise any complaints of discrimination between PCSs.



2.6.11 WAS proposes that PCSs will be required to adhere to a number of policies or contractual obligations to take account of the following, as referred to in the WAS Membership Terms and Conditions:

2.6.11.1 Data Protection Law;

2.6.11.2 Conflict of Interests;

2.6.11.3 Anti-Bribery and Anti-Corruption;

2.6.11.4 Criminal Finances Act compliance; and

2.6.11.5 Freedom of Information and Access to Environmental Information Regulation.

2.6.12 In addition, it is proposed that as the Administrator of the PBS Scheme, AECOM shall adopt and operate in accordance with/has a number of policies and procedures in place to deal with the following areas of law:

2.6.12.1 Financial Integrity Statement;

2.6.12.2 Safety, Health & Environment;

2.6.12.3 Modern Slavery Act Statement;

2.6.12.4 Anti-Corruption;

2.6.12.5 Confidentiality;

- Privacy Policy
- Data Protection & IT Security

2.6.12.6 Whistleblowing.

2.6.13 Copies of these current policies are set out in Schedule 8.8.

2.6.14 In addition, it is proposed that provisions which take account of the matters referred to in paragraph 2.6.11 of this Part 7 shall also be included in the draft form of agreement between WAS and the administrator. Additionally, that proposed form of agreement also addresses the possibility of the application of the Transfer of Undertakings (Protection of Employment) Regulations (**TUPE**).

2.6.15 It is also proposed that there will be a periodic review of the scheme to ensure continuing compliance. Such review shall take account in particular, of competition law in so far as any proposed modifications are concerned.

2.7 *consider sound contingency plans including cover for staff absence;*

2.7.1 AECOM has 40 offices with 7,000 employees in the UK and Ireland and its constituent teams allow it to maintain adequate headroom to allow for staff absences (whether planned or unplanned).

2.7.2 Each key member of the team will have a back-up staff member allocated, who will maintain familiarity with the systems so as to allow them to substitute during periods of absence.



2.7.3 AECOM therefore has more than adequate resources to operate the scheme and will have appropriate contingency plans in place for reserve personnel, premises and IT systems. This is also referred to in the draft contract between WAS and AECOM a copy of which is in Schedule 8.6.

2.7.4 There will also be contingency arrangements in place between WAS and AECOM which will outline procedures to apply where the administrator becomes unable to perform administration functions during the term of its appointment. This will enable WAS to make arrangements to ensure a continuous service to the PBS, and maintain confidentiality throughout that process.

2.8 *provide evidence of the suitability of the proposed operator that will administer the PBS, and arrangements for necessary oversight and independent scrutiny and auditing arrangements;*

### **Suitability of AECOM as administrator**

2.8.1 AECOM are the largest consultancy in the world with 7,000 employees in the UK and Ireland and a turnover of circa £270m. It already administers various schemes and work closely with Government and NGOs so have a proven track record of delivering this type of contract.

2.8.2 AECOM approaches quality management in alignment with the ISO 9001:2015 international standard. AECOM is fully committed to the management principles underlying the standard and to AECOM's Quality Management System (**QMS**). These principles emphasize the need to understand its customers' needs and preferences and meet their requirements.

2.8.3 To accomplish this goal, AECOM's Global Quality Policy Q1-001-PL1 defines six quality principles, aligned to the AECOM core values that define how leadership and employees can engage in the quality objectives and processes. By identifying, understanding, and managing interrelated processes as a system, AECOM increases its efficiency and effectiveness in meeting its organisational objectives.

2.8.4 This approach includes continual reassessment and improvement of the underlying processes and promotes decision-making based on factual-information, and data.

2.8.5 Through consistent application of the QMS, AECOM provides a consistently high level of service.

### **Examples of relevant experience**

2.8.6 Schedule 8.9 includes examples of other schemes which AECOM have implemented/administered and which have similarities with the proposed WAS scheme, for example FORS, DPSA, Low Level Waste Repository Limited.

2.8.7 AECOM managed an annual programme of independent compliance member audits of packaging, WEEE and battery data, on behalf of a Producer Compliance Scheme. The aim of each audit was to check the basis of the data supplied to the PCS annually. This was achieved through a site visit to gain a thorough understanding of the member's business, interviews to determine how the data was collected and reported, and review of applicable supporting documentation. AECOMs' recommendations were then used by the members and PCS working together to improve the accuracy of the data which was ultimately supplied to the regulator.



## External auditing, oversight and scrutiny

2.8.8 WAS will employ independent accountants to audit AECOM each year to ensure that they are following the correct procedures, are handling the data and money correctly and applying costs at the agreed rates. Refer to Part 7 section 1.7 for more detail.

2.8.9 The PBS administrator will also be subject to internal auditing procedures consistent with accreditations it holds. For details of internal auditing please refer to Part 7 paragraphs 1.7.21.

2.8.10 The auditors will report back to WAS but will not share confidential information with WAS.

2.8.11 AECOM will also provide reports to DEFRA or any other appropriate agencies on request and these bodies will be invited to attend meetings with WAS representatives if required.

2.9 *provide with the proposal clear Terms and Conditions for PBS membership;*

2.9.1 The draft contract between WAS as PBS operator and PCS (also referred to as the WAS Membership Terms and Conditions) contains terms and conditions for PBS membership and is attached as Schedule 8.5. It is worth noting that in line with the overall approach to the Bid as outlined in Part 3, consistency with the existing operator agreement will have certain benefits. Accordingly, the proposed terms and conditions for PBS membership align in a number of ways with the existing operator agreement but with some notable differences in order to take account of the proposed PBS and the way in which it differs to the current PBS. For example, confidentiality obligations take account of the publication of more information than in the existing PBS and the proposed dispute resolution mechanism envisages a complaints procedure and the possibility of using alternative dispute resolution mechanisms.

2.9.2 In addition, each PCS member of the PBS will be invited to take one share in WAS. A shareholders' agreement will be entered into by each PCS who takes such a share and becomes a shareholder along with WAS setting out the rights and obligations upon WAS and the PCS as shareholders of WAS.

2.9.3 A summary of the shareholders' agreement is set out in Part 6.

2.9.4 There will be a contract between WAS as PBS operator and the PBS administrator, AECOM. A draft contract between the two parties is at Schedule 8.6.

2.10 *provide a copy of the proposed contract to be signed by PCS and the PBS operator; and*

2.10.1 The draft contract between WAS as PBS operator and PCS contains terms and conditions for PBS membership and is attached as Schedule 8.5. It is also referred to as WAS Membership Terms and Conditions

2.11 *set out arrangements for effective monitoring of the PBS mechanism and its administration including provision of necessary information to DEFRA.*

2.11.1 The WAS system will be much easier to monitor than the current PBS system because it will be more transparent. More information will be available to PCS for them to cross check, assess and challenge.



## Transparency

- 2.11.2 Every PCS will be able to check that the winning bid was actually lower than the one they submitted, if applicable, and that the amount they are charged is consistent with the Regulation 34 requests and winning bids.

### Administration charges will be transparent.

- 2.11.3 The Portal will contain a list of DCFs operating under Regulation 34 arrangements and the dates when the current arrangements expire. This information will allow anyone to identify how the market is changing and where further intervention may be necessary.
- 2.11.4 The monthly invoice, payment, reporting and WEEE evidence issuing dates will be transparent so administration performance can be measured against those targets.

## Diversity and industry representation

- 2.11.5 WAS directors will be appointed on annual directorships and will be drawn from PCS. WAS will have an independent chair. Directors will not be able to serve more than 2 years without standing down for a further year.

## Continuous improvement

- 2.11.6 WAS will have a Continuous Improvement Committee whose main function is to look for ways of improving the system and processes in response to PCS feedback and concerns.

## Updates to appropriate agencies

- 2.11.7 DEFRA and the appropriate agencies will receive quarterly reports on the PCS membership (see section 2.2), also on the number of Regulation 34 requests, the forecast WEEE evidence and total tendered prices. DEFRA will also be told the average aggregated costs by WEEE category.



### 3. Proposed timetable for implementation and operation of PBS

#### Weighting 3 = 12 marks available

Proposals should:

- 3.1 *provide a realistic and comprehensive plan for implementation and operation from the date of approval of the PBS;*
- 3.1.1 An implementation schedule is at Schedule 8.10, in Gantt Chart format. This sets out a time for implementation of the PBS in the 30 days between notification of approval and becoming operational.
- 3.1.2 There will be information on implementation contained in a procedures manual issued to PBS members.
- 3.1.3 Further detail in relation to implementation is contained in Section 3.2 below.
- 3.2 *provide and facilitate for PCSs to be able join the PBS within 30 days of its approval including provision of a detailed timeline that includes reasonable notice to PCS of the procedure. Provide that the PBS is fully operational within 30 days of its approval and ready to fulfil requirements of regulation 34;*

#### Process for PCSs to join the PBS

- 3.2.1 An approved PCS may join the PBS in accordance with Part 3 of the WAS Membership Terms and Conditions at Schedule 8.5.
- 3.2.2 A PCS wishing to join must provide admission information as set out in that contract, which includes such information as the administrator requires to operate the PBS, including contact details, correspondence and invoice details, VAT registration details etc. The PCS will also have to provide its EEE Market Share report or authorise the release of that report to the administrator
- 3.2.3 When the PBS is approved by the Secretary of State the administrator will use its best endeavours to contact all existing PCSs to notify them of the contact details of the PBS and the administrator and advise them of the admission information required by the administrator.
- 3.2.4 All PCSs which provide complete admission information to it will be entitled to join the PBS. Subject to receiving the complete admission information the PCS will be able to join the PBS within the first 30 days following approval of the PBS.

#### Timeline for setting up PBS and notifying PCSs

- 3.2.5 Please see the attached implementation schedule at Schedule 8.10 PBS fully operational within 30 days of approval.
- 3.2.6 WAS expect that DEFRA will notify the successful PBS bidder of the outcome of this process on or around 1 August 2019. That will be the formal commencement of the 30 day period after which the PBS will be operational.
- 3.2.7 Within that period any contract between WAS and DEFRA will be signed, or a letter of appointment for a 3 year period will be issued by DEFRA.





- 3.2.8 Separate to that formal appointment process, WAS and AECOM will be working to ensure that the PBS is operational, and will be taking such steps as:
- 3.2.8.1 Formalising contract between WAS and AECOM already in draft;
  - 3.2.8.2 Notifying each PCS by email who are obligated to join the scheme, providing draft contracts for signing, terms and conditions and contact information. Get them to complete a pre-registration form to include company details, nominated contact and deputy, phone, address, email, accounts contact, VAT number and bank details. It is expected there will be communication with PCSs from the date of notification of appointment of the PBS throughout the 30 days, with updates provided and queries being dealt with. Administrator's contact details will be made available to all PCSs;
  - 3.2.8.3 Notifying LAs and requesting information from LAs to be populated on the Portal;
  - 3.2.8.4 AECOM implementation team appointed. Internal Staff training, finalising internal documentation;
  - 3.2.8.5 Arrange launch and training day for PCSs, LAs and Appropriate Authorities. Notifying all participants;
  - 3.2.8.6 Contact current PBS and request relevant data as set out in Part 7 section 2.4. Written assurances in respect of confidentiality to be provided;
  - 3.2.8.7 Applying for a WEEE Settlement Centre Account from the Environment Agency. Set up necessary bank accounts and accounts at AECOM;
  - 3.2.8.8 Requesting market share data for all PCSs from relevant agencies;
  - 3.2.8.9 From the Public Register, WSF, own contacts and appropriate agencies database identify every relevant PCS;
  - 3.2.8.10 Populate master database with PCS details. Use DEFRA list of LA DCFs where it is useful – starting with those currently using Regulation 34 (from current PBS);
  - 3.2.8.11 Identify, investigate and resolve any errors or inconsistencies in information held. Ensure information handled and held in accordance with policies and legislative responsibilities; and
  - 3.2.8.12 Notifying all stakeholders in line with procedures listed in the attached implementation schedule.
- 3.2.9 Progress work on IT systems and Portal. IT team prepare on line Portal system, testing, back-ups and redundancy, training package for first time users. Go live date set (expected in 6 to 8 weeks of appointment of PBS).
- 3.2.10 Complete and issue interim use emails so all stakeholders have a template for making and responding to Regulation 34 requests.
- 3.2.11 The initial stage will include an evaluation and refinement of existing systems while the new online system and database is developed and finalised. Using an Agile approach, the development team can quickly evolve the system to add the required functionality.



3.2.12 By day 30, all information will have been gathered together, systems put in place, accounts set up, staff and stakeholders trained, templates and information issued to PBS administrator and stakeholders so the PBS can commence duties and be fully operational by the due date.

3.3 *show a clear process for staffing the proposals;*

3.3.1 AECOM will draw on its existing staff resources to develop the website and administer the PBS. The team will be drawn from its Software Solutions, administration and environmental teams.

3.3.2 AECOM's environmental team is based in offices throughout the UK and has approximately 1,000 staff. Its environmental lead will be responsible for liaising with WAS and the PCSs to ensure that both the software solution and administration elements are aligned with the scheme objectives.

3.3.3 AECOM's software solutions team, based in Birmingham, London and Newcastle, has 6 staff and development of the Portal will be led by this team.

3.3.4 Day-to-day project administration will be carried out by AECOM's team of project administrators, who are based in offices throughout the UK. The administration of the PBS will be conducted from the UK.

3.4 *show a clear process for developing and implementing the IT systems; and*

#### **Initial and transitional IT systems**

3.4.1 An IT system will be in place within 30 days which will allow the PBS to operate. Initially AECOM will communicate with LAs, DCFs, PCSs and WAS via email, using the same templates containing information similar to the existing PBS, in much the same manner as it has been communicating since 2016. This will be familiar to existing PCSs and will ensure a smooth transition.

3.4.2 Email communications and IT function will be via AECOM's existing IT capabilities and supported by internal IT teams.

#### **Refinement and development of IT systems**

3.4.3 The IT system will be refined to include a Portal and any other upgrades that are identified as desirable. The Portal will be completed and running within eight weeks of notification by DEFRA.

#### **AECOM system for developing IT systems**

3.4.4 AECOM have already developed and operate much more complex web systems than the one planned for WAS so this is well within its capabilities and experience.

3.4.5 AECOM adopts an eight- step approach to system development and support:

##### **Step 1 - Requirement Analysis**

3.4.6 During the inception process the key stakeholders will be identified. AECOM will then gather requests/priorities and distil them into a list of requirements.



## Step 2 - Idea Formation

- 3.4.7 A brief start-of-the-art review will be combined with a creative meeting to generate key options for the system. To assist in the design process the system will be broken into components, each with its own requirements.

## Step 3 - Planning & Design

- 3.4.8 The team will then produce the Terms of Reference, these will detail the exact nature of the System, including the following:
- 3.4.8.1 System specification – hardware/software/hosting;
  - 3.4.8.2 Data management requirements;
  - 3.4.8.3 Internal\External system integration requirements;
  - 3.4.8.4 Workflows required to embed the solution into the clients' standard business processes;
  - 3.4.8.5 Resource estimates (work-days); and
  - 3.4.8.6 Programme for delivery.

## Step 4 - Development

- 3.4.9 The AECOM team uses the latest tools and practices to deliver high quality solutions. Its Agile development platform and source code control systems allow AECOM's team to share tasks and respond rapidly to client requests.
- 3.4.10 The programme will be based on a series of two-week sprints with each containing the tasks designed to match the teams' expertise and availability. The aim of the sprints is to divide tools into small manageable component chunks; this will allow these to be presented and reviewed with the client at regular intervals and allow more frequent testing and verification of functionality.
- 3.4.11 At the end of each sprint the tasks for the next sprint will be agreed. The sprints will be designed to ensure major milestones in the project are met with fully tested code.

## Step 5 - Integration

- 3.4.12 Systems are seldom stand-alone and must therefore be carefully integrated with existing hardware, software, datasets and user work-flows. These will be identified in the requirement phase and appropriate connectors provided in the development phase. Integration will then continue in the testing phase.

## Step 6 - Testing

- 3.4.13 Internally AECOM will appoint a release manager who will confirm when software can be placed on the Staging Platform. Once a version of the software is released on the Staging Platform it will be formally tested and a QA report returned on results of the testing and on bugs and issues found. A new version of the software will be developed within the development/integration environment and will follow the same iterative process to release on the Staging Platform. Finally, once the release manager is content with the system it will be released to the production environment.



## Step 7 - Care Package

3.4.14 The team can provide full support, hosting and maintenance (see section below)

## Step 8 - Management

3.4.15 AECOM's Project Delivery System (**PDS**) will support the delivery of our work under this contract. This intuitive platform provides access to specific procedures and guidance needed to deliver project work.

3.4.16 AECOM's PDS embraces best practice and is based on the PRINCE2 project management model. Projects are setup around defined stages of work with progression between stages governed by 'gateway' reviews held at routine intervals within the project that address:

3.4.16.1 Adherence to programme;

3.4.16.2 Financial profiling;

3.4.16.3 Ongoing risk management;

3.4.16.4 Contractual adherence; and

3.4.16.5 Design control.

3.4.17 For more information in relation to IT systems please refer to sections 5.1 and of 5.2 of Part 7.

3.5 *demonstrate an understanding of project dependencies which could impact on the proposed timetable or bring it at risk.*

### Project dependencies out of PBS control

3.5.1 To complete a 30 day implementation it would be desirable for WAS to have information from the current PBS on existing Regulation 34 contracts, rates and expiry dates, plus details of evidence already issued to each PCS by category. If this information is not provided it will be more difficult to assemble the information necessary to implement the system, but it will still be possible to do so, **albeit with far greater administration costs**. There is no statutory obligation for the current PBS to provide this information.

3.5.2 Smooth implementation needs PCSs to sign the contracts with WAS and the administrator, and provide the PCS contact, bank account and authorisation details plus their WEEE obligations upon request. An absence of this information will mean it is difficult to operate the PBS.

3.5.3 The appropriate agencies will need to provide WEEE obligations for each PCS to compare against the PCS declarations.

3.5.4 The PBS and administrator will need to provide PCSs with access details, training etc to enable them to respond to Regulation 34 requests.

3.5.5 Procedure manual and sample documents will need to be available and circulated to each PCS and relevant stakeholder.

3.5.6 All LAs will need to provide their current details.

3.5.7 A new bank account will need to be set up.



- 3.5.8 A new account will need to be set up on the WEEE Settlement Centre. It is understood that there is no formal process in place to request an account for the PBS. A delay in completing that would adversely impact upon the PBS being operational within 30 days.
- 3.5.9 The proposed implementation schedule assumes that all PCSs agree to the proposed terms and conditions of the PBS. In the event that a PCS declines or delays joining the PBS or queries the proposed terms and conditions or scheme costs, this may cause delay in establishing the PBS and/or delay in payments to an individual PCS carrying out collections under the scheme.
- 3.5.10 If no Interim Bids are submitted for some or all areas, then this would have a negative impact on the ability to provide short-notice collections in those affected areas. There is a procedure in place to deal with this eventuality as set out in Part 7, section 7.8, paragraph 7.8.2.
- 3.5.11 Any delay to the announcement of the preferred PBS scheme may result in a knock-on delay to the establishment of the scheme. Whilst AECOM's size and resources allows agility and flexibility, any lengthy delay could impact on our ability to mobilise at short notice as staff are re-assigned to other projects.
- 3.5.12 There is a risk of other projects overrunning, staff movements and changes in business workload, however AECOM's depth of expertise allows us to mitigate the knock-on risks of other projects overrunning or staff changes within the company, by ensuring that we have sufficient resources to accommodate schedule changes.
- 3.5.13 IT issues and delay in completing portal is an identified risk and any delay in establishing the IT portal would have an impact on the implementation of the PBS. This risk is mitigated by a) AECOM's experience in setting up such portals and our robust and tested IT systems; and b) our phased approach of building the basic IT system initially to enable basic functionality, followed by further refinement.
- 3.5.14 If Brexit results in severe disruption to the WEEE processing industry, both PCSs and AATFs may be under pressure to ensure that their core businesses continue to function and may therefore be unable to provide the required information to allow the PBS to be established, or even be able to process waste and generated Evidence Notes. Given the uncertainty around Brexit at the time of proposal submittal, there is little that can be done to mitigate this risk, recognising that in the event of severe disruption to waste supply chains, both DEFRA and the waste industry are likely to focus efforts on priority issues until the situation can be stabilised.
- 3.5.15 If PCSs or LAs are either unfamiliar with the new system or opposed to the changes, this may cause both delay to implementation, and impact on the performance of the PBS. Measures to mitigate this will include AECOM providing clear instructions, briefings and helpline support to help users navigate the new system. If PCSs are resistant to the new PBS, then WAS and AECOM will provide further support and training, but if this fails to resolve the issue then will liaise with DEFRA to review alternative options. If a PCS refuses to cooperate with the mandatory PBS, then this may ultimately jeopardise the status of that PCS, but the risk to the PBS will be minimal.
- 3.5.16 If the appointment of the selected PBS is subject to challenge, there may be delay in establishing the PBS, since proper functioning of the PBS will require all PCSs to be members. If this occurs then WAS, AECOM and DEFRA will need to liaise and decide whether the establishment of the PBS will need to be delayed.



## 4. Experience of proposed operator

### Weighting 2 = 8 marks available

Where the operator chooses to appoint an independent administrator to undertake some of the PBS functions, references below to the operator can be taken to mean references to the administrator.

PCS and local authorities should have confidence in the proposed operators who should therefore demonstrate:

- 4.1 qualifications and relevant experience of the proposed operator, including any person who is a director or partner in the proposed operator and any staff who are involved;

### Background information about AECOM in the UK

- 4.1.1 AECOM is proposed to be the PBS administrator.
- 4.1.2 AECOM has become one of the largest and most respected providers of professional, technical and management support services in the UK. Its markets include construction, energy, environmental, facilities, government, oil and gas, transportation and water.
- 4.1.3 Today it has around 7,000 employees in the UK and Ireland located in 46 offices. The incorporation of URS Corporation has accelerated its vision to become the UK's premier fully integrated infrastructure firm.
- 4.1.4 Across all components of the in-project cycle – design, build, finance and operate – it is uniquely positioned to deliver a differentiated service from a global platform.
- 4.1.5 Its purpose is to create, enhance and sustain the world's built, natural and social environments. Leveraging a unique pool of resources and talent, AECOM delivers fully integrated services collaborating across disciplines and geographies to shape innovative solutions for its clients.
- 4.1.6 AECOM's ultimate parent company is a Fortune 500 company with an annual revenue in excess of \$20billion.

### AECOM's capabilities and relevant experience

#### Architecture

- 4.1.7 Through experience, client collaboration and an integrated approach, AECOM designs and delivers dynamic and innovative sustainable buildings that include stadiums and arenas, hospitals and laboratories, courthouses and detention facilities, office and industrial buildings, museums and galleries, hotels, residential towers, educational buildings and secure government facilities.

#### Building Engineering

- 4.1.8 Drawing on a global portfolio of comprehensive building engineering expertise, AECOM's design solutions reduce the environmental impact of buildings through the innovative use of technology and resources; enable innovative, efficient, comfortable and flexible spaces; and deliver cost-effectiveness from construction through the project lifecycle.



## Construction Services

- 4.1.9 From world-renowned performance venues and highly sustainable office towers to power plants, manufacturing facilities and complex government projects, AECOM's talented experts are dedicated to managing the complexity inherent in construction projects, catering to each client's unique needs. It provides services such as program management, construction management and owner's representation to its clients around the globe.

## Design and Planning

- 4.1.10 AECOM's integrated planning and design expertise enables it to shape places of many types and scales for its clients – encompassing new cities and urban districts, residential communities, corporate, educational and industrial campuses, resort destinations, and natural and cultural preserves.

## Economics

- 4.1.11 Through creative thinking, structured analysis and clear communications, AECOM address a full spectrum of needs for clients in regional and place-based economic development, urban revitalization, real estate, tourism and culture, and sustainable development. These encompass market demand, project design, public policies and regulations, site conditions, mitigation requirements, and development and financing costs to create value, manage risk and improve prospects for success.

## Energy

- 4.1.12 With efficiency to the fore, AECOM design, construct, retrofit and maintain virtually every type of power plant as well as transmission and distribution systems. Addressing clients' energy challenges, AECOM's areas of expertise include clean and renewable energy, energy efficiency and carbon management, as well as decommissioning and closure services.

## Environment

- 4.1.13 Building a better tomorrow, AECOM's team of environment specialists offer global expertise in air quality, impact assessment and permitting, environmental health and safety management, remediation consulting, construction and site restoration, specialty and emerging technologies, waste services as well as water and natural resources.

## Government

- 4.1.14 With the international presence, personnel networks and procurement infrastructure, AECOM can support practically any mission, anywhere – encompassing emergency response, logistics systems, environmental remediation, military installations and mission-focused institutional assistance. AECOM provide engineering services and critical technical support to virtually every federal agency in the United States, and numerous other national and international authorities, supporting security, prosperity and good health.

## Mining

- 4.1.15 Extracting value for clients, AECOM managers, engineers, procurement and contract specialists work across the project lifecycle – delivering quality services such as environment and sustainability, enabling infrastructure, underground and surface facilities, mineral processing, program and project management as well as global sourcing.



## Oil and Gas

- 4.1.16 Specializing in efficient solutions to deliver clients' products to market, AECOM is a leading provider of design, construction and production services across the upstream, midstream and downstream supply chain. With established relationships among some of the world's largest integrated oil and gas companies, AECOM serve the entire lifecycle of oil and gas assets, for private-sector and national/state owned entities.

### Program, Cost, Consultancy

- 4.1.17 From world class sporting venues to state-of-the-art healthcare facilities, AECOM's end market approach means it knows the market drivers inside out. With years of experience and technical knowhow, it offers cost, project management and specialist consultancy services to public- and private-sector clients around the world.

### Program Management

- 4.1.18 AECOM's experts address risk and apply creative problem solving at every stage of the program lifecycle. Responsible for the management and control of hundreds of major capital programs across all continents and market sectors, its specialties include transportation, infrastructure, mining and minerals, environmental, facilities, energy and government.

### Transportation

- 4.1.19 Delivering the solutions needed for a world in motion, AECOM provide professional services across aviation, transit, freight rail, highways and bridges, planning as well as ports and marine. Its global network of top-tier specialists delivers comprehensive services over the full life cycle of a project to benefit clients in government and private industries.

### Water

- 4.1.20 Providing clients with comprehensive, sustainable solutions, AECOM address water, wastewater and wet weather systems, desalination, resources, water reuse, tunnelling, and community infrastructure through traditional and alternative delivery services such as program management and design-build.

- 4.1.21 Examples of AECOM's involvement in similar types of projects and administration roles are listed in Schedule 8.9 and summarised in response to Part 7 section 4.2 below

## AECOM directors and staff

- 4.1.22 AECOM propose to appoint a key team to the operation and administration of the PBS, made up of suitably qualified and experienced employees.

- 4.1.23 Directors of AECOM include:

- 4.1.23.1 Andrew Noel Jones (appointed December 2015)
- 4.1.23.2 David Charles Webb Barwell (appointed November 2017)
- 4.1.23.3 Cheryl Rosalind McCall (appointed March 2018)
- 4.1.23.4 William Jan Charles Quarterman (appointed June 2018)

- 4.1.24 It is not envisaged that these directors will have an active involvement in the day to day operation of the PBS, so further details of experience and qualifications have not been supplied.





4.1.25 AECOM employees who will have a direct involvement in the administration of the PBS have supplied CVs detailing their expertise and qualifications. CV's are attached at Schedule 8.11, including:

4.1.25.1 Rick Parkman (Practice Leader for Remediation & Industrials);

4.1.25.2 Mike Bains (Waste management specialist);

4.1.25.3 Matthew Pilgrim (IT solutions); and

4.1.25.4 Lynn Morgan (Associate Environmental Consultant).

4.1.26 A CV for Prof Margaret Bates who is the proposed Chair of WAS is provided at Schedule 8.12.

### Qualifications and experience of Martin Fortune of WAS

4.1.27 Martin Fortune BSc MBA has 24 years' experience in waste and recycling industry, setting up and running a lamp recycling company (Envirolite Limited) AATF 2002-2008, set up and operator of Packcare packaging PCS (2009-present). He has a detailed knowledge of the WEEE Regulations.

4.2 *a proven track record of managing client money and third party funds combined with practical experience of working in a regulatory environment;*

### Experience of working in a regulatory environment

4.2.1 Martin Fortune BSc MBA has 24 years' experience in waste and recycling industry, setting up and running a lamp recycling company (Envirolite Limited) AATF 2002-2008, set up and operator of Packcare packaging PCS (2009-present).

4.2.2 This PBS has been designed with input from WAS and AECOM, and also with input from a number of PCSs, LAs and stakeholders as set out in the response to paragraph 1.9 above.

4.2.3 The PBS has had input from WasteCare Group Limited (largest WEEE PCS by membership and AATF operator) and Dixons Carphone Group (largest electrical retailer and collector of household WEEE in UK and AATF operator) to develop the WAS proposal.

4.2.4 WAS will be a not for profit organisation for the benefit of its members. It will be owned by those PCSs who are members of the PBS and who elect to take a single share (one PCS one vote) with directors elected for up to 2 years by PCSs so WAS can therefore call upon the collective knowledge of all PCSs.

4.2.5 WAS will have an independent chair, Prof Margaret Bates (University of Northampton) President of Chartered Institution of Wastes Management and on the advisory board of the All Party Parliamentary Sustainable Resource Group. Please refer to the CV of Prof Margaret Bates at Schedule 8.12.



## Managing client funds and third party funds.

4.2.6 AECOM has a proven track record of managing client money and third party funds combined with practical experience of working in a regulatory environment.

4.2.7 Selected AECOM projects for Government and regulators include:

4.2.7.1 **DPSA** - AECOM is the sole holder of the global goods and equipment framework for the UK Government's Department for International Development (DFID);

4.2.7.2 **FORS** - The Fleet Operator Recognition System is a paid for membership scheme, administered by AECOM on behalf of Transport for London (TfL);

4.2.7.3 **Low Level Waste Repository** - UK Nuclear Waste Management Limited, an AECOM-led consortium, operates the UK's national low level and intermediate waste repository in northern England. The facility is one of 19 sites owned by the Nuclear Decommissioning Authority (NDA); and

4.2.7.4 **Defence Infrastructure Organisation** - AECOM, in partnership with Capita and PA Consulting, has a contract with the UK Ministry of Defence (MoD) to manage the UK's national and international defence estate portfolio.

4.2.8 Funds will be managed in accordance with AECOM's relevant policies including its Anti-corruption Policy, Financial Integrity statement from its Code of Conduct and money laundering policies, internal and external auditing arrangements and relevant accreditations. Relevant policies are at Schedule 8.8.

4.3 *a clear strategy for identifying and effectively mitigating risks arising as a result of any conflicts of interest;*

### Measures to mitigate risks from potential conflicts of interest

4.3.1 The Administrator must not employ anyone from a LA, PCS or AATF. The administrator shall be independent from WAS and every PCS.

4.3.2 The chair of WAS will be independent of all PCSs to ensure impartiality.

4.3.3 Directors must stand for re-election every year and can only be a Director for a maximum of 2 years and must then stand down for at least one year before being eligible for re-election.

4.3.4 AECOM has a Conflicts of Interest Policies and Procedures document which applies and sets out the internal guidance for AECOM staff (it is an operating group of the US parent company) in identifying and managing conflicts of interest. The administration of the PBS will be in accordance with this policy which is at Schedule 8.13.

4.4 *relevant experience of setting up systems to allow data to be submitted and processed effectively;*

4.4.1 Please refer to the information provided in relation to Part 7 section 3.4 above for details on development and implementation of IT systems. Information contained in Schedule 8.9 and response to Part 7 section 4.6 demonstrates the systems that have been established and operated by AECOM involving data submission and processing.



4.4.2 Please also refer to AECOM's IT expertise and experience as detailed in Part 7 section 5.1 below.

4.5 *a robust understanding of the 2013 WEEE Regulations;*

4.5.1 The PBS administrator (AECOM) employs environmental consultants who are familiar with all EU and UK Environmental Legislation. AECOM have approximately 1000 staff in the UK.

4.5.2 WAS director Martin Fortune has formulated this PBS proposal with input from a wide range of sources, many with a detailed knowledge of WEEE Regulations and WEEE collections.

4.5.3 Martin Fortune is a director of Key Waste Solutions Limited. He has a BSc and MBA and has 24 years' experience in the waste and recycling industry. Martin Fortune set up and operated a lamp recycling company (Envirolite Ltd) AATF between 2002-2008. He set up and operated PackCare packaging PCS (2009-present), so has an excellent and in depth knowledge of the WEEE industry and the WEEE Regulations.

4.5.4 Martin Fortune will be involved in the set up of the PBS and ensuring that the administrator's systems and procedures are sufficient and suitable to ensure compliant, secure and confidential administration of the PBS, in accordance with the Code of Practice.

4.5.5 To the extent that it is required, Martin and a number of other external consultants with detailed knowledge of the WEEE Regulations will be available to AECOM during the set up and transitional periods, and beyond. To the extent that specialist advice is required on WEEE Regulations and cannot be sourced from within AECOM, it will be available from these sources.

4.5.6 WAS will have an independent chair. Professor Margaret Bates (University of Northampton) will be appointed to that role. Professor Bates is an ex-president of the Chartered Institution of Wastes Management and is on the advisory board of the All Party Parliamentary Sustainable Resource Group. Professor Bates is an expert on the WEEE Regulations.

4.6 *relevant experience of developing robust proposals for government*

4.6.1 AECOM is a long term strategic partner for the UK Government. The benefits of AECOM's scale and reach means it has access to global expertise, with a strong domestic base staffed by experts to assist the UK Government meet its infrastructure goals. AECOM has a history of delivering major infrastructure in partnership with governments around the world.

## Facility and Asset Management

4.6.2 AECOM utilises its collective technical talent from across its company to deliver a full range of major facility and asset management services to national government clients, civilian agencies and private-sector clients around the world. This includes expertise in managing complex and sensitive facilities, for example military installations, nuclear sites, air and space facilities and laboratories. These require specialised expertise in engineering, space planning, design and construction, along with a thorough understanding of potential threats.



- 4.6.3 AECOM's collective experience includes:
- 4.6.3.1 Operating military installations and other assets for the U.S. Department of Defense.
  - 4.6.3.2 Supporting UK Defence Infrastructure facilities worldwide.
  - 4.6.3.3 Decommissioning and closure of operations for legacy nuclear sites for the U.S. Department of Energy and the UK Nuclear Decommissioning Authority (NDA).
  - 4.6.3.4 Operating nuclear waste and spent fuel facilities.
  - 4.6.3.5 Managing four of the United States' largest national laboratories – Los Alamos, Lawrence Livermore, Idaho National, and the National Energy Technology Laboratories.
  - 4.6.3.6 Providing critical professional, administrative and management support (PAMS) for NASA and the United States departments of Defense, Homeland Security and State.
- 4.6.4 Supporting government agencies with threat reduction and emergency management is also a key offering. We help government clients identify new and potential vulnerabilities from natural or man-made disasters, as well as cyber and physical attacks. By assessing risks and developing executable plans to protect both human life and operability we can minimize damage and disruption during emergency situations

### Project Example - Heat Networks Investment Project (HNIP)

- 4.6.5 AECOM is part of the consortium which is delivery partner for the UK Government's Heat Networks Investment Project (HNIP). Launched by the Department for Business, Energy & Industrial Strategy (BEIS), the £320 million project will offer grants and loans to public and private sector organisations in England and Wales for new heat networks that serve two or more buildings.
- 4.6.6 Triple Point Heat Networks Investment Management is led by Triple Point Investment Management LLP and includes AECOM, Amberside Advisors Ltd, BDO LLP, Ecuity Consulting LLP, Gemserv and Lux Nova Partners Ltd. With a collective track-record of engaging with investors and supporting project developers to deliver a wide range of infrastructure projects, the consortium will be responsible for the deployment of government support for new heat networks across public and private sector estates. These could include hospitals, schools, council buildings, universities, shopping centres, industrial estates and domestic buildings.
- 4.6.7 AECOM is the technical lead for Triple Point Heat Networks Investment Management and will deliver engineering and cost consultancy services to assess the viability and deliverability of potential schemes, and will also provide guidance to applicants.



## Project Example – Materials to Land

- 4.6.8 AECOM was appointed by the Environment Agency to carry out a large scale project into the application of waste materials to land. AECOM's resources and familiarity with waste policy and permitting issues enabled it to help the EA identify risks and update their guidance to operators. AECOM's involvement was to mobilise a team to carry out a series of nationwide site sampling visits, and managed the resulting laboratory data.
- 4.6.9 Please also refer to selected examples of work carried out by AECOM for Government which are listed in Schedule 8.9. These include financial management and development of data submission and processing systems.



## 5. IT systems

### Weighting 1 = 4 marks available

Proposals should demonstrate:

5.1 *appropriate IT systems, including backup systems and security systems;*

#### Appropriate IT systems

5.1.1 Please refer to the mock-up screens at Schedule 8.1 to demonstrate the capabilities and UI of the Portal, and the descriptions of the capabilities of the Portal and IT systems of the PBS throughout this Bid. The demonstration website can be accessed using the following details:

Url	<a href="https://wasuk.org">https://wasuk.org</a>
Username	localauthority@wasuk.org
Password	L0c4l-Auth0rity!

5.1.2 AECOM's Software Solutions team is based in its Birmingham office and comprises a core team of 6 staff, who work collaboratively with other software developers within AECOM, both in the UK and internationally.

5.1.3 AECOM has a team of highly motivated professional software developers with 90+ years' combined experience in:

5.1.3.1 User requirement analysis;

5.1.3.2 Architecture/Project Management;

5.1.3.3 UX Design/Graphic Design;

5.1.3.4 Integration/Implementation; and

5.1.3.5 Maintenance/Support.

5.1.4 AECOM's IT Software Solutions team has capabilities in:

5.1.4.1 Desktop, web, office, database, cloud, reporting and mobile solutions;

5.1.4.2 Relational, Object-oriented and Spatial applications; and

5.1.4.3 Open/Closed source approaches.

5.1.5 AECOM can demonstrate experience in delivering IT contracts ranging in value between £5k and £1.75m for a range of clients including:

5.1.5.1 Network Rail;

5.1.5.2 European Investment Bank;



- 5.1.5.3 Highways England;
- 5.1.5.4 Birmingham City Council;
- 5.1.5.5 London Highways Alliance Contract;
- 5.1.5.6 Transport for London;
- 5.1.5.7 Department for Transport;
- 5.1.5.8 Derbyshire County Council;
- 5.1.5.9 Transport Infrastructure Ireland;
- 5.1.5.10 Scottish Power;
- 5.1.5.11 Los Angeles World Airport;
- 5.1.5.12 Denver International Airport;
- 5.1.5.13 Department of Communities and Local Government;
- 5.1.5.14 BP;
- 5.1.5.15 Wolverhampton City Council;
- 5.1.5.16 Welsh Government;
- 5.1.5.17 UBS;
- 5.1.5.18 West Yorkshire Combined Authority;
- 5.1.5.19 Urban Transport Group;
- 5.1.5.20 Yorkshire Water;
- 5.1.5.21 London Organising Committee of the Olympic and Paralympic Games; and
- 5.1.5.22 Siemens.

5.1.6 AECOM's IT team develops software solutions for both internal and external projects. Examples of selected external projects include:

- 5.1.6.1 TransPennine Route Upgrade;
- 5.1.6.2 National Road Index Online;
- 5.1.6.3 Smartcard data analysis;
- 5.1.6.4 Pre-emptive traffic management;
- 5.1.6.5 Compliance Monitoring Tool;
- 5.1.6.6 Freight Online Recognition Scheme;



- 5.1.6.7 Carpark Decisions Support Tool;
- 5.1.6.8 Insight Platform;
- 5.1.6.9 European Investment Bank;
- 5.1.6.10 Renewable Energy Map for Wales;
- 5.1.6.11 Yorkshire Water Modelling;
- 5.1.6.12 Construction Logistics & Cycle Safety;
- 5.1.6.13 Denver International Airport;
- 5.1.6.14 Los Angeles World Airport;
- 5.1.6.15 Aviste App;
- 5.1.6.16 LoHAC iPad App;
- 5.1.6.17 Scottish Noise Mapping;
- 5.1.6.18 Oil Spill Response;
- 5.1.6.19 Operational Rating Calculator;
- 5.1.6.20 Personal Journey Planner;
- 5.1.6.21 Travel Diary Data Capture;
- 5.1.6.22 Trail Tracker; and
- 5.1.6.23 Capital Programme Tool.

## Backup and security systems

- 5.1.7 AECOM's software solutions team is familiar with incorporating resilience into our solutions, and it works for a wide range of clients for whom IT security is a critical issue (e.g. in the defence, nuclear and infrastructure sectors).
- 5.1.8 As an example of how AECOM has addressed backup and security issues in other projects, AECOM's development of the FORS system and included the following measures:

### Backups and resilience

- 5.1.8.1 The FORS website resides on two virtual private servers (VPS). A "LIVE" environment that hosts the current public facing site, and the other "STANDBY" environment that hosts a backup of live and our development (DEV) and user acceptance testing (UAT) environments.
- 5.1.8.2 The website files and database is automatically mirrored from LIVE to STANDBY throughout the day. Therefore, if LIVE were to go down for any extended period of time, AECOM can simply switch the DNS to standby. Switching from





one server to the other with very little downtime.

5.1.8.3 As well as the mirroring to standby, database and file backups are produced every 24 hours and downloaded to a secure location within the AECOM network.

5.1.8.4 FORS receives many file uploads per day which consumes a large amount of disk space. AECOM implemented a secure link to AWS S3 storage to host the majority of uploads and prevent excessive disk consumption on the VPS.

5.1.8.5 FORS email mailboxes are hosted on different VPS to keep the webserver and mail server separate.

#### Security

5.1.8.6 [REDACTED]

5.1.8.7 [REDACTED]

5.1.8.8 [REDACTED]

5.1.8.9 [REDACTED]

5.1.8.10 [REDACTED]

5.1.8.11 [REDACTED]

5.1.9 AECOM's Data Protection and IT Security policy is at Schedule 8.4 and provides more information on IT security.

5.2 *appropriate IT support.*

5.2.1 IT support will be provided by AECOM's Software Solutions team, based in Birmingham, and will be available during office hours. IT support would be free at the point of use, and the costs of providing this support will be included in AECOM's overall administration charge.

#### Examples of IT support provided by AECOM

5.2.2 AECOM Software Solutions team have many years' experience in supporting and maintaining complex systems for clients including Transport for London (TfL) and the European Investment Bank. Examples of support provided includes:

5.2.2.1 Answering technical enquiries;

5.2.2.2 Producing documentation;

5.2.2.3 Delivering training;



- 5.2.2.4 Maintaining and patching live systems;
- 5.2.2.5 Upgrading and enhancing live systems; and
- 5.2.2.6 Archiving and handing over project resources.

### The Fleet Operator Recognition Scheme (FORS).

- 5.2.3 An example IT project carried out by AECOM is the **Fleet Operator Recognition Scheme (FORS)**.
- 5.2.4 The FORS is a paid for membership scheme, administered by AECOM on behalf of TfL. It is designed to offer best practice information and advice to commercial vehicle operators who travel to or within the capital.
- 5.2.5 AECOM is commissioned to manage, develop and deliver the FORS benchmarking system, together with a series of workshops and online operator toolkits which focus on reducing fuel use, CO2 emissions, Penalty Charge Notices and accidents in the freight sector.

### Capabilities of FORS

- 5.2.6 The web based system:
  - 5.2.6.1 Allows users to Submit evidence for recognition;
  - 5.2.6.2 Allows users to Maintain performance records for their fleet;
  - 5.2.6.3 Assists administrators in the management of recognised members;
  - 5.2.6.4 Provides detailed reporting of operator performance;
  - 5.2.6.5 Integrate with 3rd Parties via bespoke APIs;
  - 5.2.6.6 Delivers a Content Management System and eLearning platform; and
  - 5.2.6.7 Provides an interactive map of member locations.
- 5.2.7 In design and developing this system, AECOM's software solutions included:
  - 5.2.7.1 Open Source Technology – PHP and MySQL;
  - 5.2.7.2 Agile software development and maintenance:
  - 5.2.7.3 Design and Implementation of API to integrate with third parties; and
  - 5.2.7.4 Developing online operator toolkits covering safety, fuel and PCNs.
- 5.2.8 AECOM's team has tested the system and delivers training. The Software team maintains parallel environments for development and user acceptance testing. They regularly work with external development teams to integrate Application Programming Interfaces to allow server-to-server communication.



5.2.9 The Team will give training to AECOM help desk and to external partners as part of transition and on an “as required” basis.

#### Other support provided

5.2.10 AECOM also provides on-going support and maintenance, including:

5.2.10.1 Helpdesk support;

5.2.10.2 Hosting and maintenance of web site; and

5.2.10.3 Administering and maintenance of database.

## 8. Part 8 – Schedules

- 8.1 **8.1 Screenshots of the portal and sample invoice**
- 8.2 **8.2 Summary of the review which took place by the Director of WAS, confirming consistency**
- 8.3 **8.3 AECOM Privacy Programme Client Statement**
- 8.4 **8.4 AECOM Data Protection and IT security Policy**
- 8.5 **8.5 WAS membership Terms and Conditions**
- 8.6 **8.6 Proposed form of contract between WAS and AECOM**
- 8.7 **8.7 Opinion of Counsel**
- 8.8 **8.8 AECOM Policies and Procedures**
- 8.9 **8.9 Summary of AECOM relevant experience**
- 8.10 **8.10 WAS and AECOM Implementation Schedule**
- 8.11 **8.11 CVs of AECOM staff engaged in administration role**
- 8.12 **8.12 CV of Professor Margaret Bates**
- 8.13 **8.13 AECOM Conflicts of Interest Policies and Procedures**



## **Schedule 8.1**

### **Screenshots of a Mock-up of the Portal and Sample Invoice**

## LOGIN DETAILS FOR THE PORTAL

Website: <https://wsuk.org>

Username: [localauthority@wasuk.org](mailto:localauthority@wasuk.org)

Password: L0c4l-Auth0rity!



[Home](#)

# New Regulation 34 Request

Use this service to:

- Submit a new Regulation 34 request

[Start now >](#)

## Before you start

You'll need to have the authority to make a request for the collection of WEEE under Regulation 34 of the WEEE Regulations on behalf of your Local Authority

You'll need:

- The addresses of the DCFs
- Quantities of material at the DCFs
- Proof that there is no longer a contract in place with a PCS

## Useful Links

[Producer Compliance Schemes](#)

[WEEE Guidance](#)

[More](#)



[◀ Back](#)

## Contact details

Full name



Your position

UK telephone number

Email address

We'll only use this to send you a receipt

### Your address

Building and street



[◀ Back](#)

### Containers and amounts

	Average Monthly Weight (Te)	Container Type
Group A: Large domestic appliances	<input type="text"/>	<input type="text"/>
Group B: Cooling	<input type="text"/>	<input type="text"/>
Group C: Display	<input type="text"/>	<input type="text"/>
Group D: Lamps	<input type="text"/>	<input type="text"/>
Group E: Small mixed WEEE	<input type="text"/>	<input type="text"/>
<b>Total (Tonnes)</b>	0	

[Save and continue](#)



# Bid Summary

Site 1 - £1,600

Site 2 - £1,800

Site 3 - £3,705

## Site 1

	Tonnes per year	£cost per tonne	Forecast annual cost
Group A: Large domestic appliances	1	£100.00	£100.00
Group B: Cooling	1	£200.00	£200.00
Group C: Display	1	£250.00	£250.00
Group D: Lamps	1	£150.00	£150.00
Group E: Small mixed WEEE	1	£900.00	£900.00
		<b>Subtotal</b>	<b>£1,600.00</b>

Overall cost of bid

£7,105.00



This bid is final, once you have submitted, you cannot change the values. Before continuing, please check that you are happy to provide all the services you have quoted for at the rates above.

Submit Bid

Sample Monthly invoice to Participant

Name of PCS

Invoice number:

Invoice Date:

Date when Direct Debit payment will be collected from Participants account, or date when payment due:

Evidence to be transferred to Participants WEEE Settlement Centre Account:

	tonnes	£ ave / tonne	total cost
Category 1 =	1.000	£50.00	£50.00
Category 2 =	0.500	£100.00	£50.00
Category 3 =	0.000		
Category 4 =	0.000		
Category 5 =	2.000	£100.00	£200.00
Category 6 =	0.000		
Category 7 =	0.000		
Category 8 =	0.000		
Category 9 =	1.000	£80.00	£80.00
Category 10 =	0.000		
Category 11 =	0.000		
Category 12 =	0.000		
Category 13 =	0.700	£150.00	£105.00
Category 14 =	0.000		
<b>Total evidence this month =</b>	<b>5.200</b>		<b>£485.00</b>
Variable management fee per £1.00 of evidence cost		£0.05	<b>£24.25</b>
Fixed monthly management fee		£100.00	£100.00
		Total net cost	<b>£609.25</b>
		VAT	£121.85
		<b>Total Gross Cost</b>	<b>£731.10</b>

# Schedule 8.2

**Summary of the review which took place by the director of WAS, confirming consistency with the Code of Practice**

# WEEE Code of Practice

## Who it applies to

The WAS PBS allows a DCF to make a Regulation 34 request to a PCS for the collection of household WEEE stored at the DCF. The contract between WAS and the PCSs will clarify that the Code of Practice (CoP) must be adhered to.

## When it doesn't apply

The WAS PBS does not allow a DCF to make a Regulation 34 request to a PCS for the collection of non-household WEEE stored at the DCF.

The WAS PBS has no connection with the Distributer Take Back Scheme (DTS).

The WAS PBS has no connection with DCF approval.

It is acknowledged that all PCSs will have to join the WAS PBS as part of their approval as a PCS.

## Why we must meet the code

It is acknowledged that a PCS must follow the CoP as part of its approval as a PCS.

## DCF Operator Responsibilities

The Portal will include a link to the CoP when a Local Authority (LA) logs in to submit information for a Regulation 34 request. The LA will have to tick a box saying they understand and agree to abide by CoP. The CoP and adherence to it will also be referenced in the template contract for PCS and LA.

### WEEE collection streams

The Portal is set up so that the five streams of WEEE in the CoP will be reported and recycled. It is noted that DCF can mix small and large WEEE, or display and lamps, if there is authority approval in place.

### Reuse of whole items

The additional time allowed for bids by PCSs under the WAS PBS will allow additional time for PCSs to source re-use options for WEEE. In addition, when more than one nil-cost bid is received, the Local Authority will be able to select a PCS partner based on their re-use solution in addition to the use of local charities, etc.

### DCF self-clearance and treatment

Where a DCF decides to operate in this manner, no Regulation 34 requests to a PCS will be possible and the WAS PBS will not be required.

### Choose a PCS

Any request to a PCS may be passed to all PCSs via the WAS PBS portal.



## **Contract between the DCF and PCS**

WAS will provide a sample contract that PCSs and LAs can use. This is based upon the requirements of the CoP and will include a clear requirement to collect contracted WEEE. Alternatively, PCSs and LAs can use their own design as long as it covers the requirements of the CoP.

It is noted that there must be no ceiling on quantity of WEEE collected. A statement to this effect will be included in tender invites and the sample contract. As the winning PCS will be paid for collections by all WAS members, there is no incentive for the PCS to restrict collections of WEEE.

## **Third party arrangements**

This will be incorporated into the template DCF vs PCS contract stating that a PCS is responsible for ensuring any haulage subcontractors and AATFs they use will have the correct permits and documentation and also abide by the CoP, and that any subcontractor the LA uses on its DCF are the responsibility of the LA.

## **DCF – site practice**

It will be clarified in the sample contract that the PCS is responsible for providing containers as part of their responsibilities and that the DCF must not remove any components from WEEE.

## **PCS Responsibilities**

### **WEEE collection containers**

PCSs will confirm in any bid that the rate includes the costs of any container provision.

### **Transporting the WEEE**

PCSs will confirm in any bid that the rate includes the costs of any transport provision using suitably licenced hauliers in compliance with any regulatory requirements.

### **WEEE treatment standards**

PCSs will confirm in any bid that all separately collected WEEE cleared from DCFs shall be treated in line with best available treatment, recovery and recycling techniques.

## **Failure to meet the code**

The sample contract will highlight that non-compliance can lead to cancellation of the PCS approval. If either party does not comply with the CoP they can be reported to the appropriate agencies. If a LA terminates the contract then they can make a fresh Regulation 34 request and the LA may reject that PCS's winning bid for a limited period for future WEEE collection opportunities.



**Schedule 8.3**

**AECOM Privacy Program Client Statement**

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# Privacy Program

## Client statement

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### About AECOM

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AECOM (NASDAQ: ACM) is a global network of experts working with clients, communities and colleagues to develop and implement innovative solutions to the world's most complex challenges.

Delivering clean water and energy. Building iconic skyscrapers. Planning new cities. Restoring damaged environments. Connecting people and economies with roads, bridges, tunnels and transit systems. Designing parks where children play. Helping governments maintain stability and security.

We connect expertise across services, markets, and geographies to deliver transformative outcomes. Worldwide, we design, build, finance, operate and manage projects and programs that unlock opportunities, protect our environment and improve people's lives.

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### Mission and Strategy

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At AECOM we take our responsibilities to protect the privacy of our employees, our clients and our shareholders very seriously. AECOM's privacy program includes a privacy team comprised of legal, human resources, marketing, IT, and operational experts who are fully up-to-speed on requirements and best practices issued by international regulatory bodies, including the European Commission, the UK Information Commissioners' Office, the European Union (EU) Article 29 Data Protection Working Party, and others as appropriate.

### Mission Statement

We will ensure the confidentiality, integrity, and availability of AECOM's information assets, in order to safeguard our intellectual property, customer and employee personal data.

### Strategy

The program adopts an adaptive approach to data protection based on regulatory requirements, industry best practices and common privacy and security principles.

Our approach is based on:

- Global privacy principles and data protection laws and regulations
- Global data protection policies, procedures and guidelines
- The secure transfer and storage of all data held within the control of the company
- The secure storage of all physical equipment under the control of the company
- The implementation and integration of associated standards in conjunction with client and regulatory requirements
- The use of objective measurement processes/equipment and analysis;
- Continuous improvement of process to meet or exceed legislation, regulations and relevant Codes of Practice applicable to our business and business strategy;
- Provision of robust user and phishing awareness programs.

### EU-U.S. Privacy Shield

AECOM complies with the EU-U.S. Privacy Shield Framework ("Privacy Shield") as set out by the U.S. Department of Commerce regarding the collection, use, and retention of personal information transferred from the European Union to the United States. AECOM has certified to the Department of Commerce that it adheres to the Privacy Shield Principles. To learn more about the Privacy Shield program, and to view our certification, please visit <https://www.privacyshield.gov>.

AECOM's participation in the Privacy Shield applies to all personal information that is transferred from the European Union, the European Economic Area, and Switzerland to the United States. AECOM will comply with the Privacy Shield Principles in respect of such personal information.

## AECOM's Privacy Framework

People	Human Resources	<ul style="list-style-type: none"> <li>Pre-employment screening and checks</li> <li>Privacy and security awareness training.</li> <li>AECOM Ethics Hotline for reporting concerns</li> </ul>
	Policies and Standards	<ul style="list-style-type: none"> <li>Documented policies and standards to cover technologies in use</li> <li>Documented data protection and privacy policies</li> <li>Vendor management</li> <li>Privacy and security risk management</li> <li>Communication, review and revision</li> <li>Breach response</li> <li>Business continuity</li> </ul>
Process	Physical Security	<ul style="list-style-type: none"> <li>Access control systems</li> <li>Data center access control systems with 24x7 support</li> </ul>
	Audit and Compliance	Support to compliance requirements and audit and assessment programs imposed by clients and regulations
	Security Risk Controls	<ul style="list-style-type: none"> <li>Firewalls, network and host intrusion detection</li> <li>Vulnerability scanning and penetration testing</li> <li>Incident response</li> <li>Hardened servers and workstations</li> <li>Authentication complexity and screen locks</li> <li>Patch management, logging, change control</li> </ul>
Technology		

### More Information

Questions can be sent to your business contact or to [privacyquestions@aecom.com](mailto:privacyquestions@aecom.com)

## Commitment to Compliance

The following measures are in place to ensure AECOM protects the privacy of its employees, clients and investors at all times:

- A [Global Privacy Statement](#) which sets out AECOM's third-party personal data management practices.
- Privacy and security awareness communications and training tailored to business units and specific functions.
- A working group focused on compliance with the EU's General Data Protection Regulation (GDPR).
- Use of EU Model Clauses (also known as Standard Contractual clauses) with third parties who are not certified under the Privacy Shield or who are transferring data to non-approved countries outside the United States.
- Strict vendor management process for third party sub-contractors we hire as part of the services provided to clients, which includes data protection contract terms for vendors hosting or accessing personal data and a Privacy Impact Assessment in the case of large-scale processing of personal data. Third parties must also complete a privacy compliance questionnaire and submit copies of external assessment reports, such as SSAE-16 and ISO 27001 audit statements.
- A Data Protection Officer in the EU
- Mature Governance, Risk, Compliance and Information Security Program led by AECOM's Chief Information Security Officer. AECOM's program is designed to protect all information assets proactively by employing a "Predict-Prevent-Detect-Respond- Innovate" approach.
- Robust breach and incident response plan and reporting requirements.

## Cyber Essentials Plus Certification

- AECOM's UK offices are certified under the Cyber Essentials Plus requirements. Cyber Essentials is a government-backed, industry-supported scheme to help AECOM protect its network from common cyber attacks
- In order to maintain this certificate, AECOM undergoes rigorous auditing by a trusted external certifying body, using a range of tools and techniques.



**Schedule 8.4**

**AECOM Data Protection and IT Security Policy**

## Data Protection and IT Security

### Data Protection:

AECOM understands and manages its requirement to ensure that held data is processed fully in accordance with the General Data Protection Regulations 2018

AECOM operating companies AECOM Limited, AECOM Environmental Solutions Limited and AECOM Infrastructure & Environment UK Limited are registered under the Data Protection (Charges and Information) Regulations 2018 with the Information Commissioner's Office.

The registration numbers are:

AECOM Limited: Z9142576, AECOM Environmental Solutions Limited: ZA274047, AECOM Infrastructure & Environment UK Limited: Z8781017

AECOM's procedures relating to the management of information are maintained from board-level with guidance from recognised auditors Ernst & Young. We have a Data Protection Officer whose role is to oversee and advise on our procedures for the management of data and compliance.

### Security Standards

AECOM ranks the confidentiality of the information it gathers and the proprietary interests of its clients among its highest priorities. AECOM is engaged by a wide range of clients demanding the highest data security requirements including the Ministry of Defence in the UK and the Department of Defence in the United States.

AECOM uses a multi layered security model to control access to our company computer systems and resources. Security begins at a physical level by strictly controlling access to our offices, server and communication rooms. Network access is managed by Microsoft's domain security model which is strictly audited to ensure all accounts and password meet company policy.

Access to project data is controlled, on request, by the Project Director and can be granularly applied to manage team or individual user access to folders, sub-folders or files as required by the client. AECOM control access to client and or project data at a granular level on all our internal systems to an appropriate level of security to meet the sensitivity of the data being held. This can be accomplished by reviewing and quantifying the risk and level of security required.

Staff who require remote access to AECOM's network resources are securely managed by using certificate based secondary authentication which ensures only AECOM computers can connect to the network. Access is provided through secure network hubs which are equipped with Cisco firewall, intrusion detection and logging devices which are monitored 24 x 7 by our Network Management provider; Cisco Remote Operations.



All desktop, laptop and server equipment is protected by Microsoft's Forefront Client Security software which provides anti-virus and malware protection.

If required, project specific resources such as laptop and desktop computers can be encrypted. Details of individual client requirements can be included as part of project requirement discussions.

All Inbound and outbound email communications are processed by Microsoft's secure Frontbridge email filtering service. This allows all mail to be scanned and processed before it reaches AECOM's internal network.

### GDPR

Any data that falls under the auspices of the GDPR is stored and managed in the AECOM "GDPR Enclave".

The Enclave is file storage physically in AECOM London, UK Data Centre.

The enclave can only be accessed by authorised user and then only to specific areas/folders specific to the user.

Access utilises 2 factor authentications. The enclave records all interactions with data in the enclave and so is fully auditable

### Incident Response

AECOM maintains a global incident response team which is prepared to handle all forms of computer emergencies, including data breaches. The AECOM Computer Emergency Response Team (AECOM-CERT) follows documented and tested procedures based upon industry best practices in order to respond to each situation in an efficient, effective and repeatable way.

AECOM also maintains an internal data forensics capability for those situations which require forensic investigation or which may end up being associated with a prosecution. Our procedures derive from a number of industry sources including the 'Forum for Incident Response and Security Teams' (FIRST) and their 'Best Practices Guide Library' (BPGL).

The AECOM-CERT actively monitors AECOM's computing environment for any signs of malicious activity. If an attack is discovered, every effort is made to block or quarantine it as quickly as possible. In the event of a security incident in which client data is put at risk the AECOM-CERT quickly notifies both AECOM Management and our General Counsel. Throughout the entire incident response process an emphasis is placed upon maintaining an appropriate level of communication with all stakeholders, keeping all parties informed and engaged.

**Schedule 8.5**

**WAS Membership Terms and Conditions**

(1)	WEEE ALLOCATION SCHEME UK LIMITED
(2)	[THE INITIAL PARTICIPANTS]
<b>WAS Membership Terms and Conditions</b>	

NOTE: This document is a draft, suggested form of contract to deal with the contractual arrangements between WAS and the Participants, each as defined. It is subject to settlement between the parties.

THIS AGREEMENT IS MADE ON.....

**BETWEEN:**

- (1) WEEE ALLOCATION SCHEME UK LIMITED a company registered in England and Wales with company number 10934842 whose registered office is at Corner Oak 1, Homer Road, Solihull, West Midlands, England, B91 3QG (“**WAS**”); and
- (2) Each of the parties listed in Schedule 1 (each a “**PCS**” and together, the “**PCSs**”).

**BACKGROUND:**

- (A) WAS operates on behalf of the Secretary of State to ensure that the costs of any WEEE collected under a Regulation 34 WEEE Regulations request is shared equitably in proportion to market share amongst all PCSs.
- (B) Membership of the PBS is mandatory for all authorised PCSs. WAS is selected to operate a PBS on behalf of the Secretary of State.
- (C) Regulation 34 of the WEEE Regulations provides a mechanism whereby local authorities can request the collection, treatment, recovery and environmentally sound disposal of Household WEEE by compliance schemes in the circumstances set out in Regulation 34.

**IT IS AGREED**

**1. DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement, capitalised terms shall have the meanings attributed to them in the WEEE Regulations and otherwise:

“**Administrator**” means the entity appointed by WAS to operate the System.

“**Admission Information**” means such information as the Administrator may reasonably require from a Participant in order to operate the System in accordance with this Agreement, including, without limitation, the EEE Market Share Reports for that Participant as provided to the Participant by the relevant regulatory authority and any subsequent revised notifications. This will also include PCS contact details for correspondence and invoicing, identity of the Authorised Representative(s) for the PCS, PCS bank details and PCS VAT registration details.

“**Appropriate Authority**” has the same meaning as set out in Regulation 2 in the WEEE Regulations.

“**Authorised Representative**” has the same meaning as set out in Regulation 2 in the WEEE Regulations.

“**Compliance Period**” has the same meaning as set out in Regulation 2 in the WEEE Regulations except that the first compliance period is defined herein and shall not be

interpreted for the purpose of this Agreement, in accordance with the reference to the same as it is set out in the WEEE Regulations.

**“Confidential Information”** means all information of a confidential nature (however recorded or preserved), of a party, that is either disclosed to, or otherwise obtained by, another party under or in connection with this Agreement whether before, on or after the date of this Agreement, including bid breakdowns submitted and bidder identity pursuant to this Agreement, and information relating to the business, affairs, customers, clients, suppliers, plans, intentions or market opportunities, operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party.

**“Data Protection Laws”** means as applicable in the UK, the General Data Protection Regulation (EU) 2016/679 (“GDPR”), the Data Protection Act 2018.

**“DEFRA”** means the Department for Environment, Food and Rural Affairs.

**“DCF”** means a Designated Collection Facility as defined in Regulation 2 of the WEEE Regulations.

**“DCF Data Form”** means a form on which a LA will provide details relating to the DCF.

**“Deed of Adherence”** means a deed substantially in the form set out in Schedule 2, under which a PCS agrees to be a Participant and a party to this Agreement after the date of this Agreement.

**“EEE Market Share Reports”** means a market share household obligation report showing the WEEE placed on the market by category for each PCS during the compliance period which shall set out the market share of each PCS in relation to the fourteen WEEE categories.

**“Evidence Notes”** has the same meaning as set out in Regulation 2 in the WEEE Regulations.

**“First Compliance Period”** means the Compliance Period in which this Agreement is signed.

**“Handling”** means, in the context of Household WEEE, collection, treatment, recovery and environmentally sound disposal and **“Handle”** shall be interpreted accordingly.

**“Household WEEE”** means WEEE from private households, as the same is defined in the WEEE Regulations.

**“Initial Participants”** means each of those PCSs which are party to this Agreement as at the date hereof, the details of which are set out in Schedule 1.

**“Interim Tender”** shall have the meaning given to it in clause 4.13.

**“LA”** means a Local Authority or any person to whom the local authority has designated responsibility for the operation of a DCF.

**“Nil Cost Bid”** shall have the meaning given to it in clause 4.6.

**“Participant”** means each of the Initial Participants and any other PCS that may become a participant pursuant to this Agreement as a result of entering into a Deed of Adherence in substantially the form as set out in Schedule 2.

**“PBS”** means a producer balancing scheme as the same is defined in Regulation 2 of the WEEE Regulations.

**“Regulation 34 Request”** means a request made to a Participant by the LA pursuant to Regulation 34 of the WEEE Regulations where the Participant receiving the request has satisfied itself that the criteria set down in Regulation 34 of the WEEE Regulations and guidance issued from time to time by one or more of the Appropriate Authorities have been met in their entirety.

**“Second Compliance Period”** means the Compliance Period immediately following the First Compliance Period.

**“Settlement Centre”** means the initiative funded by certain of the Appropriate Authorities which, amongst other things, records the collection quantities of Household WEEE.

**“System”** means the system to be set up pursuant to this Agreement whereby the costs of Handling Household WEEE pursuant to Regulation 34 of the WEEE Regulations are shared across participating PCSs.

**“WEEE Categories”** means the categories of EEE as set out in the WEEE Regulations.

**“WEEE Regulations”** mean the Waste Electrical and Electronic Equipment Regulations 2013.

**“Working Day”** means a day upon which clearing banks are open for normal business in London.

**“Working Hours”** means the hours of 09:00 to 17:00 GMT, adjusted as necessary for daylight saving provisions, on a Working Day.

- 1.2 Clause and Schedule headings shall not affect the interpretation of this Agreement.
- 1.3 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the Schedules.
- 1.4 In this Agreement, unless the context otherwise requires:
  - 1.4.1 words in the singular include the plural and vice versa and words in one gender include any other gender;
  - 1.4.2 reference to a “person” includes any individual (and their personal representatives), firm, body corporate, association, partnership, government or state (whether or not having a separate legal personality);

- 1.4.3 reference to clauses and schedules are to clauses and schedules of this Agreement;
- 1.4.4 reference to any provision of this Agreement is to that provision as amended;
- 1.4.5 references to statutes, statutory instruments (including the WEEE Regulations) and provisions of any of them shall be construed as amended, re-enacted, consolidated or replaced from time to time and as including, as appropriate, any subordinate legislation made under them in any such case from time to time; and
- 1.4.6 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.
- 1.5 Except where expressly stated otherwise, no provision of this Agreement shall govern or limit the extent or application of any other provision.
- 1.6 This Agreement shall not come into effect until executed by WAS and each of the Initial Participants.
- 2. ADMINISTRATOR SELECTION**
- 2.1 The Administrator for the First Compliance Period and the Second Compliance Period shall be Aecom Infrastructure & Environment UK Ltd, a company registered in England and Wales with company registration number 00880328, whose registered office is at Midpoint, Alencon Link, Basingstoke, Hampshire, RG21 7PP.
- 2.2 A working committee set up by WAS and comprising a representative of each Participant wishing to participate in the working committee shall select and appoint the Administrator for those Compliance Periods following the First Compliance Period and the Second Compliance Period. The Administrator’s appointment shall continue for one such Compliance Period unless extended for a further Compliance Period pursuant to this clause 2.2, (save in respect of the initial appointment of the Administrator which shall run for the First Compliance Period and the Second Compliance Period).
- 2.3 The selection of the Administrator for any subsequent Compliance Period after the First Compliance Period and the Second Compliance Period shall take place not less than 3 months prior to the start of the third Compliance Period and each subsequent Compliance Period thereafter.
- 2.4 WAS shall determine the terms upon which the Administrator is appointed provided always that the Administrator is required to operate the System in the manner set out in this Agreement and in accordance with the WEEE Regulations and other applicable law.



3. **BECOMING A PARTICIPANT**

- 3.1 WAS shall allow any authorised PCS to become a Participant in accordance with the WEEE Regulations.
- 3.2 No PCS may become a Participant until it has executed this Agreement as at the date hereof or otherwise by way of execution of a Deed of Adherence (if later) to become a party to this Agreement (as amended) and be bound by its terms.
- 3.3 A Participant shall provide the Admission Information to the Administrator within 5 Working Days of execution of this Agreement or a Deed of Adherence as the case may be and shall provide the Administrator with any updates to such information within 5 Working Days of any changes to the same. Each Participant shall ensure that all information provided by it to the Administrator is accurate and complete in all respects.
- 3.4 WAS shall procure that the Administrator requests that the relevant Appropriate Authority verifies the EEE Market Share Reports provided to it from time to time by each Participant. Each Participant authorises the relevant Appropriate Authority to provide such verification to the Administrator, and shall, without undue delay, provide such confirmation to that Appropriate Authority as that Appropriate Authority may require regarding such authorisation.

4. **OPERATION OF THE SYSTEM**

*Regulation 34 requests*

- 4.1 If a Participant receives a Regulation 34 Request then, at its sole discretion, it may either:
- 4.1.1 finance itself the Handling of the Household WEEE arising from that Regulation 34 Request; or,
  - 4.1.2 make a request to the Administrator in writing that the Handling of the Household WEEE arising from that Regulation 34 Request is managed via the System.
- 4.2 The Participant making a request under clause 4.1 shall ensure that the Administrator has a completed DCF Data Form, which will identify the LA, DCF addresses, WEEE Categories to be collected and average annual quantity for each WEEE Category, date from which collections are required and date to which collections are required, the maximum duration being 12 months. This information is necessary to assist the Participants in preparing their bids with due diligence.
- 4.3 The Administrator will receive written confirmation from the LA on whether the LA wishes to have a single PCS responsible for all the DCFs listed or whether that LA would accept a different PCS for each DCF and/ or each WEEE category or WEEE categories. If the LA wants a single PCS for any or all of the WEEE Categories and/ or any or all of the DCFs listed, then such details will be listed on the same DCF Data Form for those WEEE Categories. The lowest overall cost for the aggregated DCFs will be

selected by the Administrator to service all relevant DCFs. If the LA does not require a single PCS then the DCFs will be listed on separate DCF Data Forms and the lowest overall cost for each individual DCF will be selected by the Administrator. In each case, this shall be referred to as the winning bid.

- 4.4 WAS shall procure that the Administrator notifies all Participants, within 1 Working Day, of any validated and competed Regulation 34 Request made pursuant to clause 4.1.2 and makes available to all Participants within 1 Working Day the information on the DCF data forms. Such notification shall act as an invitation to each Participant to submit a bid in response to the Regulation 34 Request.

*Response to Regulation 34 request and appointment of winning bidder*

- 4.5 All Participants are eligible and invited to bid an all-inclusive (save for VAT) price per tonne to Handle that stream of Household WEEE. Each Participant willing to bid shall do so in writing within 8 Working Days of the notification referred to in clause 4.4 via electronic means using the Administrator's template documents. The overall bid cost is calculated by the sum of the total costs of each individual WEEE Category to be collected either separately or together with other WEEE Categories as specified by the LA and shall be calculated by multiplying the rate per tonne quoted by the bidding Participant for each WEEE Category, by the number of tonnes per annum of the same WEEE Category shown on the DCF Data Form. The Administrator shall select the Participant with the lowest overall cost to Handle that Household WEEE. Incomplete bids which do not include a cost against each WEEE Category requiring collection will not be accepted. A sample form of a regulation 34 bid response by a PCS is set out in Schedule 3 and sample pages from the proposed WAS portal are set out in Schedule 4.

- 4.6 Where a Participant is willing to finance the Handling of all of the streams of Household WEEE that are the subject of the Regulation 34 Request it shall submit a bid of £nil (**Nil Cost Bid**) and advise the Administrator in writing using the Administrator's template document. At the end of the 8 Working Day tender period, the Administrator shall submit details of all Nil Cost Bids to the relevant LA making the request so that the LA may select a Participant to undertake the Regulation 34 collection(s).

- 4.7 The winning bid shall be selected by the Administrator except where more than one Nil Cost Bid has been received.

- 4.8 Any WEEE to be collected pursuant to a Nil Cost Bid shall cease to qualify as a Regulation 34 Request and all WEEE evidence shall be retained by the winning Participant.

- 4.9 The Participant selected by the Administrator in accordance with this Agreement shall:

4.9.1 enter into a contract with the LA on terms and conditions suitable to that LA as such parties shall determine;

- 4.9.2 except in relation to interim collections, within 5 Working Days of appointment or on any start date requested by the LA (whichever is later), procure the collection of the Household WEEE arising from the Regulation 34 Request;
- 4.9.3 procure the treatment, recovery and environmentally sound disposal of that Household WEEE; and
- 4.9.4 submit or procure the submission of the Evidence Notes (which in each case, shall be credited to that Participant's Settlement Centre account in the name of the Administrator, or in the event that the Administrator account is not available to such other Settlement Centre account as that Participant shall direct) to the Administrator for approval in the manner directed by the Administrator;

in each case in accordance with the WEEE Regulations and all other applicable laws, codes of practice and other best practice guidance and in each case, at its own cost and expense.

*Notification of outcome of bidding process and appointment of Participant*

- 4.10 Within 5 Working Days of selection, the Administrator shall notify all Participants of the value of the lowest overall bid but not the breakdown of costs nor the identity of any of the bidders. Where the lowest overall cost is a Nil Cost Bid the Administrator shall notify the Participants that the successful bid is a Nil Cost Bid but shall not identify any bidder.
- 4.11 The Administrator shall allocate evidence to the Participants in proportion to their EEE market shares for the relevant WEEE Categories in accordance with the information held by the Administrator at the time of such allocation. EEE market shares shall be calculated in accordance with the EEE Market Share Reports of each Participant by reference to its producers and are calculated by WEEE category in the proportion A/B where A and B are defined in the WEEE Regulations 28 (3). For the avoidance of doubt, Evidence Notes shall be issued in accordance with any protocols agreed by the Appropriate Authorities from time to time, for example, for Small Mixed WEEE.
- 4.12 Where a collection is allocated to a Participant in accordance with this clause 4, that Participant shall Handle any subsequent Regulation 34 Request in respect of the same stream of Household WEEE from the same DCF, at the same price per tonne, during the duration of this Agreement.

*Interim Collection arrangements and Interim Tenders*

- 4.13 WAS shall procure that the Administrator generates a list of all LAs in the UK and the regions to which those LAs are allocated by reference to the postcodes of their DCFs. For each LA or region, the Administrator shall create a DCF Data Form in which the weight of WEEE by WEEE Category will not be stated. All Participants will be invited to submit a price per tonne per category to collect an unknown quantity of WEEE for each LA within the relevant region known as an interim tender (**Interim Tender**). Interim Tenders shall specify the LA or region to which they apply. Interim Tenders will be held

by the Administrator and details of the same will not be disclosed to Participants or stakeholders. Interim Tenders may be amended, updated or withdrawn by the Participant by notifying the Administrator in writing but shall remain current until such notification is received by the Administrator.

4.14 If the LA requires a Regulation 34 WEEE collection from a DCF:

4.14.1 within 3 (three) weeks of notification of the winning bid; or

4.14.2 before the winning Participant is able to make the first collection in accordance with this Agreement;

whichever is the lesser,

the Administrator will arrange for collections in the interim. The Administrator will select the Participant which has submitted the lowest Interim Tender price for that LA or those DCFs. The selected Participant shall then Handle that Household WEEE in accordance with the provisions of clause 4.9 until a Participant has been appointed and can commence collections in accordance with this clause 4. The Evidence Notes arising from the collection of such Household WEEE shall be allocated to a Settlement Centre account in the name of the Administrator.

4.15 If no Participant makes a bid in response to a Regulation 34 request and there is no Interim Tender in force for that WEEE Category of that LA then WAS shall procure that the Administrator shall select a Participant to Handle the relevant Household WEEE, based upon a randomly ordered rotation created by the Administrator, and the remainder of clause 4.9 shall apply to the Handling of that Household WEEE. The Participant selected shall charge for the Handling of such Household WEEE at cost plus 10% (ten percent).

4.16 Each Participant selected to Handle Household WEEE pursuant to this clause 4 shall provide the Administrator on request, with such non-confidential information, including but not limited to photographs and sub-contractor details, necessary to complete the DCF Data Form and will update the Administrator of any significant changes. This information may be used by the Administrator in future Regulation 34 Request responses and may be made available to any other Participant which makes a future Regulation 34 Request response or subsequently makes a collection of Household WEEE from the same DCF via the System.

4.17 Any LA may approach the Administrator to pre-notify that it is likely to exercise its rights under Regulation 34 of the WEEE Regulations, before being entitled under the WEEE Regulations to do so. Notwithstanding that this pre-notification shall not represent a valid Regulation 34 Request for the purposes of this Agreement, WAS shall procure that the Administrator treats such pre-notification as if it were a Regulation 34 Request submitted to it under this Agreement and the provisions of this Agreement shall then apply, save that:

- 4.17.1 Handling of the Household WEEE by that Participant shall not commence until conditions (A) to (C) inclusive of Regulation 34 of the WEEE Regulations have been met; and
- 4.17.2 Handling of the Household WEEE from that LA shall take place in accordance with a schedule mutually agreed between the selected Participant and the LA, which may exceed 5 Working Days following the date of pre-notification; and
- 4.17.3 where the Administrator receives such pre-notification, WAS shall procure that the Administrator shall require the LA to confirm in writing that it will use the Participant(s) selected by the Administrator for collections once a valid Regulation 34 Request is made.
- 4.18 Where a LA makes a Regulation 34 Request directly to the PBS, for the purposes of the WEEE Regulations, that Regulation 34 Request shall be deemed to be a request to every PCS approved under Regulation 55 of the WEEE Regulations.
- 4.19 Each Participant selected to finance the Handling of Household WEEE pursuant to this clause 4 shall indemnify the Participant requesting that the corresponding Regulation 34 Request is managed via the System, against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the requesting Participant arising out of or in connection with the selected Participant's breach or negligent performance or non-performance of its obligations to finance the Handling of that Household WEEE in accordance with this Agreement.
- 4.20 WAS shall procure that the Administrator does not make the identity of that Participant making the collection:
- 4.20.1 known to WAS; or
  - 4.20.2 to other Participants; or
  - 4.20.3 any third party other than the Administrator; or
  - 4.20.4 the LA; or
  - 4.20.5 as required by law.
- 4.21 WAS and each Participant undertakes to comply with applicable competition law at all times in connection with the performance of all obligations and exercising of all rights under or in connection with this Agreement.
- 4.22 WAS shall make reasonable efforts to make available, a web-based portal for use by the Participants in order to facilitate communication between WAS (and the Administrator) and each Participant. It is not intended that such portal be used for any exchange of information between Participants and the Participants each agree not to use the same for such purposes and to use the same only for communication between

it and WAS (and the Administrator). Without prejudice to the generality of the foregoing, in particular, Participants must not:

- 4.22.1 use the portal to in any way collude unlawfully or seek any competitive advantage; nor
  - 4.22.2 use any information to which the Participant has access, for any purpose other than in connection with the proper participation in the System.
- 4.23 WAS reserves the right to itself or require the Administrator to monitor trends and market activity with a view to detecting any unusual patterns of activity in the market and to monitor the use of the web-based portal referred to in clause 4.22 with a view to identifying :
- 4.23.1 any breach by a Participant of any of its obligations or any of the restrictions in clause 4.22; and/or
  - 4.23.2 any trends, patterns or usage of the web based portal or the information used in connection with such portal which may indicate a possible breach of any of the obligations and restrictions in clause 4.22.27.
- 4.24 The Participant's attention is specifically drawn to the complaint procedures referred to in clause 25. Without in any way affecting the intended scope of such complaints procedures, Participants are notified that any breach or other matter identified in accordance with any of the provisions of clause 4.22 or clause 4.23 and further, any complaints of discrimination between PCSs, shall be dealt with and assessed in accordance with the complaints procedures.
- 4.25 The LA will be entitled to reject the Participant's winning bid where previous complaints have been made to WAS (or the Administrator) and upheld about the performance of that Participant or its agents and / or its subcontractors in relation to that LA. The ability to reject the bid shall only apply for the duration of the Compliance Period in which the complaint was made or 6 months, whichever longer. If a winning bid is rejected the Administrator will award the contract to the next lowest bidder. If the Participant is the subject of complaints referred to in this clause 4.25, the Participant (or its subcontractors) acknowledges that the LA may refuse to accept the Participant's winning bid in which case, WAS (or the Administrator) shall award the relevant contract to the next lowest bidder.
- 4.26 Nothing in this Agreement shall prevent any Participant, at any time, from approaching any LA with a view to reaching an agreement for Handling of any Household WEEE outside of the scope of this Agreement.
- 4.27 No Participant shall be permitted to exercise any of its rights under this Agreement nor shall it have any obligations or liabilities under this Agreement until such time as WAS advises the Participants that the System is fully operational.

4.28 For the purposes of the requirements and obligations set out in this clause 4, where an obligation is stated as falling on the Administrator, the obligation shall be construed as an obligation on WAS to procure that such obligation is met by the Administrator.

## 5. **FINANCE AND COSTS**

5.1 WAS shall set a Participant participation charge for each Compliance Period which shall be invoiced to and payable by each Participant. Ongoing charges will be made up of two elements;

5.1.1 a variable monthly cost relating to the administration costs incurred during the relevant period, apportioned in accordance with the Participant's WEEE evidence costs for that period; and

5.1.2 fixed monthly administration cost divided equally amongst all Participants.

5.2 The Administrator shall recharge the costs of setting up the System to all Participants as an initial joining fee payable upon each Participant joining the PBS. Each Participant joining the Scheme during the first Compliance Period will pay an equal share of those recharge costs. A sample monthly invoice is set out in Schedule 5 for ease of reference.

5.3 The Participant shall ensure that payment of the invoice is made within 7 Working Days of the invoice date. If payment is not received within such 7 Working Day period, the Administrator shall issue a reminder in writing to the PCS. The Administrator shall be entitled to set off any amounts due to a Participant against any unpaid amounts invoiced by the PBS or Administrator to that Participant.

5.4 WAS shall procure that the Administrator will set up an escrow bank account into which payments from Participants are made, and from which money will be paid out to those Participants who have completed Regulation 34 collections in accordance with the System. Payment to the Administrator for approved management fees and to other third parties for expenses liabilities and obligations also shall be made from this account by the Administrator.

5.5 Those Participants who have submitted winning bids other than Nil Cost Bids and have collected WEEE in accordance with Regulation 34, shall submit WEEE Evidence into the Administrator's Settlement Centre Account and shall invoice the Administrator for this evidence at the rates submitted in their bid in accordance with the System. Evidence and invoices submitted to the Administrator after the 7th of each month will not be processed until the end of the calendar month after the month in which it was submitted.

5.6 Correct invoices received from Participants on or before the 7th day of the month will be paid by the Administrator on the last Working Day of the same quarter. Where a Participant and the Administrator have agreed in advance, the Administrator may self-bill Participants for the WEEE evidence they have submitted.

- 5.7 All costs of the Handling of WEEE shall be invoiced by the Administrator to the Participant on a monthly basis in arrears, adjusted as necessary between Participants. Where a Participant joins the PBS during a Compliance Period, WAS shall procure that the Administrator shall raise a correctly addressed VAT invoice (as relevant) to each Participant for the relevant operational costs.
- 5.8 Where WAS takes over the operation of the PBS part way through a Compliance Period, the Administrator will ensure that the cost of Regulation 34 requests is distributed fairly amongst all Participants for the relevant Compliance Period, based on the market share of costs paid by each Participant by WEEE Category for the whole Compliance Period.
- 5.9 Other than a Nil Cost Bid, the costs incurred by a Participant for Handling a stream of Household WEEE shall be shared on a pro-rata basis between the Participants in accordance with the EEE market share of the Participants in respect of that stream of Household WEEE and in accordance with such information as is held by the Administrator at the time of the collection of the Household WEEE. The market share for each Participant shall be calculated as  $A/B$  where A and B are defined in WEEE Regulation 28(3). Such costs shall be aggregated by WEEE Category and invoiced or credited (as the case may be and together with VAT where applicable) to the Participants by the Administrator on a monthly basis in arrears on or before the 14th day of each month. Invoices will not reveal any Confidential Information.
- 5.10 Where a Participant becomes a member of the PBS (once such PBS has been approved by the Secretary of State) during the First Compliance Period or part way through any Compliance Period, the Participant shall be responsible for the relevant participation charge in accordance with clause 5.1 plus the Administrator's administration costs plus its share of Household WEEE Handling costs as if it had been a Participant for the entirety of the relevant Compliance Period. The Participant will be entitled to receive its market share of WEEE Evidence and costs as if it had been a Participant for the entirety of the relevant Compliance Period provided that the Administrator shall determine when that evidence is transferred to the Participant.
- 5.11 Each invoice raised under this Agreement by the Administrator shall be settled by the relevant Participant within 7 Working Days of its date, the Administrator may facilitate this by collecting monies from the Participant under a Direct Debit arrangement. Interest shall be payable on invoices not so settled at the rate of 4 per cent per annum above the Bank of England base rate in force from time to time from the due date for payment until actual payment is made (irrespective of whether the date of payment is before or after any judgment or award in respect of the same). WAS (or the Administrator) reserves the right to charge a fee of £100 per late payment in order to cover administrative costs in connection with the same.
- 5.12 The Participants remain open to, and shall, where appropriate, explore alternative sources of funding for the operational costs of the System, including utilising the compliance fee raised pursuant to the WEEE Regulations, should these become feasible at any point in time.



- 5.13 If it is not possible to recover payment from a Participant or where a Participant ceases to be a PCS, the unrecovered costs will be shared amongst the remaining Participants on a pro rata basis based on each Participant's market share by category of WEEE. Any evidence available from the non-paying Participant will be distributed amongst the remaining participants on the same basis.
- 5.14 Each Participant shall:
- 5.14.1 at all times, be responsible for its employees, agents and contractors;
  - 5.14.2 procure that all agents, employees and contractors which it may from time to time appoint in the performance of its obligations under or in connection with this Agreement, comply with all applicable law relevant to its or their performance including as to health and safety, manual handling and environmental legislation;
  - 5.14.3 put in place with its agents, employees and contractors which it may from time to time appoint in the performance of its obligations under or in connection with this Agreement, written terms which are no less onerous than those set out in this Agreement;
  - 5.14.4 implement and procure compliance with such policies and procedures by those members of its supply chain (including compliance with any policies and procedures referred to in this Agreement) so as to maintain the standards of the System throughout such supply chain.

## 6. **AUDIT AND CONTINUOUS IMPROVEMENT**

- 6.1 WAS shall use reasonable endeavours to procure that it is entitled, from time to time, to inspect the records of the Administrator with regard to the operation of the System.
- 6.2 Audits shall be conducted by an independent third party designated by WAS. The scope of such audit shall be set by WAS at all times acting in good faith. Such audit shall take place not more frequently than once in any calendar year. WAS shall procure that the auditor operates under a confidentiality and non-disclosure contract in a sufficient form to ensure that no Confidential Information of a Participant is disclosed to either WAS or any other Participant except as required for the proper performance of the System. WAS shall require that the independent auditor shall present its findings to the independent chair of WAS and provide a copy of the same to DEFRA and further, that it will provide an edited version of such findings by way of a report to all WAS directors with any relevant Confidential Information redacted where appropriate.
- 6.3 WAS shall procure that the Administrator carries out, at its own cost and expense, such corrective action as is required following an audit.
- 6.4 WAS shall procure that the Administrator chooses an accountant, approved by WAS, to complete annual accounts for the System and submit the same to Companies House. The management accounts will be made available to all shareholders of WAS.

6.5 WAS will establish a “Continuous Improvement Committee” to monitor the performance of WAS and the Administrator and ensure that the requirements of the agreement with the Administrator are adhered to. The purpose of the Continuous Improvement Committee will also discuss investigate, research and propose changes and additions that will improve the delivery of the System and assist Participants in complying with the WEEE Regulations or improve System efficiency. Membership of the Continuous Improvement Committee will be open to all Participants and may seek specialist assistance as it may determine, the Chair of the Continuous Improvement Committee will be a Director of WAS and shall be elected by all Participants annually. The Chair may remain in post for a maximum of 2 years and thereafter, may not, from the end of the term of appointment as Chair, stand for re-election for such position, for a further 1 year. The Continuous Improvement Committee will report any findings and proposals to the Participants subject at all times to any duties of confidentiality to which it is subject.

## 7. **TERMINATION**

7.1 A PCS must be a Participant of WAS in the Compliance Periods where it is approved to operate the PBS on behalf of the Secretary of State as this is part of the Conditions of Approval for a PCS in the WEEE Regulations. It is not envisaged that a Participant shall leave the PBS unless it no longer operates as a PCS except where permitted to do so in accordance with the WEEE Regulations.

7.2 A Participant may transfer its shareholding at any time given that it is not mandatory to take a shareholding initially. Any such transfer by the Participant shall not otherwise have an effect on the operation of this Agreement.

7.3 WAS may terminate this Agreement with a particular Participant with immediate effect (which for the avoidance of doubt, shall not otherwise affect the continuance in full force and effect of this Agreement with the remaining Participants) where that Participant concerned:

7.3.1 fails to pay any money owing by it to WAS or the Administrator on the due date for payment and remains in default not less than 28 Working Days after being reminded in writing to make such payment as referred to in clause 5.3;

7.3.2 ceases to hold its approval as a PCS in respect of Household WEEE from the date on which such Participant ceases to hold its authorisation as a PCS (and for such purposes, the parties hereto acknowledge Regulation 34B of the Waste Electrical and Electronic Equipment (Amendment) (No. 2) Regulations 2018 which require that any PCS shall be a member of the System); or

7.3.3 an order is made or a resolution is passed for the winding-up of the Participant or an order is made for the appointment of an administrator to manage the affairs, business and property of the Participant or such an administrator is appointed or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by the Participant or its directors or by a qualifying floating charge holder (as defined

in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the Participant's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or the Participant takes or suffers any similar or analogous action in consequence of debt in any jurisdiction;

in each case, provided that such termination right and the exercise thereof is not precluded by the WEEE Regulations.

7.4 This Agreement shall terminate with immediate effect (or otherwise on any period of notice specified in the WEEE Regulations or by the Secretary of State) in the event that WAS ceases to be authorised by the Secretary of State to operate the System, taking account at all times of any requirements set out in the WEE Regulations any other requirements stipulated by the Secretary of State to account for transitional arrangements.

7.5 A Participant may terminate its participation in this Agreement by giving written notice to WAS and where required for the proper operation of the System, to other the other Participants (which for the avoidance of doubt, shall not otherwise affect the continuance in full force and effect of this Agreement with the remaining Participants):

7.5.1 on serving not less than [ x ] days' notice such that the Agreement terminates at the expiry of that notice period in which case, that Participant may continue to operate as a PCS in respect of waste other than Household WEEE;

7.5.2 an order is made or a resolution is passed for the winding-up of WAS or an order is made for the appointment of an administrator to manage the affairs, business and property of WAS or such an administrator is appointed or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by WAS or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a receiver and/or manager or administrative receiver is appointed in respect of all or any of WAS's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or WAS takes or suffers any similar or analogous action in consequence of debt;

7.5.3 with immediate effect where that Participant ceases to hold its approval as a PCS;

in each case, provided that such termination right and the exercise thereof is not precluded by the WEEE Regulations.

## 8. EFFECTS OF TERMINATION

- 8.1 On termination of this Agreement or a Participant ceasing to be a party to this Agreement, all sums arising under this Agreement and not paid at the date of such termination, or cessation date as the case may be where a Participant is ceasing to be party to this Agreement, shall become immediately due and payable (and where a Participant ceases to be a party to this Agreement, only to the extent payable by that Participant).
- 8.2 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.
- 8.3 Termination of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.
- 8.4 In the event that WAS is no longer appointed to operate the PBS such that the Secretary of State at any time withdraws its approval of WAS as PBS operator, the Participant acknowledges and agrees that WAS (and/or the Administrator as the case may be) is authorised to transfer to any incoming operator of a PBS, such information as WAS (and/or the Administrator as the case may be) holds as at the time at which WAS ceases to hold the relevant approval as PBS operator, such transfer being effected for the purposes of continuity and for the operation of an appropriate replacement to the System operated by WAS.

## 9. **CONFIDENTIALITY**

- 9.1 WAS and each Participant undertakes that it shall not at any time disclose to any person any Confidential Information concerning the System, WAS, the Administrator or any Participant except as permitted by clause 9.2 or clause 9.3.
- 9.2 The parties acknowledge that in order for the System to operate in accordance with the terms of appointment of WAS by the Secretary of State, certain information which may otherwise have been classed by the parties hereto as Confidential Information will need to be disclosed among Participants and to other interested parties. Accordingly, the parties acknowledge and agree that nothing in this clause 9 is intended in any way to preclude or prevent the publication, disclosure or use of information of information (whether the same would otherwise have been classed as Confidential Information or not) in so far as the same is necessary for the proper operation of the System and Confidential Information shall not for the purposes of this Agreement include any information which is to be disclosed, published or otherwise used in the proper operation of the System by WAS and/or the Administrator.
- 9.3 WAS and each Participant may in addition to disclosures in accordance with clause 9.2, disclose Confidential Information:

- 9.3.1 to its contractors, representatives and advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement (which shall include, without prejudice to the generality of the foregoing, the Administrator) and each Participant shall ensure that its contractors, representatives and advisers to whom it discloses Confidential Information comply with terms equivalent to this in this clause 9; or
- 9.3.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 9.4 Neither WAS nor any Participant shall use any Confidential Information which it receives under or in connection with this Agreement for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.
- 9.5 WAS shall procure that the Administrator is bound by confidentiality provisions no less onerous than those set out in this Agreement.
- 9.6 Further and subject at all times to the provisions of clauses 9.2 and 9.3, WAS acknowledges the importance of maintaining confidentiality in connection with the System. Accordingly, WAS shall use reasonable endeavours to procure that the Administrator shall enter into an agreement with the Participant on terms in a form substantially similar to those included in Schedule 6.
- 9.7 The provisions of this clause 9 shall survive the termination of this Agreement and, in respect of Participants, continue to apply to a party following it ceasing to be a Participant.
10. **ENTIRE AGREEMENT**
- 10.1 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.
- 10.2 Each party acknowledges that in entering into this Agreement it does not rely on, and 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.
- 10.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.
- 10.4 Nothing in this clause shall limit or exclude any liability for fraud.
11. **NOTICES**
- 11.1 For the purposes of this clause 11, but subject to clause 11.5, notice includes any other communication.

- 11.2 A notice given to a party under or in connection with this Agreement:
- 11.2.1 shall be in writing;
  - 11.2.2 shall be signed by or on behalf of the party giving it;
  - 11.2.3 shall be sent to the party for the attention of the contact and at the contact details listed in Schedule 1;
  - 11.2.4 shall be sent by a method listed in clause 11.4; and
  - 11.2.5 unless proved otherwise, is deemed received as set out in clause 11.4 if prepared and sent in accordance with this clause.

11.3 A party may change its details given in Schedule 1 by giving notice, the change taking effect for the party notified of the change at 9.00 am on the later of:

- 11.3.1 the date, if any, specified in the notice as the effective date for the change; or
- 11.3.2 the date 5 Working Days after deemed receipt of the notice.

11.4 This table sets out:

- 11.4.1 delivery methods for sending a notice to a party under this Agreement; and
- 11.4.2 for each delivery method, the corresponding delivery date and time when delivery of the notice is deemed to have taken place provided that all other requirements in this clause have been satisfied:

<b>Delivery method</b>	<b>Deemed delivery date and time</b>
Delivery by hand.	On signature of a delivery receipt.
Email.	Immediately.
Pre-paid first class post or other next working day delivery service providing proof of postage.	9.00 am on the second Business Day after posting.

This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any method of dispute resolution.

**12. COSTS**

12.1 Each party shall pay its own costs incurred in connection with the negotiation, preparation, and execution of this Agreement.

**13. WAIVER**

13.1 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.

**14. FURTHER ASSURANCE**

14.1 Each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.

**15. SEVERANCE**

15.1 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, 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.

15.2 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.

**16. VARIATION**

16.1 Save as expressly provided in this Agreement, no variation to the rights and obligations of the parties pursuant to this Agreement shall be effective unless agreed in writing (including by email) by authorised representatives of each of WAS and 75% of Participants.

**17. NO PARTNERSHIP OR AGENCY**

17.1 Except to the extent expressly stated or otherwise in accordance with the operation of the System, nothing in this Agreement shall constitute or be deemed to constitute a partnership, agency or joint venture between the parties hereto or constitute or be deemed to constitute any party the agent of the other for any purpose whatsoever and no party shall have any authority or power to bind the others or to contract in the name of or create a liability against the others.

**18. COUNTERPARTS**

18.1 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

**19. GOVERNING LAW AND JURISDICTION**

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

19.2 Subject to the provisions of clause 25, each party irrevocably agrees that the courts of England and Wales have non-exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation but the parties reserve the right to propose and engage in Alternative Dispute Resolution procedures they may proposed and may deem suitable in the context of any particular dispute or claim.

## 20. **GDPR**

20.1 The parties acknowledge that from time to time in performing their obligations under this Agreement, each may disclose Personal Data to the other(s). The parties however anticipate that the amount of Personal Data which will be disclosed between them is likely to be minimal and is unlikely to include any Personal Data which is defined as special category personal data in the GDPR. To the extent that a party may act as a Controller or Processor (as defined in the GDPR) in the processing of Personal Data under this Agreement, then the following provisions of this clause 20 shall apply.

20.2 Each party will comply with all applicable requirements of Data Protection Laws. This Clause 20 is in addition to, and does not relieve, remove or replace, a party's obligations under Data Protection Laws.

20.3 Without prejudice to the generality of Clause 20.2, to the extent that a party is a Processor of any Personal Data it shall:

20.3.1 only act on the Controller's documented instructions;

20.3.2 put appropriate measures in place to keep the Personal Data secure;

20.3.3 take reasonable steps to protect the confidentiality of the Personal Data, including ensuring that all Processor personnel are obliged to keep the Personal Data confidential (but for clarity, the obligation in this clause 20.3.3 is in addition to and shall not in any way affect the confidentiality obligations of each of the parties in clause 9);

20.3.4 assist the Controller, by taking appropriate technical and organisational measures insofar as is possible, in fulfilment of the Controller's obligations to respond to requests for the exercise of Data Subjects' rights under Data Protection Laws;

20.3.5 not transfer any Personal Data outside the European Economic Area;

20.3.6 not engage a sub-processor without the prior written consent of the Controller (except that nothing in this sub-clause 20.3.6 shall prevent WAS from appointing



such contractors, agents or other representatives as it may from time to time determine);

- 20.3.7 at the Controller's written request, delete or return the Personal Data and copies thereof to the Controller on termination of this Agreement, unless required by any applicable law to store the Personal Data or otherwise for the proper operation of the System;
  - 20.3.8 assist the Controller, at the Controller's cost, in responding to any requests from a Data Subject and in ensuring compliance with the Controller's obligations under Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators; and
  - 20.3.9 make available to the Controller all information necessary to demonstrate compliance with this clause 20 and shall submit to audits and inspections conducted by the Controller or the Controller's representative.
- 20.4 A Processor may disclose the Personal Data to third parties as reasonably required:
- 20.4.1 where required to do so by law;
  - 20.4.2 to exercise the Processor's legal rights or defend itself against legal claims;
  - 20.4.3 to assist with the investigation or prevention of illegal activity;
  - 20.4.4 where the Controller has given the Processor explicit consent to do so; and/or
  - 20.4.5 where the Processor is otherwise permitted to do so by law.
- 20.5 Data Subject, Personal Data, Processing, Processor, Controller have the meanings given in Data Protection Laws.

## 21. **ANTI-BRIBERY AND ANTI-CORRUPTION**

- 21.1 The parties undertake to maintain high standards with regard to ethics and shall:
- 21.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);
  - 21.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
  - 21.1.3 adhere to the such ethics, anti-bribery and anti-corruption policy polices of WAS (or at WAS's option, those of the Administrator as the case may be), as WAS may specify and as may be updated from time to time (**Relevant Policies**); and
  - 21.1.4 have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures under

the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and clause 21.1.2 and will enforce them where appropriate.

21.2 Each Participant shall:

21.2.1 promptly report to WAS and the Administrator any request or demand for any undue financial or other advantage of any kind received in connection with the performance of this Agreement;

21.2.2 immediately notify in writing if a foreign public official becomes an officer or employee of it or acquires a direct or indirect interest in it and each Participant warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of this Agreement; and

21.2.3 within 1 month of the date of this Agreement, and annually thereafter, certify to each of WAS and the Administrator, in writing signed by an officer of the Participant, compliance with this clause 21.2.3 by the Participant and all persons associated with it.

21.3 The Participant shall provide such supporting evidence of compliance as WAS or the Administrator may reasonably request.

21.4 Each Participant shall ensure that any person associated with it who is performing services in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person, terms equivalent to those imposed on the Participants in this clause 21 (**Relevant Terms**). The Participant shall be responsible for the observance and performance by such persons of the Relevant Terms and shall be directly liable for any breach by such persons of any of the Relevant Terms.

21.5 Breach of this clause 21 shall be deemed a material breach of this Agreement.

21.6 For the purpose of this clause 21, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 21, a person associated with the Participant includes but is not limited to any subcontractor of a Participant.

## 22. **CRIMINAL FINANCES ACT COMPLIANCE**

22.1 Each party shall:

22.1.1 not engage in any activity, practice or conduct which would constitute either a UK tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017, or a foreign tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017;

- 22.1.2 not do, or omit to do, any act that will cause or lead another party to commit an offence under section 45(1) or section 46(1) of the Criminal Finances Act 2017 or be in breach of any relevant policies; and
- 22.1.3 have and shall maintain in place throughout the term of this Agreement such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including personnel of the party and any of its subcontractors) and to ensure compliance with clause 22.1.1 (or in the case of WAS, use reasonable endeavours to procure such policies and procedures from the Administrator).
- 22.2 Each Participant shall:
- 22.2.1 promptly report to WAS and the Administrator any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017, in connection with the performance of this Agreement; and
- 22.2.2 if requested, provide WAS and the Administrator with any reasonable assistance to enable it to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with Part 3 of the Criminal Finances Act 2017 or any of the Relevant Policies.
- 22.3 If WAS or the Administrator reasonably suspects a Participant or any person associated with that Participant of a breach of this clause 22, each of WAS and the Administrator and its and their third party representatives shall have the right to immediately access and take copies of any records and any other information held at the relevant Participant's premises and to meet with the Participant's personnel to audit its compliance with its obligations under this clause 22. The Participant shall give all necessary assistance to the conduct of such audit during the term of this Agreement and for a period of three years after termination of this Agreement (or the Participant's adherence to it as the case may be).
- 22.4 Each party shall keep at its normal place of business, detailed, accurate and up-to-date records and books of account showing the steps taken to comply with its obligations under this clause 22 during the previous six years. Each party shall ensure that such records and books of accounts are sufficient to enable the other party to verify that party's compliance with its obligations under this clause 22 and shall permit access to the same on reasonable notice during normal business hours, to access and take copies of records and any other information held at its premises and to meet with relevant personnel to audit its compliance with its obligations under this clause 22. Such audit rights shall continue for six years after termination of this Agreement.
- 22.5 Each party warrants and represents that:
- 22.5.1 any statements made in respect of anti-facilitation of tax evasion are complete and accurate; and

- 22.5.2 neither it nor any of its officers, employees or other persons associated with it:
- 22.5.2.1 have been convicted of any offence involving tax evasion or the facilitation of tax evasion;
  - 22.5.2.2 having made reasonable enquiries, so far as it is aware, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence concerning tax evasion or the facilitation of tax evasion;
  - 22.5.2.3 have been or is listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or other government contracts including, without limitation, any exclusion under regulation 57 of the Public Contracts Regulations 2015 (SI 2015/102) or regulation 80 of the Utilities Contracts Regulations 2016 (SI 2016/274).
- 22.6 Each Participant shall promptly notify WAS and the Administrator if, at any time during the term of this Agreement, its circumstances, knowledge or awareness changes such that it would not be able to repeat the warranties set out in clause 22.5 at the relevant time.
- 22.7 Breach of this clause 22 shall be deemed a material breach of this Agreement.
23. **FREEDOM OF INFORMATION AND EIR**
- 23.1 “**Information**” and “**Request for Information**” shall for the purpose of this clause 23 have the meanings set out in the Freedom of Information Act 2000 (**FIA**) or the Environmental Information Regulations 2004, SI 2004/3391 (**EIR**) as relevant.
- 23.2 The parties acknowledge that DEFRA and LAs are subject to the requirements of the FIA and the EIR. The parties agree that they shall each promptly and fully assist and cooperate with the Administrator (and where relevant, WAS as the case may be) to enable the Administrator (or WAS if relevant) to respond to any requests for assistance from DEFRA, any LA and any other relevant person which is subject to FOIA and EIR, dealing with its obligations thereunder (**Request for Assistance**).
- 23.3 Where the Administrator (or WAS) receives a Request for Assistance in respect of which it shall require a Participant’s assistance, it shall inform the Participant of its receipt as soon as reasonably practicable, with an explanation of the information or assistance required from the Participant.
- 23.4 While the Administrator (or WAS) may, if practicable and appropriate, consult with the Participant in relation to whether any information relating to a Participant should be disclosed as part of a Request for Assistance, it shall not be obliged to do so and the

Participants acknowledge that the decision as to compliance with the FIA and the EIR shall ultimately be the responsibility of those entities which are bound to comply with the same.

23.5 The Participant shall provide to the Administrator (or WAS) such information as the Administrator (or WAS) may require in response to a Request for Assistance as soon as practicable and in any event by not later than three days following the date of the Request for Assistance.

24. **THIRD PARTY RIGHTS**

24.1 The parties acknowledge that a number of rights are granted to the Administrator in accordance with the terms hereof as a third party to the Agreement. Except as expressly stated otherwise, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. Any rights which exist or are available apart from that Act are not affected.

24.2 The rights of the parties to rescind or vary this Agreement are not subject to the consent of any other person.

25. **COMPLAINTS PROCESS AND RESOLUTION OF DISPUTES**

25.1 WAS shall itself adopt and adhere to and shall use all reasonable endeavours to procure that the Administrator shall adopt and adhere to, appropriate complaints procedures (both internal and external) for the purposes of dealing with any complaints relevant to this Agreement or the System. Each Participant shall adhere to such complaints procedures and shall take all steps and provide such information as reasonably required, to facilitate the proper operation of those procedures and any subsequent investigation whether by WAS, and/or the Administrator and/or where relevant, any independent person appointed in connection with the same.

25.2 The parties shall use reasonable endeavours and act in good faith in following the complaints process referred to in clause 25.1 with a view to dealing with any complaints as efficiently and as cost effectively as can reasonably be achieved in the circumstances. Further, the parties shall follow such complaints process prior to reverting to any action to be undertaken in accordance with clause 19.

This document has been executed as a Deed and is delivered and takes effect on the date stated at the beginning of it.

**SCHEDULE 1 - Initial Participants**

<b>Name</b>	<b>Company number</b>	<b>Address</b>	<b>Contact name</b>	<b>Email address</b>	<b>Telephone number</b>

DRAFT

## SCHEDULE 2 – Deed of Adherence

This **Deed** is dated .....

### Parties:

- (1) **WEEE ALLOCATION SCHEME UK LIMITED** registered in England and Wales with company number 8663591 whose registered office is at Corner Oak 1, Homer Road, Solihull, West Midlands, England, B91 3QG (“**WAS**”); and
- (2) [ ] **LIMITED** registered in [ ] with company number [ ] whose registered office is at [ ] (the “**New Participant**”).

### 1. DEFINITIONS AND INTERPRETATION

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

“**Effective Date**” means the date of this Deed.

“**Agreement**” means the WAS Membership Terms and Conditions entered into between (1) WAS and (2) the Initial Participants dated [ ].

2. Unless the context otherwise requires, words and expressions used in this Deed shall have the meaning given to them in and shall be interpreted in accordance with the Agreement.

### 3. ADHERENCE TO THE WAS MEMBERSHIP TERMS AND CONDITIONS

- 3.1 The New Participant confirms that it has been supplied with a copy of the Agreement. The New Participant undertakes to WAS (and by way of separate covenant to each of the Participants), with effect from the Effective Date, to be bound by, observe and perform in accordance with the Agreement, as if the New Participant had been a party to the Agreement as an Initial Participant.

### 4. COUNTERPARTS

- 4.1 This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

### 5. GOVERNING LAW AND JURISDICTION

- 5.1 This Deed and any disputes or claims arising out of or in connection with it, 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.

5.2 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 deed or its subject matter or formation (including non-contractual disputes or claims).

This document has been executed as a Deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by WEEE ALLOCATION  
SCHEME UK LIMITED acting by [NAME OF  
DIRECTOR] a director, in the presence of:

.....  
[SIGNATURE OF DIRECTOR]  
Director

Witness Signature: .....  
Witness Name: .....  
Witness Address: .....  
.....  
.....

Executed as a deed by [NEW PARTICIPANT] acting  
by [NAME OF DIRECTOR] a director, in the  
presence of:

.....  
[SIGNATURE OF DIRECTOR]  
Director

Witness Signature: .....  
Witness Name: .....  
Witness Address: .....



# Bid Summary

Site 1 - £1,600	Site 2 - £1,800	Site 3 - £3,705	
<b>Site 1</b>			
	<b>Tonnes per year</b>	<b>£cost per tonne</b>	<b>Forecast annual cost</b>
<b>Group A: Large domestic appliances</b>	1	£100.00	£100.00
<b>Group B: Cooling</b>	1	£200.00	£200.00
<b>Group C: Display</b>	1	£250.00	£250.00
<b>Group D: Lamps</b>	1	£150.00	£150.00
<b>Group E: Small mixed WEEE</b>	1	£900.00	£900.00
		<b>Subtotal</b>	<b>£1,600.00</b>
<b>Overall cost of bid</b>			£7,105.00

**!** This bid is final, once you have submitted, you cannot change the values. Before continuing, please check that you are happy to provide all the services you have quoted for at the rates above.

[Submit Bid](#)

## SCHEDULE 4 - PCS Bid Template for Regulation 34 Collections

Proposed form of web-based portal for use by PCS



WEEE ALLOCATION SCHEME

[Home](#)

# New Regulation 34 Request

Use this service to:

- Submit a new Regulation 34 request

[Start now >](#)

## Before you start

You'll need to have the authority to make a request for the collection of WEEE under Regulation 34 of the WEEE Regulations on behalf of your Local Authority

You'll need:

- The addresses of the DCFs
- Quantities of material at the DCFs
- Proof that there is no longer a contract in place with a PCS

## Useful Links

[Producer Compliance Schemes](#)

[WEEE Guidance](#)

[More](#)



[◀ Back](#)

## Contact details

Full name

Your position

UK telephone number

Email address

We'll only use this to send you a receipt

**Your address**

Building and street





[← Back](#)

**Containers and amounts**

	Average Monthly Weight (Te)	Container Type
<b>Group A: Large domestic appliances</b>	<input type="text"/>	<input type="text"/>
<b>Group B: Cooling</b>	<input type="text"/>	<input type="text"/>
<b>Group C: Display</b>	<input type="text"/>	<input type="text"/>
<b>Group D: Lamps</b>	<input type="text"/>	<input type="text"/>
<b>Group E: Small mixed WEEE</b>	<input type="text"/>	<input type="text"/>
<b>Total (Tonnes)</b>	0	

**Save and continue**

## SCHEDULE 5 - Sample Monthly Invoice to Participant

Sample Monthly invoice to Participant

Name of PCS

Invoice number:

Invoice Date:

Date when Direct Debit payment will be collected from Participants account, or date when payment due:

Evidence to be transferred to Participants WEEE Settlement Centre Account:

	tonnes	£ ave / tonne	total cost
Category 1 =	1.000	£50.00	£50.00
Category 2 =	0.500	£100.00	£50.00
Category 3 =	0.000		
Category 4 =	0.000		
Category 5 =	2.000	£100.00	£200.00
Category 6 =	0.000		
Category 7 =	0.000		
Category 8 =	0.000		
Category 9 =	1.000	£80.00	£80.00
Category 10 =	0.000		
Category 11 =	0.000		
Category 12 =	0.000		
Category 13 =	0.700	£150.00	£105.00
Category 14 =	0.000		
<b>Total evidence this month =</b>	<b>5.200</b>		<b>£485.00</b>
Variable management fee per £1.00 of evidence cost		£0.05	<b>£24.25</b>
Fixed monthly management fee		£100.00	£100.00
		<b>Total net cost</b>	<b>£609.25</b>
		VAT	£121.85
		<b>Total Gross Cost</b>	<b>£731.10</b>



## SCHEDULE 6 – Form of Confidentiality Agreement between Administrator and Participant

This Agreement is made the \_\_\_\_\_ day of \_\_\_\_\_

### Parties

- (1) **[INSERT COMPANY NAME]** incorporated and registered in England and Wales with company number **[INSERT COMPANY NUMBER]** whose registered office is at **[INSERT REGISTERED OFFICE ADDRESS]** (the **Participant**);
- (2) **AECOM INFRASTRUCTURE & ENVIRONMENT UK LIMITED** incorporated and registered in England and Wales with company number 00880328 whose registered office is at Midpoint, Alencon Link, Basingstoke, Hampshire, England, RG21 7PP (**AECOM**);

hereinafter referred to as the **Parties** or either one of them as a **Party**.

### Whereas:

- (A) The Participant operates as a PCS for the purposes of the Producer Balancing Scheme pursuant to Regulation 34 of the Waste Electrical and Electronic Equipment Regulations 2013 (PBS). WAS is the licensed operator of such Producer Balancing Scheme and the Administrator is appointed by WAS with regard to the operation thereof.
- (B) From time to time, certain Confidential Information of a Party hereto may be disclosed between the Administrator and the Participant in connection with the operation of the PBS. The Parties acknowledge the importance of maintaining confidentiality while at the same time, acknowledging that certain information which a Party may otherwise have classed as confidential information, may otherwise be required to be disclosed or published as part of the operation of the PBS.
- (C) Accordingly, the Parties enter into the terms and conditions of this Agreement.

## 1 Definitions and Interpretation

- 1.1 In this Agreement the following words shall have the following meanings and the following rules of interpretation shall apply:

**Business Day** means a day other than a Saturday, Sunday or bank or public holiday in England or Wales.

**Confidential Information** means any information (whether written (including electronic information) or oral) disclosed by one party (**Disclosing Party**) to the other party (**Receiving Party**) pursuant to, under or in connection with the Permitted Purpose of a confidential nature including, but without limitation, details of:

- 1.1.1 the Disclosing Party's activities, business and finances;

- 1.1.2 any intellectual property rights of a Disclosing Party including know-how, designs, trade secrets and software;
- 1.1.3 the Disclosing Party's customers and suppliers;
- 1.1.4 the Disclosing Party's plans, intentions and market opportunities and [market share obligation report];
- 1.1.5 the Disclosing Party's operations, processes, product information; and
- 1.1.6 the terms of this Agreement;

but in each case, subject to the provisions of clause 3.1.

**Disclosing Party** means a Party disclosing Confidential Information to the Receiving Party.

**Receiving Party** means the Party in receipt of Confidential Information from the Disclosing Party or otherwise acquired by that Party under or in connection with the PBS.

**PBS** shall have the meaning given to it in recital A.

**Permitted Purpose** means the operation of the PBS, in respect of which AECOM is appointed as administrator by WAS and of which the Participant is a member.

**WAS** a company registered in England and Wales with company number 10934842 whose registered office is at Corner Oak 1, Homer Road, Solihull, West Midlands, England, B91 3QG.

## 2 **Confidentiality Obligations**

2.1 In consideration of the disclosure of Confidential Information to a Receiving Party by the Disclosing Party and further in consideration of the mutual promises and covenants set out herein, each of the Parties hereby respectively agrees with and undertakes to the other, on behalf of itself and all persons to whom disclosure by it is permitted within the terms of this Agreement, that, subject as herein described including in particular at all times subject to the provisions of clause 3.1, all Confidential Information, howsoever acquired or received by the Receiving Party:

- 2.1.1 shall not be used for any purpose other than the Permitted Purpose; and
- 2.1.2 shall be held strictly confidential and shall not be divulged directly or indirectly or otherwise made available in whole or in part to any third party.

## 3 **Authorised Disclosures**

3.1 The Parties acknowledge that in order for the PBS to operate in accordance with the terms of appointment of WAS by the Secretary of State, certain information which may otherwise have been classed by the Parties hereto as Confidential Information will need to be disclosed among those entities which operate as a PCS for the purpose of the PBS

and/or between the Parties hereto and/or between WAS and a Party or the Parties hereto or otherwise amongst other interested persons. Accordingly, the Parties acknowledge and agree that nothing in this Agreement is intended in any way to preclude or prevent the publication, disclosure or use of information (whether the same would otherwise have been classed as Confidential Information or not) in so far as the same is necessary for the proper operation of the PBS and Confidential Information shall not for the purposes of this Agreement include any information which is to be disclosed, published or otherwise used in the proper operation of the PBS by WAS and/or the Administrator.

- 3.2 The Receiving Party may disclose Confidential Information of the Disclosing Party:
- 3.2.1 to an affiliate of the Receiving Party directly concerned with the Permitted Purpose and whose knowledge of the Confidential Information is essential for the Permitted Purpose. For the purposes of this Agreement “affiliate” shall mean any holding company or subsidiary company of the Receiving Party or any company which is a subsidiary company of the holding company of the Receiving Party and the expressions “holding company” and “subsidiary” shall have the meaning respectively ascribed thereto by section 1159 of the Companies Act 2006; or
  - 3.2.2 to the extent strictly necessary for the Permitted Purpose to its employees, contractors, agents, officers and/or other representatives and to its outside professional advisors (or those of its affiliate) directly concerned with the Permitted Purpose and whose knowledge of the Confidential Information is required for the Permitted Purpose; or
  - 3.2.3 to any governmental or regulatory authority having a right to require the same or to any recognised Stock Exchange, in compliance with the rules and regulations thereof or to the extent required by law (provided that the Receiving Party shall prior to such disclosure inform the Disclosing Party of such requirement and shall disclose only such Confidential Information as is necessary to comply therewith);

and provided that prior to any disclosure of Confidential Information under Clauses 3.1.1 to 3.1.3 above, the Receiving Party shall ensure that each recipient thereof is made aware of the confidential nature of the Confidential Information, the Receiving Party shall assume full responsibility for all actions of each such recipient and provided further, that prior to any disclosure of Confidential Information to any such recipient, the Receiving Party shall first obtain from that recipient a binding agreement on terms no less strict than those hereunder and inform the Disclosing Party in writing of such disclosure and provide the Disclosing Party with a copy of such agreement if so requested.

#### 4 **Excluded information**

- 4.1 The undertakings contained in Clause 3 shall not apply to such Confidential Information as:



- 4.1.1 is at the time of being obtained by the Receiving Party within the public domain other than as a breach of this Agreement; or
- 4.1.2 is proved by documentary evidence as being at the time of this Agreement already lawfully in the possession of the Receiving Party;
- 4.1.3 after being obtained by the Receiving Party comes within the public domain other than by reason of a breach by the Receiving Party of the undertakings contained in this Agreement;
- 4.1.4 is properly received by the Receiving Party from a third party who is rightfully in possession of such Confidential Information and who is not bound by any obligation of confidence or secrecy;
- 4.1.5 is proved by documentary evidence as having been independently developed by the Receiving Party or its affiliates with no knowledge of the Confidential Information;
- 4.1.6 is disclosed with the Disclosing Party's written consent to disclosure;
- 4.1.7 is required to be disclosed by the Receiving Party by a court of competent jurisdiction, administrative agency or governmental body, or by law rule or regulation (including for the operation of the PBS operated by WAS as approved by the Secretary of State), or by applicable regulatory or professional standards, or the requirements of any recognised Stock Exchange provided that the Receiving Party has taken all practicable legal steps to protect such disclosure; or
- 4.1.8 it is required to disclose to its professional advisors, auditors, bankers or financiers provided that such recipient enters into a confidentiality undertaking on equivalent terms to this Agreement.

## **5 Ownership of Confidential Information**

All Confidential Information shall remain the property of the Disclosing Party and the disclosure of Confidential Information does not amount to a licence in favour of the Receiving Party. Without prejudice to the provisions of this Agreement, the Disclosing Party confirms that the Confidential Information is given by it in good faith and other than in respect of information which the Participant is required to provide to AECOM in accordance with the operation of the PBS, the Disclosing Party does not represent, warrant or undertake that the Confidential Information is accurate, up to date, exhaustive or complete on the subject matter concerned.

## **6 Indemnity**

- 6.1 [The Receiving Party hereby acknowledges that any breach by it of any of the provisions of this Agreement may cause serious damage to the Disclosing Party. The Receiving Party undertakes fully and effectively to indemnify and keep indemnified the Disclosing

Party for and against all loss, damage, costs, and liabilities suffered or incurred by the Disclosing Party arising from:

6.1.1 the unauthorised disclosure of Confidential Information belonging to the Disclosing Party by the Receiving Party or any person to whom disclosure of such Confidential Information is permitted under Clause 3; or

6.1.2 a breach by the Receiving Party of its obligations under this Agreement. ]

## 7 **Waiver**

Any failure of a Party in exercising any right, power or privilege hereunder shall not, nor shall any single or partial exercise thereof, preclude any exercise of any other right, power or privilege.

## 8 **Inadequacy of Damages**

The Parties acknowledge that damages will not normally be an adequate remedy for breach of any of the terms set out in this Agreement and that the Disclosing Party should be entitled to equitable relief including injunctions in respect of any breach by the Receiving Party.

## 9 **Copying, Returning or Destroying Confidential Information**

Each of the Parties agree and undertake to each other that the Confidential Information shall only be copied or duplicated to the extent necessary for the Permitted Purpose and that a restriction shall be placed on each copy prohibiting further reproduction or transfers. Furthermore, any of the Confidential Information and copies, and any extracts, summaries or analyses thereof, shall be returned to the Disclosing Party or destroyed or expunged from any electronic storage device (with written confirmation of the same to the Disclosing Party) within fourteen (14) working days upon expiry or sooner termination or the Permitted Purpose or (if sooner) upon written notice to do so from the Disclosing Party, to the extent permitted by law.

## 10 **No Obligation to Disclose Confidential Information**

Nothing in this Agreement shall be construed as obliging any of the Parties to disclose Confidential Information to another Party or Parties.

## 11 **Notices**

Any notice or other communication given by a Party under this Agreement shall be in writing and shall be signed by, or on behalf of, the Party giving it, and be sent to the relevant Party's registered address. Notices are deemed received if delivered by hand; on receipt of a signature at time of delivery; if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed. All references to time are to the local time at the place of deemed

receipt. The provisions of this clause 11 does not apply to notices given in legal proceedings or arbitration.

12 **Severance**

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

13 **Governing Law and Jurisdiction**

The construction, validity and performance of this Agreement shall be governed by and construed in accordance with English law and the Parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any claims or disputes which may arise out of or in connection with this Agreement.

14 **Commencement and Duration**

This Agreement shall become effective on the date first written above and shall remain in full force and effect for a period of six years thereafter or for such longer period as may be necessary to protect the confidential nature of the Confidential Information.

This Agreement is entered into on the date first set out above.

Signed by [NAME  
OF DIRECTOR], a  
Director for and on  
behalf of AECOM  
INFRASTRUCTURE  
& ENVIRONMENT  
UK LIMITED

.....

Director

Signed by [NAME  
OF DIRECTOR], a  
Director for and on  
behalf of [INSERT  
PARTICIPANT  
DETAILS]

.....

Director

Executed as a deed by WEEE ALLOCATION  
SCHEME UK LIMITED acting by [NAME OF  
DIRECTOR] a director, in the presence of:

.....

[SIGNATURE OF DIRECTOR]

Director

Witness Signature: .....

Witness Name: .....

Witness Address: .....

.....

.....

Executed as a deed by [PARTICIPANT] acting by  
[NAME OF DIRECTOR] a director, in the presence  
of:

.....

[SIGNATURE OF DIRECTOR]

Director

Witness Signature: .....

Witness Name: .....

Witness Address: .....

**Schedule 8.6**

**Proposed form of Contract between WAS and AECOM**

**DRAFT**

**SUBJECT TO CONTRACT**

### **Terms and Conditions of Administrator Appointment**

NOTE: This document is a draft, suggested form of terms and conditions to deal with the contractual arrangements between WAS and AECOM Infrastructure & Environment UK Limited as PBS Administrator, each as defined. It is subject to settlement between the parties and agreement as to commercial terms. The purpose of the document is to ensure that the terms under which WAS operates the PBS in accordance with the PBS Membership Terms and Conditions apply equally to AECOM Infrastructure & Environment UK Limited in so far as the same relate to it as PBS Administrator and to take account of matters relevant to that appointment.

## Terms and Conditions of Administrator Appointment

You acknowledge that in instructing us, AECOM Infrastructure & Environment UK Limited, shall perform the Services in accordance with the terms and conditions below and scheduled, to the exclusion of any other terms or conditions that may have been proposed by you.

### 1 Definitions

1.1 In these terms and conditions, the following definitions and rules of interpretation shall apply:

1.1.1 **Agreement** means these Terms and Conditions of Administrator Appointment together with the Schedules attached hereto.

1.1.2 **Appointment** means our appointment by you in accordance with this Agreement.

1.1.3 **Membership Agreement** means the agreement between WAS and the Participants under which WAS operates the PBS and which includes (though not exclusively) terms and conditions which are substantially similar to the Scheme Terms.

1.1.4 **PBS** means a producer balancing scheme as the same is defined in Regulation 2 of the WEEE Regulations.

1.1.5 **Participant** shall have the same meaning given to it in the Scheme Terms.

1.1.6 **Scheme Terms** means the terms and conditions for the operation and administration of the PBS as set out in Schedule 1.

1.1.7 **Services** means performance of such services as required for us to perform our obligations as Administrator of the PBS operated by WAS, in accordance with the WEEE Regulations and as more particularly included within and in accordance with, the Scheme Terms together with all other services performed by us in connection therewith.

1.1.8 **WEEE Regulations** mean the Waste Electrical and Electronic Equipment Regulations 2013.

1.1.9 **We/Us/Aecom** means Aecom Infrastructure & Environment UK Limited, a company registered in England and Wales with company number 00880328 whose registered office is at Midpoint, Alencon Link, Basingstoke, Hampshire, England, RG21 7PP.

1.1.10 **You/WAS** means WEEE ALLOCATION SCHEME UK LIMITED a company registered in England and Wales with company number 10934842 whose

registered office is at Corner Oak 1, Homer Road, Solihull, West Midlands, England, B91 3QG;

- 1.2 All other defined terms used in these Terms and Conditions of Administrator Appointment shall have the meanings given to them in the Scheme Terms.
- 1.3 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the Schedules.
- 1.4 In this Agreement, unless the context otherwise requires:
  - 1.4.1 words in the singular include the plural and vice versa and words in one gender include any other gender;
  - 1.4.2 reference to a "person" includes any individual (and their personal representatives), firm, body corporate, association, partnership, government or state (whether or not having a separate legal personality);
  - 1.4.3 reference to clauses and schedules are to clauses and schedules of this Agreement;
  - 1.4.4 reference to any provision of this Agreement is to that provision as amended;
  - 1.4.5 references to statutes, statutory instruments (including the WEEE Regulations) and provisions of any of them shall be construed as amended, re-enacted, consolidated or replaced from time to time and as including, as appropriate, any subordinate legislation made under them in any such case from time to time;
  - 1.4.6 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; and
  - 1.4.7 in the event of any conflict between these terms and conditions and the Schedules, the latter shall prevail.

## 2 **Parties Obligations**

- 2.1 We shall exercise reasonable skill, care and diligence in the performance of our obligations under or in connection with this Agreement and shall exercise all reasonable endeavours to perform the Services to any programme agreed in relation thereto.
- 2.2 You shall give us all relevant data and information available to you in relation to the Services and such assistance, decisions and access as may be required by us and in sufficient time to enable the performance of the Services in accordance with any agreed programme but nothing in this clause 2.2 is intended to create an obligation on you for which we are otherwise responsible in accordance with the Scheme Terms.



### 3 **Payment**

- 3.1 As Administrator of the PBS, we shall handle all charges and administrative costs raised to Participants in accordance with the process set out in the Scheme Terms. Further, invoices shall be raised by us and settled, in accordance with the payment provisions outlined in Schedule 1 in so far as the same relate to our administration and other charges. The costs which we are entitled to are referred to in clauses 6.1 and 6.2 of Schedule 1.
- 3.2 Except as otherwise provided in the Scheme Terms and as required for the operation of the PBS, any other invoices shall become due for payment [x days] from the date of invoice (such invoices to be raised no more frequently than quarterly) subject at all times to a remedial period of a further [x days]. No later than [x days] after our invoice becomes due for payment we shall notify you of the sum we consider to be due at the payment due date and the basis on which that sum is calculated. In the event of late payment of sums due to us, we may charge interest at the rate of 4 per cent per annum above the Bank of England base rate in force from time to time from the due date for payment until actual payment is made as the same is charged to the Participants in accordance with the Scheme Terms. [*Time periods subject to commercial arrangement between the parties*]
- 3.3 All sums due under the Appointment are exclusive of Value Added Tax except as otherwise stated, the amount of which shall be paid by you at the rate and in the manner prescribed by law.
- 3.4 In the event that we receive reasonable instructions from you or on your behalf to perform services additional to those set out in the Agreement, you shall make additional payment to us for the additional services performed and such payment shall be calculated:
- 3.4.1 if such additional services are related to the subject matter of the Scheme Terms and if relevant, calculated in accordance with and provided that the same can be properly recovered as an administrative cost from the Participant, in accordance with the Scheme Terms; or
- 3.4.2 if such additional services are unrelated to the subject matter of the Scheme Terms, payment shall be such sum as is agreed between us and is reasonable in the circumstances.

### 4 **Insurance and Liability**

- 4.1 Provided always that such insurance remains available in the market at commercially reasonable rates, and subject to all exceptions, exclusions and limitations to the scope of cover that are commonly included in such insurance at the time it is taken out or renewed as the case may be, we shall maintain professional indemnity insurance together with all other insurance as from time to time may be appropriate or required for the performance of our obligations under and in connection with this Agreement.

4.2 At your written request, we shall provide you with a copy of relevant insurance policies, renewals and on the renewal of each policy, shall promptly send to you a copy of the receipt of the premium paid by us and shall include you as a named insured on our policies. We shall also during the term of the Agreement, and for a period of [six] years thereafter:

4.2.1 do nothing to invalidate any insurance policy or to prejudice any entitlement you may have under those policies; and

4.2.2 procure that the terms of such policies are not altered in such a way as to diminish the benefit of the policies provided as at the date of this Agreement.

4.3 Each party's total liability (other than for personal injury or death resulting from negligence or for fraudulent misrepresentation) under or in connection with the Agreement howsoever arising whether in contract, tort (including negligence), breach of statutory duty or otherwise shall not exceed in aggregate [*subject to commercial arrangement between the parties*] (the "Limit of Liability").

4.4 Without prejudice to clause 4.3 or any other exclusion or limitation of liability available to either us or you, each party's liability shall be further limited to:

4.4.1 such sums as we each ought reasonably to pay having regard to that party's responsibility for the loss and damage suffered on the assumptions that any other consultants, contractors and sub-contractors who also have a liability to the relevant party, shall be deemed to have paid such proportion of loss and damage which it would be just and equitable for them to pay having regard to the extent of their responsibility; and

4.4.2 the extent of any loss, damages, injury, expenses, costs (including legal costs) that are [directly] caused by the liable party or its employees, sub-contractors, sub-consultants and/or agents hereunder. In no circumstances whatsoever shall a party be liable for any loss of profit or revenue or savings (actual or anticipated), wasted management time, diminution in value, loss of goodwill, loss of reputation, loss of market share, loss of data, ex gratia payments of any kind and/or any indirect or consequential loss whether caused by negligence, breach of duty (statutory or otherwise), breach of contract or otherwise and whether or not such losses were foreseeable at the time of entering into the Agreement;

but in each case, nothing in this clause 4.4 shall be taken to reduce the liability of either party which is not permitted in the operation and administration of the PBS in accordance with the WEEE Regulations.

4.5 Each party shall not pursue any claims in contract, tort (including negligence) breach of statutory duty or otherwise (a) after the expiry of six (6) years following the completion of the Services or such earlier date as may be prescribed by law; and/or (b) (save in respect

of death or personal injury resulting from negligence) against any individual employee, officer, director, partner or member of the relevant party.

## **5 Confidentiality**

5.1 Subject at all times to the particular provisions pertaining to confidentiality as set out in the Scheme Terms, we shall each treat the details of the Appointment and any written or oral information about the Services (including any know-how, techniques or processes used in the course of carrying out the Services) as private and confidential and neither of us shall publish or disclose any details thereof to any third party, unless prior written consent has been given by the other or as otherwise permitted in this Agreement. This duty of confidentiality shall not apply to information which the receiving party can show by reasonable documentary proof (a) to have been in the public domain at the time of receipt by the receiving party; or (b) to have been lawfully known by the receiving party prior to its receipt; or (c) to have been disclosed to the receiving party without restriction by a third party; or (d) to have become known to the public through no fault of the receiving party after receipt thereof; or (e) is required to be disclosed pursuant to applicable laws or a legally binding order of any competent judicial, governmental or regulatory body; or (f) is otherwise agreed to be disclosed in accordance with the terms of this Agreement. Before disclosure pursuant to clause 5, the disclosing party will (to the extent permitted by law) inform the receiving party of the circumstances and the details of the information to be disclosed at the earliest possible opportunity.

5.2 We shall enter into a confidentiality agreement with each Participant in the terms set out in Schedule 2.

## **6 Copyright**

Copyright in all drawings, designs, documents and materials of any nature prepared by us for you (the "Intellectual Property") shall remain vested in us but you shall have a license to copy and use the Intellectual Property for the purposes for which it was prepared by us, subject always to us having received full payment for the Services in accordance with the Appointment. We shall not be liable for the use of any Intellectual Property for any purpose other than that for which it was originally prepared by us.

## **7 Termination**

7.1 Either party may terminate the Agreement at any time (a) immediately upon written notice to the other if the other has a bankruptcy order made against it or makes an arrangement or composition with its creditors, or enters into liquidation (whether voluntary or compulsory) or if any proceedings are commenced relating to its insolvency or possible insolvency (b) by written notice to the other if, within [xxx] weeks of receipt of a written notice identifying a material breach of the Agreement by the other, the other has not taken all reasonable steps to rectify such breach; provided that at all times and in each case, such termination right and the exercise thereof is not precluded by the WEEE Regulations or the proper operation of the PBS. The parties acknowledge that the notice periods referred to in this clause 7.1 are determined in order to allow sufficient time to ensure that

you can locate an alternative provider of the Services given the nature of the PBS and in any event, no termination by us shall be effective (notwithstanding any notice periods specified) any earlier than the point at which you have appointed an alternative administrator for the PBS.

7.2 Further, you may terminate this Agreement at any time, if:

7.2.1 we commit a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) we fail to remedy that breach within a period of [xxxx *subject to commercial arrangement between the parties*] days after being notified in writing to do so;

7.2.2 we repeatedly breach any of the terms of this Agreement in such a manner as to reasonably justify the opinion that our conduct is inconsistent with our having the intention or ability to give effect to the terms of this Agreement.

7.3 You may, at any time including during any time referred to in clause 11.1, terminate this Agreement by serving not less than one month's written notice on us, such notice to be effective on any anniversary on this Agreement.

7.4 In the event of any suspension or termination for any cause whatsoever, we shall be entitled to be paid for all Services performed up to the date of termination and not yet paid for by you. Save where any suspension or termination is due to our being in breach, we shall also be entitled to be paid for all costs, disbursements and expenses reasonably incurred by us (including any costs incurred in suspending and/or resuming performance of the Services) as a direct result of such suspension or termination to the extent that such payment shall be in accordance with Scheme Terms.

## 8 **Non-Solicitation**

You shall not solicit (and shall procure that no parent company or subsidiary of yours solicits) the services of any of our employees, officers or directors without our prior written consent during the term of the Appointment or for the period of six (6) months after the termination of the Appointment.

## 9 **Third Party Rights and Non-Assignment**

The Appointment is personal to you and us and is non-assignable by either party. The Appointment shall not confer and shall not purport to confer on any third party, any benefit or any right to enforce any term of the Appointment for the purposes of the Contracts (Rights of Third Parties) Act 1999 or otherwise except as expressly stated in the Agreement.

## 10 **Governing Law and Dispute Resolution**

10.1 If at any time a dispute arises under the Appointment which cannot be settled amicably between us, either of us may refer the dispute to the complaints procedure referred to in the Scheme Terms.

10.2 Each party irrevocably agrees that the courts of England and Wales have non-exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation but the parties reserve the right to propose and engage in Alternative Dispute Resolution procedures they may propose and may deem suitable in the context of any particular dispute or claim.

10.3 The Agreement represents the entire agreement and understanding between us relating to its subject matter. The parties acknowledge that they have each had an opportunity to negotiate the terms and conditions of the Agreement prior to the commencement of the Services.

## 11 **Duration of Agreement**

11.1 Subject to the provisions of this clause 11.1 and unless otherwise sooner terminated in accordance with its terms, this Agreement shall commence on the date on which it is duly executed by the parties and shall continue in full force and effect for the period of the First Compliance Period and the Second Compliance Period. Thereafter, the term of this Agreement may be extended by agreement between the parties.

11.2 We shall submit to a performance review not less than once per annum when the costs paid to us hereunder and the Services we perform, shall be reviewed. Without prejudice to your other rights and remedies hereunder, we shall take any remedial action required in the event that the performance of the Services is identified during such review as failing to meet the requirements of this Agreement.

11.3 We acknowledge in particular, the provisions of clause 8.4 of the Scheme Terms. Accordingly, in the event that WAS is no longer appointed to operate the PBS such that the Secretary of State at any time withdraws its approval of WAS as PBS operator, we shall put in place and effect such measures and procedures as required to effect a secure and efficient transfer of any information which we hold as at the date at which such approval to operate the PBS is removed, to the appropriate incoming operator of a PBS. Further, in such circumstances described in this clause 11.3, we shall take all steps as required and assist you in providing such information to relevant LAs as required in order to keep such LAs informed and updated as to the transfer of PBS operations.

## 12 **Additional Provisions**

12.1 We acknowledge that in accordance with the terms of the Agreement, we are appointed by you to undertake the administration of the PBS. Accordingly, we shall adhere to all Scheme Terms in so far as obligations therein fall on (1) the Administrator; (2) WAS (and for such purposes, references to WAS shall be interpreted as meaning references to us as the Administrator); (3) a "party" (and "parties" as relevant) where and to the extent that such references apply to WAS; or (4) any or all of the foregoing; in each case for the proper operation and administration of the PBS. Further, any obligation in the Scheme Terms on you to procure or use reasonable endeavours to procure an obligation or right

from the Administrator (or any other such similar obligation) shall for the purpose of this Agreement be deemed to be an obligation on us to perform such obligation directly.

- 12.2 You shall use reasonable endeavours to procure that each Participant complies with its obligations referred to in clauses 3.3, 4.12, 4.14, 4.17, 4.27, 5.3, 5.10, 5.10, 5.14, 9.3.1, 9.4, 21.2, 21.3, 21.4, 22.2, 22.3, 22.6, 23.5 and 25.1 of the Scheme Terms, by way of the Membership Agreement.
- 12.3 In performing the Services, we shall adhere to the WEEE Regulations and all other applicable law, codes of conduct, guidance and other requirements as may be stipulated from time to time by the Secretary of State for the operation and administration of the PBS.
- 12.4 We shall provide all support and assistance as necessary for the purposes of enabling WAS to comply with its obligations to each Participant as set out in the Membership Agreement.
- 12.5 We shall perform the Services in accordance with any operational and procedures manual which may be devised by WAS, ourselves as Administrator or any other relevant person for the proper operation of the PBS.
- 12.6 We acknowledge that in performing the Services such that we take on the role of the administrator of the PBS or otherwise on the termination of this Agreement, then in the event that the Transfer of Undertakings (Protection of Employment) Regulations 2006 applies, we shall absorb any liability which you may have under or in connection with such Regulations.
- 12.7 We shall not and shall procure that any person associated with us shall not, solicit, entice, employ or engage any person who is an employee or who has at any time during the term of this Agreement, been an employee of or at, a LA, any PCS or any Approved Authorised Treatment Facility.
- 12.8 In the event that at any time during the term of this Agreement, we are unable to fulfil any of our obligations hereunder, you may, at your option, yourself undertake or appoint any other person to undertake such obligations and perform such element of the Services as may be reasonably required in order to ensure that the PBS can continue to operate (**Step in Rights**). Such Step in Rights and performance thereunder shall continue for such period as you may determine and we shall provide such assistance to you at our cost as you may reasonably require during such period and to the extent that we are reasonably able to do so.
- 12.9 We shall adopt and adhere to all complaint procedures (both internal and external) which are implemented for the proper operation of the PBS. This shall include an obligation on us to both operate and investigate any matters as appropriate as Administrator of the PBS and also to submit to any complaints process administered by an independent person where we are the subject of any complaint or other relevant matter arising.

12.10 To the extent that any provision of this Agreement does not adhere to any requirement of the WEEE Regulations, such provision shall be amended in order to take account of such statutory requirement in so far as required in order to comply with such statutory requirement.

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## Schedule 1

### Scheme Terms and Service Description

#### 1. INTRODUCTION AND INTERPRETATION

1.1 In these Scheme Terms, capitalised terms shall have the meanings attributed to them in the WEEE Regulations, and otherwise:

**“Administrator”** means the entity appointed by WAS to operate the System.

**“Admission Information”** means such information as the Administrator may reasonably require from a Participant in order to operate the System in accordance with these Scheme Terms, including, without limitation, the EEE Market Share Reports for that Participant as provided to the Participant by the relevant regulatory authority and any subsequent revised notifications. This will also include PCS contact details for correspondence and invoicing, identity of the Authorised Representative(s) for the PCS, PCS bank details and PCS VAT registration details.

**“Appropriate Authority”** has the same meaning as set out in Regulation 2 in the WEEE Regulations.

**“Authorised Representative”** has the same meaning as set out in Regulation 2 in the WEEE Regulations.

**“Compliance Period”** has the same meaning as set out in Regulation 2 in the WEEE Regulations except that the first compliance period is defined herein and shall not be interpreted for the purpose of these Scheme Terms, in accordance with the reference to the same as it is set out in the WEEE Regulations.

**“Confidential Information”** means all information of a confidential nature (however recorded or preserved), of a party, that is either disclosed to, or otherwise obtained by, another party under or in connection with these Scheme Terms whether before, on or after the date of these Scheme Terms, including bid breakdowns submitted and bidder identity pursuant to these Scheme Terms, and information relating to the business, affairs, customers, clients, suppliers, plans, intentions or market opportunities, operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party.

**“Data Protection Laws”** means as applicable in the UK, the General Data Protection Regulation (EU) 2016/679 (“GDPR”), the Data Protection Act 2018.

**“DEFRA”** means the Department for Environment, Food and Rural Affairs.

**“DCF”** means a Designated Collection Facility as defined in Regulation 2 of the WEEE Regulations.

**“DCF Data Form”** means a form on which a LA will provide details relating to the DCF.



**“Deed of Adherence”** means a deed substantially in the form set out in Schedule 2, under which a PCS agrees to be a Participant and a party to these Scheme Terms after the date of these Scheme Terms.

**“EEE Market Share Reports”** means a market share household obligation report showing the WEEE placed on the market by category for each PCS during the compliance period which shall set out the market share of each PCS in relation to the fourteen WEEE categories.

**“Evidence Notes”** has the same meaning as set out in Regulation 2 in the WEEE Regulations.

**“First Compliance Period”** means the Compliance Period in which these Scheme Terms is signed.

**“Handling”** means, in the context of Household WEEE, collection, treatment, recovery and environmentally sound disposal and **“Handle”** shall be interpreted accordingly.

**“Household WEEE”** means WEEE from private households, as the same is defined in the WEEE Regulations.

**“Initial Participants”** means each of those PCSs which are party to these Scheme Terms as at the date hereof, the details of which are set out in Schedule 1.

**“Interim Tender”** shall have the meaning given to it in clause 4.13.

**“LA”** means a Local Authority or any person to whom the local authority has designated responsibility for the operation of a DCF.

**“Nil Cost Bid”** shall have the meaning given to it in clause 4.6.

**“Participant”** means each of the Initial Participants and any other PCS that may become a participant pursuant to these Scheme Terms as a result of entering into a Deed of Adherence in substantially the form as set out in Schedule 2.

**“PBS”** means a producer balancing scheme as the same is defined in Regulation 2 of the WEEE Regulations.

**“Regulation 34 Request”** means a request made to a Participant by the LA pursuant to Regulation 34 of the WEEE Regulations where the Participant receiving the request has satisfied itself that the criteria set down in Regulation 34 of the WEEE Regulations and guidance issued from time to time by one or more of the Appropriate Authorities have been met in their entirety.

**“Second Compliance Period”** means the Compliance Period immediately following the First Compliance Period.

**“Settlement Centre”** means the initiative funded by certain of the Appropriate Authorities which, amongst other things, records the collection quantities of Household WEEE.

**“System”** means the system to be set up pursuant to these Scheme Terms whereby the costs of Handling Household WEEE pursuant to Regulation 34 of the WEEE Regulations are shared across participating PCSs.

**“WEEE Categories”** means the categories of EEE as set out in the WEEE Regulations.

**“WEEE Regulations”** mean the Waste Electrical and Electronic Equipment Regulations 2013.

**“Working Day”** means a day upon which clearing banks are open for normal business in London.

**“Working Hours”** means the hours of 09:00 to 17:00 GMT, adjusted as necessary for daylight saving provisions, on a Working Day.

1.2 Clause and Schedule headings shall not affect the interpretation of these Scheme Terms.

1.3 The Schedules form part of these Scheme Terms and shall have effect as if set out in full in the body of these Scheme Terms and any reference to these Scheme Terms includes the Schedules.

1.4 In these Scheme Terms, unless the context otherwise requires:

1.4.1 words in the singular include the plural and vice versa and words in one gender include any other gender;

1.4.2 reference to a “person” includes any individual (and their personal representatives), firm, body corporate, association, partnership, government or state (whether or not having a separate legal personality);

1.4.3 reference to clauses and schedules are to clauses and schedules of these Scheme Terms;

1.4.4 reference to any provision of these Scheme Terms is to that provision as amended;

1.4.5 references to statutes, statutory instruments (including the WEEE Regulations) and provisions of any of them shall be construed as amended, re-enacted, consolidated or replaced from time to time and as including, as appropriate, any subordinate legislation made under them in any such case from time to time; and

1.4.6 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.

1.5 Except where expressly stated otherwise, no provision of these Scheme Terms shall govern or limit the extent or application of any other provision.

1.6 These Scheme Terms shall not come into effect until executed by WAS and each of the Initial Participants.

## **2. ADMINISTRATOR SELECTION**

2.1 The Administrator for the First Compliance Period and the Second Compliance Period shall be Aecom Infrastructure & Environment UK Ltd, a company registered in England and Wales with company registration number 00880328, whose registered office is at Midpoint, Alencon Link, Basingstoke, Hampshire, RG21 7PP.

2.2 A working committee set up by WAS and comprising a representative of each Participant wishing to participate in the working committee shall select and appoint the Administrator for those Compliance Periods following the First Compliance Period and the Second Compliance Period. The Administrator's appointment shall continue for one such Compliance Period unless extended for a further Compliance Period pursuant to this clause 2.2, (save in respect of the initial appointment of the Administrator which shall run for the First Compliance Period and the Second Compliance Period).

2.3 The selection of the Administrator for any subsequent Compliance Period after the First Compliance Period and the Second Compliance Period shall take place not less than 3 months prior to the start of the third Compliance Period and each subsequent Compliance Period thereafter.

2.4 WAS shall determine the terms upon which the Administrator is appointed provided always that the Administrator is required to operate the System in the manner set out in these Scheme Terms and in accordance with the WEEE Regulations and other applicable law.

## **3. BECOMING A PARTICIPANT**

3.1 WAS shall allow any authorised PCS to become a Participant in accordance with the WEEE Regulations.

3.2 No PCS may become a Participant until it has executed these Scheme Terms as at the date hereof or otherwise by way of execution of a Deed of Adherence (if later) to become a party to these Scheme Terms (as amended) and be bound by its terms.

3.3 A Participant shall provide the Admission Information to the Administrator within 5 Working Days of execution of these Scheme Terms or a Deed of Adherence as the case may be and shall provide the Administrator with any updates to such information within 5 Working Days of any changes to the same. Each Participant shall ensure that all information provided by it to the Administrator is accurate and complete in all respects.

3.4 WAS shall procure that the Administrator requests that the relevant Appropriate Authority verifies the EEE Market Share Reports provided to it from time to time by each

Participant. Each Participant authorises the relevant Appropriate Authority to provide such verification to the Administrator, and shall, without undue delay, provide such confirmation to that Appropriate Authority as that Appropriate Authority may require regarding such authorisation.

#### 4. **OPERATION OF THE SYSTEM**

##### *Regulation 34 requests*

4.1 If a Participant receives a Regulation 34 Request then, at its sole discretion, it may either:

4.1.1 finance itself the Handling of the Household WEEE arising from that Regulation 34 Request; or,

4.1.2 make a request to the Administrator in writing that the Handling of the Household WEEE arising from that Regulation 34 Request is managed via the System.

4.2 The Participant making a request under clause 4.1 shall ensure that the Administrator has a completed DCF Data Form, which will identify the LA, DCF addresses, WEEE Categories to be collected and average annual quantity for each WEEE Category, date from which collections are required and date to which collections are required, the maximum duration being 12 months. This information is necessary to assist the Participants in preparing their bids with due diligence.

4.3 The Administrator will receive written confirmation from the LA on whether the LA wishes to have a single PCS responsible for all the DCFs listed or whether that LA would accept a different PCS for each DCF and/ or each WEEE category or WEEE categories. If the LA wants a single PCS for any or all of the WEEE Categories and/or any or all of the DCFs listed, then such details will be listed on the same DCF Data Form for those WEEE Categories. The lowest overall cost for the aggregated DCFs will be selected by the Administrator to service all relevant DCFs. If the LA does not require a single PCS then the DCFs will be listed on separate DCF Data Forms and the lowest overall cost for each individual DCF will be selected by the Administrator. In each case, this shall be referred to as the winning bid.

4.4 WAS shall procure that the Administrator notifies all Participants, within 1 Working Day, of any validated and competed Regulation 34 Request made pursuant to clause 4.1.2 and makes available to all Participants within 1 Working Day the information on the DCF data forms. Such notification shall act as an invitation to each Participant to submit a bid in response to the Regulation 34 Request.

##### *Response to Regulation 34 request and appointment of winning bidder*

4.5 All Participants are eligible and invited to bid an all-inclusive (save for VAT) price per tonne to Handle that stream of Household WEEE. Each Participant willing to bid shall do so in writing within 8 Working Days of the notification referred to in clause 4.4 via

electronic means using the Administrator's template documents. The overall bid cost is calculated by the sum of the total costs of each individual WEEE Category to be collected either separately or together with other WEEE Categories as specified by the LA and shall be calculated by multiplying the rate per tonne quoted by the bidding Participant for each WEEE Category, by the number of tonnes per annum of the same WEEE Category shown on the DCF Data Form. The Administrator shall select the Participant with the lowest overall cost to Handle that Household WEEE. Incomplete bids which do not include a cost against each WEEE Category requiring collection will not be accepted.

- 4.6 Where a Participant is willing to finance the Handling of all of the streams of Household WEEE that are the subject of the Regulation 34 Request it shall submit a bid of £nil (**Nil Cost Bid**) and advise the Administrator in writing using the Administrator's template document. At the end of the 8 Working Day tender period, the Administrator shall submit details of all Nil Cost Bids to the relevant LA making the request so that the LA may select a Participant to undertake the Regulation 34 collection(s).
- 4.7 The winning bid shall be selected by the Administrator except where more than one Nil Cost Bid has been received.
- 4.8 Any WEEE to be collected pursuant to a Nil Cost Bid shall cease to qualify as a Regulation 34 Request and all WEEE evidence shall be retained by the winning Participant.
- 4.9 The Participant selected by the Administrator in accordance with these Scheme Terms shall:
- 4.9.1 enter into a contract with the LA on terms and conditions suitable to that LA as such parties shall determine;
  - 4.9.2 except in relation to interim collections, within 5 Working Days of appointment or on any start date requested by the LA (whichever is later), procure the collection of the Household WEEE arising from the Regulation 34 Request;
  - 4.9.3 procure the treatment, recovery and environmentally sound disposal of that Household WEEE;
  - 4.9.4 submit or procure the submission of the Evidence Notes (which in each case, shall be credited to that Participant's Settlement Centre account in the name of the Administrator, or in the event that the Administrator account is not available to such other Settlement Centre account as that Participant shall direct) to the Administrator for approval in the manner directed by the Administrator; in each case in accordance with the WEEE Regulations and all other applicable laws, codes of practice and other best practice guidance and in each case, at its own cost and expense.

*Notification of outcome of bidding process and appointment of Participant*

- 4.10 Within 5 Working Days of selection, the Administrator shall notify all Participants of the value of the lowest overall bid but not the breakdown of costs nor the identity of any of the bidders. Where the lowest overall cost is a Nil Cost Bid the Administrator shall notify the Participants that the successful bid is a Nil Cost Bid but shall not identify any bidder.
- 4.11 The Administrator shall allocate evidence to the Participants in proportion to their EEE market shares for the relevant WEEE Categories in accordance with the information held by the Administrator at the time of such allocation. EEE market shares shall be calculated in accordance with the EEE Market Share Reports of each Participant by reference to its producers and are calculated by WEEE category in the proportion A/B where A and B are defined in the WEEE Regulations 28 (3). For the avoidance of doubt, Evidence Notes shall be issued in accordance with any protocols agreed by the Appropriate Authorities from time to time, for example, for Small Mixed WEEE.
- 4.12 Where a collection is allocated to a Participant in accordance with this clause 4, that Participant shall Handle any subsequent Regulation 34 Request in respect of the same stream of Household WEEE from the same DCF, at the same price per tonne, during the duration of these Scheme Terms.

*Interim Collection arrangements and Interim Tenders*

- 4.13 WAS shall procure that Administrator generates a list of all LAs in the UK and the regions to which those LAs are allocated by reference to the postcodes of their DCFs. For each LA or region, the Administrator shall create a DCF Data Form in which the weight of WEEE by WEEE Category will not be stated. All Participants will be invited to submit a price per tonne per category to collect an unknown quantity of WEEE for each LA within the relevant region known as an interim tender (**Interim Tender**). Interim Tenders shall specify the LA or region to which they apply. Interim Tenders will be held by the Administrator and details of the same will not be disclosed to Participants or stakeholders. Interim Tenders may be amended, updated or withdrawn by the Participant by notifying the Administrator in writing but shall remain current until such notification is received by the Administrator.
- 4.14 If the LA requires a Regulation 34 WEEE collection from a DCF:
- 4.14.1 within 3 (three) weeks of notification of the winning bid; or
  - 4.14.2 before the winning Participant is able to make the first collection in accordance with these Scheme Terms;
- whichever is the lesser,

the Administrator will arrange for collections in the interim. The Administrator will select the Participant which has submitted the lowest Interim Tender price for that LA or those DCFs. The selected Participant shall then Handle that Household WEEE in accordance with the provisions of clause 4.9 until a Participant has been appointed and can

commence collections in accordance with this clause 4. The Evidence Notes arising from the collection of such Household WEEE shall be allocated to a Settlement Centre account in the name of the Administrator.

- 4.15 If no Participant makes a bid in response to a Regulation 34 request and there is no Interim Tender in force for that WEEE Category of that LA then WAS shall procure that the Administrator shall select a Participant to Handle the relevant Household WEEE, based upon a randomly ordered rotation created by the Administrator, and the remainder of clause 4.9 shall apply to the Handling of that Household WEEE. The Participant selected shall charge for the Handling of such Household WEEE at cost plus 10% (ten percent).
- 4.16 Each Participant selected to Handle Household WEEE pursuant to this clause 4 shall provide the Administrator on request, with such non-confidential information, including but not limited to photographs and sub-contractor details, necessary to complete the DCF Data Form and will update the Administrator of any significant changes. This information may be used by the Administrator in future Regulation 34 Request responses and may be made available to any other Participant which makes a future Regulation 34 Request response or subsequently makes a collection of Household WEEE from the same DCF via the System.
- 4.17 Any LA may approach the Administrator to pre-notify that it is likely to exercise its rights under Regulation 34 of the WEEE Regulations, before being entitled under the WEEE Regulations to do so. Notwithstanding that this pre-notification shall not represent a valid Regulation 34 Request for the purposes of these Scheme Terms, WAS shall procure that the Administrator treats such pre-notification as if it were a Regulation 34 Request submitted to it under these Scheme Terms and the provisions of these Scheme Terms shall then apply, save that:
- 4.17.1 Handling of the Household WEEE by that Participant shall not commence until conditions (A) to (C) inclusive of Regulation 34 of the WEEE Regulations have been met; and
  - 4.17.2 Handling of the Household WEEE from that LA shall take place in accordance with a schedule mutually agreed between the selected Participant and the LA, which may exceed 5 Working Days following the date of pre-notification; and
  - 4.17.3 where the Administrator receives such pre-notification, WAS shall procure that the Administrator shall require the LA to confirm in writing that it will use the Participant(s) selected by the Administrator for collections once a valid Regulation 34 Request is made.
- 4.18 Where a LA makes a Regulation 34 Request directly to the PBS, for the purposes of the WEEE Regulations, that Regulation 34 Request shall be deemed to be a request to every PCS approved under Regulation 55 of the WEEE Regulations.

- 4.19 Each Participant selected to finance the Handling of Household WEEE pursuant to this clause 4 shall indemnify the Participant requesting that the corresponding Regulation 34 Request is managed via the System, against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the requesting Participant arising out of or in connection with the selected Participant's breach or negligent performance or non-performance of its obligations to finance the Handling of that Household WEEE in accordance with these Scheme Terms.
- 4.20 WAS shall procure that the Administrator does not make the identity of that Participant making the collection:
- 4.20.1 known to WAS; or
  - 4.20.2 to other Participants; or
  - 4.20.3 any third party other than the Administrator; or
  - 4.20.4 the LA; or
  - 4.20.5 as required by law.
- 4.21 WAS and each Participant undertakes to comply with applicable competition law at all times in connection with the performance of all obligations and exercising of all rights under or in connection with these Scheme Terms.
- 4.22 WAS shall make reasonable efforts to make available, a web-based portal for use by the Participants in order to facilitate communication between WAS (and the Administrator) and each Participant. It is not intended that such portal be used for any exchange of information between Participants and the Participants each agree not to use the same for such purposes and to use the same only for communication between it and WAS (and the Administrator). Without prejudice to the generality of the foregoing, in particular, Participants must not:
- 4.22.1 use the portal to in any way collude unlawfully or seek any competitive advantage; nor
  - 4.22.2 use any information to which the Participant has access, for any purpose other than in connection with the proper participation in the System.
- 4.23 WAS reserves the right to itself or require the Administrator to monitor trends and market activity with a view to detecting any unusual patterns of activity in the market and to monitor the use of the web-based portal referred to in clause 4.22 with a view to identifying:
- 4.23.1 any breach by a Participant of any of its obligations or any of the restrictions in clause 4.22; and/or



- 4.23.2 any trends, patterns or usage of the web-based portal or the information used in connection with such portal which may indicate a possible breach of any of the obligations and restrictions in clause 4.22.
- 4.24 The Participant's attention is specifically drawn to the complaint procedures referred to in clause 25. Without in any way affecting the intended scope of such complaints procedures, Participants are notified that any breach or other matter identified in accordance with any of the provisions of clause 4.22 or clause 4.23 and further, any complaints of discrimination between PCSs, shall be dealt with and assessed in accordance with the complaints procedures.
- 4.25 The LA will be entitled to reject the Participant's winning bid where previous complaints have been made to WAS (or the Administrator) and upheld about the performance of that Participant or its agents and / or its subcontractors in relation to that LA. The ability to reject the bid shall only apply for the duration of the Compliance Period in which the complaint was made or 6 months, whichever longer. If a winning bid is rejected the Administrator will award the contract to the next lowest bidder. If the Participant is the subject of complaints referred to in this clause 4.25, the Participant (or its subcontractors) acknowledges that the LA may refuse to accept the Participant's winning bid in which case, WAS (or the Administrator) shall award the relevant contract to the next lowest bidder.
- 4.26 Nothing in these Scheme Terms shall prevent any Participant, at any time, from approaching any LA with a view to reaching an agreement for Handling of any Household WEEE outside of the scope of these Scheme Terms.
- 4.27 No Participant shall be permitted to exercise any of its rights under these Scheme Terms nor shall it have any obligations or liabilities under these Scheme Terms until such time as WAS advises the Participants that the System is fully operational.
- 4.28 For the purposes of the requirements and obligations set out in this clause 4, where an obligation is stated as falling on the Administrator, the obligation shall be construed as an obligation on WAS to procure that such obligation is met by the Administrator.

## 5. **FINANCE AND COSTS**

- 5.1 WAS shall set a Participant participation charge for each Compliance Period which shall be invoiced to and payable by each Participant. Ongoing charges will be made up of two elements;
- 5.1.1 a variable monthly cost relating to the administration costs incurred during the relevant period, apportioned in accordance with the Participant's WEEE evidence costs for that period; and
- 5.1.2 fixed monthly administration cost divided equally amongst all Participants.

- 5.2 The Administrator shall recharge the costs of setting up the System to all Participants as an initial joining fee payable upon each Participant joining the PBS. Each Participant joining the Scheme during the first Compliance Period will pay an equal share of those recharge costs. A sample monthly invoice is set out in Appendix 1.
- 5.3 The Participant shall ensure that payment of the invoice is made within 7 working days of the invoice date. If payment is not received within such 7 Working Day period, the Administrator shall issue a reminder in writing to the PCS. The Administrator shall be entitled to set off any amounts due to a Participant against any unpaid amounts invoiced by the PBS or Administrator to that Participant.
- 5.4 WAS shall procure that the Administrator will set up an escrow bank account into which payments from Participants are made, and from which money will be paid out to those Participants who have completed Regulation 34 collections in accordance with the System. Payment to the Administrator for approved management fees and to other third parties for expenses liabilities and obligations also shall be made from this account by the Administrator.
- 5.5 Those Participants who have submitted winning bids other than Nil Cost Bids and have collected WEEE in accordance with Regulation 34, shall submit WEEE Evidence into the Administrator's Settlement Centre Account and shall invoice the Administrator for this evidence at the rates submitted in their bid in accordance with the System. Evidence and invoices submitted to the Administrator after the 7th of each month will not be processed until the end of the calendar month after the month in which it was submitted.
- 5.6 Correct invoices received from Participants on or before the 7th day of the month will be paid by the Administrator on the last Working Day of the same quarter. Where a Participant and the Administrator have agreed in advance, the Administrator may self-bill Participants for the WEEE evidence they have submitted.
- 5.7 All costs of the Handling of WEEE shall be invoiced by the Administrator to the Participant on a monthly basis in arrears, adjusted as necessary between Participants. Where a Participant joins the PBS during a Compliance Period, WAS shall procure that the Administrator shall raise a correctly addressed VAT invoice (as relevant) to each Participant for the relevant operational costs.
- 5.8 Where WAS takes over the operation of the PBS part way through a Compliance Period, the Administrator will ensure that the cost of Regulation 34 requests is distributed fairly amongst all Participants for the relevant Compliance Period, based on the market share of costs paid by each Participant by WEEE Category for the whole Compliance Period.
- 5.9 Other than a Nil Cost Bid, the costs incurred by a Participant for Handling a stream of Household WEEE shall be shared on a pro-rata basis between the Participants in accordance with the WEEE market share of the Participants in respect of that stream of Household WEEE and in accordance with such information as is held by the Administrator at the time of the collection of the Household WEEE. The market share

for each Participant shall be calculated as A/B where A and B are defined in WEEE Regulation 28(3). Such costs shall be aggregated by WEEE Category and invoiced or credited (as the case may be and together with VAT where applicable) to the Participants by the Administrator on a monthly basis in arrears on or before the 14th day of each month. Invoices will not reveal any Confidential Information.

- 5.10 Where a Participant becomes a member of the PBS (once such PBS has been approved by the Secretary of State) during the First Compliance Period or part way through any Compliance Period, the Participant shall be responsible for the relevant participation charge in accordance with clause 5.1 plus the Administrator's administration costs plus its share of Household WEEE Handling costs as if it had been a Participant for the entirety of the relevant Compliance Period. The Participant will be entitled to receive its market share of WEEE Evidence and costs as if it had been a Participant for the entirety of the relevant Compliance Period provided that the Administrator shall determine when that evidence is transferred to the Participant.
- 5.11 Each invoice raised under these Scheme Terms by the Administrator shall be settled by the relevant Participant within 7 Working Days of its date, the Administrator may facilitate this by collecting monies from the Participant under a Direct Debit arrangement. Interest shall be payable on invoices not so settled at the rate of 4 per cent per annum above the Bank of England base rate in force from time to time from the due date for payment until actual payment is made (irrespective of whether the date of payment is before or after any judgment or award in respect of the same). WAS (or the Administrator) reserves the right to charge a fee of £100 per late payment in order to cover administrative costs in connection with the same.
- 5.12 The Participants remain open to, and shall, where appropriate, explore alternative sources of funding for the operational costs of the System, including utilising the compliance fee raised pursuant to the WEEE Regulations, should these become feasible at any point in time.
- 5.13 If it is not possible to recover payment from a Participant or where a Participant ceases to be a PCS, the unrecovered costs will be shared amongst the remaining Participants on a pro rata basis based on each Participant's market share by category of WEEE. Any evidence available from the non-paying Participant will be distributed amongst the remaining participants on the same basis.
- 5.14 Each Participant shall:
- 5.14.1 at all times, be responsible for its employees, agents and contractors;
  - 5.14.2 procure that all agents, employees and contractors which it may from time to time appoint in the performance of its obligations under or in connection with these Scheme Terms, comply with all applicable law relevant to its or their performance including as to health and safety, manual handling and environmental legislation;

5.14.3 put in place with its agents, employees and contractors which it may from time to time appoint in the performance of its obligations under or in connection with these Scheme Terms, written terms which are no less onerous than those set out in these Scheme Terms; and

5.14.4 implement and procure compliance with such policies and procedures by those members of its supply chain (including compliance with any policies and procedures referred to in these Scheme Terms) so as to maintain the standards of the System throughout such supply chain.

## 6. **AUDIT AND CONTINUOUS IMPROVEMENT**

6.1 WAS shall use reasonable endeavours to procure that it is entitled, from time to time, to inspect the records of the Administrator with regard to the operation of the System.

6.2 Audits shall be conducted by an independent third party designated by WAS. The scope of such audit shall be set by WAS at all times acting in good faith. Such audit shall take place not more frequently than once in any calendar year. WAS shall procure that the auditor operates under a confidentiality and non-disclosure contract in a sufficient form to ensure that no Confidential Information of a Participant is disclosed to either WAS or any other Participant except as required for the proper performance of the System. WAS shall require that the independent auditor shall present its findings to the independent chair of WAS and provide a copy of the same to DEFRA and further, that it will provide an edited version of such findings by way of a report to all WAS directors with any relevant Confidential Information redacted where appropriate.

6.3 WAS shall procure that the Administrator carries out, at its own cost and expense, such corrective action as is required following an audit.

6.4 WAS shall procure that the Administrator chooses an accountant, approved by WAS, to complete annual accounts for the System and submit the same to Companies House. The management accounts will be made available to all shareholders of WAS.

6.5 WAS will establish a "Continuous Improvement Committee" to monitor the performance of WAS and the Administrator and ensure that the requirements of the agreement with the Administrator are adhered to. The purpose of the Continuous Improvement Committee will also discuss investigate, research and propose changes and additions that will improve the delivery of the System and assist Participants in complying with the WEEE Regulations or improve System efficiency. Membership of the Continuous Improvement Committee will be open to all Participants and may seek specialist assistance as it may determine, the Chair of the Continuous Improvement Committee will be a Director of WAS and shall be elected by all Participants annually. The Chair may remain in post for a maximum of 2 years and thereafter, may not, from the end of the term of appointment as Chair, stand for re-election for such position, for a further 1 year. The Continuous Improvement Committee will report any findings and proposals to the Participants subject at all times to any duties of confidentiality to which it is subject.

## 7. TERMINATION

7.1 A PCS must be a Participant of WAS in the Compliance Periods where it is approved to operate the PBS on behalf of the Secretary of State as this is part of the Conditions of Approval for a PCS in the WEEE Regulations. It is not envisaged that a Participant shall leave the PBS unless it no longer operates as a PCS except where permitted to do so in accordance with the WEEE Regulations.

7.2 A Participant may transfer its shareholding at any time given that it is not mandatory to take a shareholding initially. Any such transfer by the Participant shall not otherwise have an effect on the operation of these Scheme Terms.

7.3 WAS may terminate these Scheme Terms with a particular Participant with immediate effect (which for the avoidance of doubt, shall not otherwise affect the continuance in full force and effect of these Scheme Terms with the remaining Participants) where that Participant concerned:

7.3.1 fails to pay any money owing by it to WAS or the Administrator on the due date for payment and remains in default not less than 28 Working Days after being reminded in writing to make such payment as referred to in clause 3.2;

7.3.2 ceases to hold its approval as a PCS in respect of Household WEEE from the date on which such Participant ceases to hold its authorisation as a PCS (and for such purposes, the parties hereto acknowledge Regulation 34B of the Waste Electrical and Electronic Equipment (Amendment) (No. 2) Regulations 2018 which require that any PCS shall be a member of the System); or

7.3.3 an order is made or a resolution is passed for the winding-up of the Participant or an order is made for the appointment of an administrator to manage the affairs, business and property of the Participant or such an administrator is appointed or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by the Participant or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the Participant's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or the Participant takes or suffers any similar or analogous action in consequence of debt in any jurisdiction;

in each case, provided that such termination right and the exercise thereof is not precluded by the WEEE Regulations.

7.4 These Scheme Terms shall terminate with immediate effect (or otherwise on any period of notice specified in the WEEE Regulations or by the Secretary of State) in the event that WAS ceases to be authorised by the Secretary of State to operate the System, taking account at all times of any requirements set out in the WEE Regulations any other requirements stipulated by the Secretary of State to account for transitional arrangements.

7.5 A Participant may terminate its participation in these Scheme Terms by giving written notice to WAS and where required for the proper operation of the System, to other the other Participants (which for the avoidance of doubt, shall not otherwise affect the continuance in full force and effect of these Scheme Terms with the remaining Participants):

7.5.1 on serving not less than [ x ] days' notice such that the Agreement terminates at the expiry of that notice period in which case, that Participant may continue to operate as a PCS in respect of waste other than Household WEEE;

7.5.2 an order is made or a resolution is passed for the winding-up of WAS or an order is made for the appointment of an administrator to manage the affairs, business and property of WAS or such an administrator is appointed or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by WAS or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a receiver and/or manager or administrative receiver is appointed in respect of all or any of WAS's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or manager or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or WAS takes or suffers any similar or analogous action in consequence of debt;

7.5.3 with immediate effect where that Participant ceases to hold its approval as a PCS;

in each case, provided that such termination right and the exercise thereof is not precluded by the WEEE Regulations.

## 8. **EFFECTS OF TERMINATION**

8.1 On termination of these Scheme Terms or a Participant ceasing to be a party to these Scheme Terms, all sums arising under these Scheme Terms and not paid at the date of such termination, or cessation date as the case may be where a Participant is ceasing to be party to these Scheme Terms, shall become immediately due and payable (and where a Participant ceases to be a party to these Scheme Terms, only to the extent payable by that Participant).

- 8.2 Any provision of these Scheme Terms that expressly or by implication is intended to come into or continue in force on or after termination of these Scheme Terms shall remain in full force and effect.
- 8.3 Termination of these Scheme Terms shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.
- 8.4 In the event that WAS is no longer appointed to operate the PBS such that the Secretary of State at any time withdraws its approval of WAS as PBS operator, the Participant acknowledges and agrees that WAS (and/or the Administrator as the case may be) is authorised to transfer to any incoming operator of a PBS, such information as WAS (and/or the Administrator as the case may be) holds as at the time at which WAS ceases to hold the relevant approval as PBS operator, such transfer being effected for the purposes of continuity and for the operation of an appropriate replacement to the System operated by WAS.

## 9. **CONFIDENTIALITY**

- 9.1 WAS and each Participant undertakes that it shall not at any time disclose to any person any Confidential Information concerning the System, WAS, the Administrator or any Participant except as permitted by clause 9.2 or clause 9.3.
- 9.2 The parties acknowledge that in order for the System to operate in accordance with the terms of appointment of WAS by the Secretary of State, certain information which may otherwise have been classed by the parties hereto as Confidential Information will need to be disclosed among Participants and to other interested parties. Accordingly, the parties acknowledge and agree that nothing in this clause 9 is intended in any way to preclude or prevent the publication, disclosure or use of information of information (whether the same would otherwise have been classed as Confidential Information or not) in so far as the same is necessary for the proper operation of the System and Confidential Information shall not for the purposes of these Scheme Terms include any information which is to be disclosed, published or otherwise used in the proper operation of the System by WAS and/or the Administrator.
- 9.3 WAS and each Participant may in addition to disclosures in accordance with clause 9.2, disclose Confidential Information:
- 9.3.1 to its contractors, representatives and advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with these Scheme Terms (which shall include, without prejudice to the generality of the foregoing, the Administrator) and each Participant shall ensure that its contractors, representatives and advisers to whom it discloses Confidential Information comply with terms equivalent to this in this clause 9; or

9.3.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

9.4 Neither WAS nor any Participant shall use any Confidential Information which it receives under or in connection with these Scheme Terms for any purpose other than to exercise its rights and perform its obligations under or in connection with these Scheme Terms.

9.5 WAS shall procure that the Administrator is bound by confidentiality provisions no less onerous than those set out in these Scheme Terms.

9.6 Further and subject at all times to the provisions of clauses 9.2 and 9.3, WAS acknowledges the importance of maintaining confidentiality in connection with the System. Accordingly, WAS shall use reasonable endeavours to procure that the Administrator shall enter into an agreement with the Participant on terms in a form substantially similar to those included in Schedule 6.

9.7 The provisions of this clause 9 shall survive the termination of these Scheme Terms and, in respect of Participants, continue to apply to a party following it ceasing to be a Participant.

## 10. **ENTIRE AGREEMENT**

10.1 These Scheme Terms 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.

10.2 Each party acknowledges that in entering into these Scheme Terms it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Scheme Terms.

10.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in these Scheme Terms.

10.4 Nothing in this clause shall limit or exclude any liability for fraud.

## 11. **NOTICES**

11.1 For the purposes of this clause 11, but subject to clause 11.5, notice includes any other communication.

11.2 A notice given to a party under or in connection with these Scheme Terms:

11.2.1 shall be in writing;

11.2.2 shall be signed by or on behalf of the party giving it;

11.2.3 shall be sent to the party for the attention of the contact and at the contact details listed in Schedule 1;



- 11.2.4 shall be sent by a method listed in clause 11.4; and
- 11.2.5 unless proved otherwise, is deemed received as set out in clause 11.4 if prepared and sent in accordance with this clause.

11.3 A party may change its details given in Schedule 1 by giving notice, the change taking effect for the party notified of the change at 9.00 am on the later of:

- 11.3.1 the date, if any, specified in the notice as the effective date for the change; or
- 11.3.2 the date 5 Working Days after deemed receipt of the notice.

11.4 This table sets out:

- 11.4.1 delivery methods for sending a notice to a party under these Scheme Terms; and
- 11.4.2 for each delivery method, the corresponding delivery date and time when delivery of the notice is deemed to have taken place provided that all other requirements in this clause have been satisfied:

<b>Delivery method</b>	<b>Deemed delivery date and time</b>
Delivery by hand.	On signature of a delivery receipt.
Email.	Immediately.
Pre-paid first class post or other next working day delivery service providing proof of postage.	9.00 am on the second Business Day after posting.

This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any method of dispute resolution.

**12. COSTS**

12.1 Each party shall pay its own costs incurred in connection with the negotiation, preparation, and execution of these Scheme Terms.

**13. WAIVER**

13.1 No failure or delay by a party to exercise any right or remedy provided under these Scheme Terms 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.

**14. FURTHER ASSURANCE**

14.1 Each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to these Scheme Terms.

15. **SEVERANCE**

15.1 If any provision or part-provision of these Scheme Terms 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, 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 these Scheme Terms.

15.2 If any provision or part-provision of these Scheme Terms 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.

16. **VARIATION**

16.1 Save as expressly provided in these Scheme Terms, no variation to the rights and obligations of the parties pursuant to these Scheme Terms shall be effective unless agreed in writing (including by email) by authorised representatives of each of WAS and 75% of Participants.

17. **NO PARTNERSHIP OR AGENCY**

17.1 Except to the extent expressly stated or otherwise in accordance with the operation of the System, nothing in these Scheme Terms shall constitute or be deemed to constitute a partnership, agency or joint venture between the parties hereto or constitute or be deemed to constitute any party the agent of the other for any purpose whatsoever and no party shall have any authority or power to bind the others or to contract in the name of or create a liability against the others.

18. **COUNTERPARTS**

18.1 These Scheme Terms may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

19. **GOVERNING LAW AND JURISDICTION**

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

19.2 Subject to the provisions of clause 25, each party irrevocably agrees that the courts of England and Wales have non-exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these

Scheme Terms or its subject matter or formation but the parties reserve the right to propose and engage in Alternative Dispute Resolution procedures they may proposed and may deem suitable in the context of any particular dispute or claim.

**20. GDPR**

20.1 The parties acknowledge that from time to time in performing their obligations under these Scheme Terms, each may disclose Personal Data to the other(s). The parties however anticipate that the amount of Personal Data which will be disclosed between them is likely to be minimal and is unlikely to include any Personal Data which is defined as special category personal data in the GDPR. To the extent that a party may act as a Controller or Processor (as defined in the GDPR) in the processing of Personal Data under these Scheme Terms, then the following provisions of this clause 20 shall apply.

20.2 Each party will comply with all applicable requirements of Data Protection Laws. This Clause 20 is in addition to, and does not relieve, remove or replace, a party's obligations under Data Protection Laws.

20.3 Without prejudice to the generality of Clause 20.2, to the extent that a party is a Processor of any Personal Data it shall:

20.3.1 only act on the Controller's documented instructions;

20.3.2 put appropriate measures in place to keep the Personal Data secure;

20.3.3 take reasonable steps to protect the confidentiality of the Personal Data, including ensuring that all Processor personnel are obliged to keep the Personal Data confidential (but for clarity, the obligation in this clause 20.3.3 is in addition to and shall not in any way affect the confidentiality obligations of each of the parties in clause 9);

20.3.4 assist the Controller, by taking appropriate technical and organisational measures insofar as is possible, in fulfilment of the Controller's obligations to respond to requests for the exercise of Data Subjects' rights under Data Protection Laws;

20.3.5 not transfer any Personal Data outside the European Economic Area;

20.3.6 not engage a sub-processor without the prior written consent of the Controller (except that nothing in this sub-clause 20.3.6 shall prevent WAS from appointing such contractors, agents or other representatives as it may from time to time determine);

20.3.7 at the Controller's written request, delete or return the Personal Data and copies thereof to the Controller on termination of these

Scheme Terms, unless required by any applicable law to store the Personal Data or otherwise for the proper operation of the System;

20.3.8 assist the Controller, at the Controller's cost, in responding to any requests from a Data Subject and in ensuring compliance with the Controller's obligations under Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators; and

20.3.9 make available to the Controller all information necessary to demonstrate compliance with this clause 20 and shall submit to audits and inspections conducted by the Controller or the Controller's representative.

20.4 A Processor may disclose the Personal Data to third parties as reasonably required:

20.4.1 where required to do so by law;

20.4.2 to exercise the Processor's legal rights or defend itself against legal claims;

20.4.3 to assist with the investigation or prevention of illegal activity;

20.4.4 where the Controller has given the Processor explicit consent to do so; and/or

20.4.5 where the Processor is otherwise permitted to do so by law.

20.5 Data Subject, Personal Data, Processing, Processor, Controller have the meanings given in Data Protection Laws.

## 21. **ANTI-BRIBERY AND ANTI-CORRUPTION**

21.1 The parties undertake to maintain high standards with regard to ethics and shall:

21.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);

21.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

21.1.3 adhere to the such ethics, anti-bribery and anti-corruption policy polices of WAS (or at WAS's option, those of the Administrator as the case may be), as WAS may specify and as may be updated from time to time (**Relevant Policies**); and

21.1.4 have and shall maintain in place throughout the term of these Scheme Terms its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and clause 21.1.2 and will enforce them where appropriate.

21.2 Each Participant shall:

21.2.1 promptly report to WAS and the Administrator any request or demand for any undue financial or other advantage of any kind received in connection with the performance of these Scheme Terms;

21.2.2 immediately notify in writing if a foreign public official becomes an officer or employee of it or acquires a direct or indirect interest in it and each Participant warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of these Scheme Terms; and

21.2.3 within 1 month of the date of these Scheme Terms, and annually thereafter, certify to each of WAS and the Administrator, in writing signed by an officer of the Participant, compliance with this clause 21.2.3 by the Participant and all persons associated with it.

21.3 The Participant shall provide such supporting evidence of compliance as WAS or the Administrator may reasonably request.

21.4 Each Participant shall ensure that any person associated with it who is performing services in connection with these Scheme Terms does so only on the basis of a written contract which imposes on and secures from such person, terms equivalent to those imposed on the Participants in this clause 21 (**Relevant Terms**). The Participant shall be responsible for the observance and performance by such persons of the Relevant Terms and shall be directly liable for any breach by such persons of any of the Relevant Terms.

21.5 Breach of this clause 21 shall be deemed a material breach of these Scheme Terms.

21.6 For the purpose of this clause 21, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 21, a person associated with the Participant includes but is not limited to any subcontractor of a Participant.

## 22. **CRIMINAL FINANCES ACT COMPLIANCE**

22.1 Each party shall:

- 22.1.1 not engage in any activity, practice or conduct which would constitute either a UK tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017, or a foreign tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017;
- 22.1.2 not do, or omit to do, any act that will cause or lead another party to commit an offence under section 45(1) or section 46(1) of the Criminal Finances Act 2017 or be in breach of any relevant policies; and
- 22.1.3 have and shall maintain in place throughout the term of these Scheme Terms such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including personnel of the party and any of its subcontractors) and to ensure compliance with clause 22.1.1 (or in the case of WAS, use reasonable endeavours to procure such policies and procedures from the Administrator).
- 22.2 Each Participant shall:
- 22.2.1 promptly report to WAS and the Administrator any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017, in connection with the performance of these Scheme Terms; and
- 22.2.2 if requested, provide WAS and the Administrator with any reasonable assistance to enable it to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with Part 3 of the Criminal Finances Act 2017 or any of the Relevant Policies.
- 22.3 If WAS or the Administrator reasonably suspects a Participant or any person associated with that Participant of a breach of this clause 22, each of WAS and the Administrator and its and their third party representatives shall have the right to immediately access and take copies of any records and any other information held at the relevant Participant's premises and to meet with the Participant's personnel to audit its compliance with its obligations under this clause 22. The Participant shall give all necessary assistance to the conduct of such audit during the term of these Scheme Terms and for a period of three years after termination of these Scheme Terms (or the Participant's adherence to it as the case may be).
- 22.4 Each party shall keep at its normal place of business, detailed, accurate and up-to-date records and books of account showing the steps taken to comply with its obligations under this clause 22 during the previous six years. Each party shall ensure that such records and books of accounts are sufficient to enable the other party to verify that party's compliance with its obligations under this clause 22 and shall permit access to

the same on reasonable notice during normal business hours, to access and take copies of records and any other information held at its premises and to meet with relevant personnel to audit its compliance with its obligations under this clause 22. Such audit rights shall continue for six years after termination of these Scheme Terms.

22.5 Each party warrants and represents that:

22.5.1 any statements made in respect of anti-facilitation of tax evasion are complete and accurate; and

22.5.2 neither it nor any of its officers, employees or other persons associated with it:

22.5.2.1 have been convicted of any offence involving tax evasion or the facilitation of tax evasion;

22.5.2.2 having made reasonable enquiries, so far as it is aware, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence concerning tax evasion or the facilitation of tax evasion;

22.5.2.3 have been or is listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or other government contracts including, without limitation, any exclusion under regulation 57 of the Public Contracts Regulations 2015 (SI 2015/102) or regulation 80 of the Utilities Contracts Regulations 2016 (SI 2016/274).

22.6 Each Participant shall promptly notify WAS and the Administrator if, at any time during the term of these Scheme Terms, its circumstances, knowledge or awareness changes such that it would not be able to repeat the warranties set out in clause 22.5 at the relevant time.

22.7 Breach of this clause 22 shall be deemed a material breach of these Scheme Terms.

## 23. **FREEDOM OF INFORMATION AND EIR**

23.1 “**Information**” and “**Request for Information**” shall for the purpose of this clause 23 have the meanings set out in the Freedom of Information Act 2000 (**FIA**) or the Environmental Information Regulations 2004, SI 2004/3391 (**EIR**) as relevant.

23.2 The parties acknowledge that DEFRA and LAs are subject to the requirements of the FIA and the EIR. The parties agree that they shall each promptly and fully assist and cooperate with the Administrator (and where relevant, WAS as the case may be) to enable the Administrator (or WAS if relevant) to respond to any requests for assistance

from DEFRA, any LA and any other relevant person which is subject to FOIA and EIR, dealing with its obligations thereunder (**Request for Assistance**).

23.3 Where the Administrator (or WAS) receives a Request for Assistance in respect of which it shall require a Participant's assistance, it shall inform the Participant of its receipt as soon as reasonably practicable, with an explanation of the information or assistance required from the Participant.

23.4 While the Administrator (or WAS) may, if practicable and appropriate, consult with the Participant in relation to whether any information relating to a Participant should be disclosed as part of a Request for Assistance, it shall not be obliged to do so and the Participants acknowledge that the decision as to compliance with the FIA and the EIR shall ultimately be the responsibility of those entities which are bound to comply with the same.

23.5 The Participant shall provide to the Administrator (or WAS) such information as the Administrator (or WAS) may require in response to a Request for Assistance as soon as practicable and in any event by not later than three days following the date of the Request for Assistance.

#### 24. **THIRD PARTY RIGHTS**

24.1 The parties acknowledge that a number of rights are granted to the Administrator in accordance with the terms hereof as a third party to these Scheme Terms. Except as expressly stated otherwise, these Scheme Terms do not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Scheme Terms. Any rights which exist or are available apart from that Act are not affected.

24.2 The rights of the parties to rescind or vary these Scheme Terms are not subject to the consent of any other person.

#### 25. **COMPLAINTS PROCESS AND RESOLUTION OF DISPUTES**

25.1 WAS shall itself adopt and adhere to and shall use all reasonable endeavours to procure that the Administrator shall adopt and adhere to, appropriate complaints procedures (both internal and external) for the purposes of dealing with any complaints relevant to this Agreement or the System. Each Participant shall adhere to such complaints procedures and shall take all steps and provide such information as reasonably required, to facilitate the proper operation of those procedures and any subsequent investigation whether by WAS, and/or the Administrator and/or where relevant, any independent person appointed in connection with the same.

25.2 The parties shall use reasonable endeavours and act in good faith in following the complaints process referred to in clause 25.1 with a view to dealing with any complaints as efficiently and as cost effectively as can reasonably be achieved in the circumstances. Further, the parties shall follow such complaints process prior to reverting to any action to be undertaken in accordance with clause 19.



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## APPENDIX 1 - Sample Monthly Invoice to Participant

Sample Monthly invoice to Participant

Name of PCS

Invoice number:

Invoice Date:

Date when Direct Debit payment will be collected from Participants account, or date when payment due:

Evidence to be transferred to Participants WEEE Settlement Centre Account:

	tonnes	£ ave / tonne	total cost
Category 1 =	1.000	£50.00	£50.00
Category 2 =	0.500	£100.00	£50.00
Category 3 =	0.000		
Category 4 =	0.000		
Category 5 =	2.000	£100.00	£200.00
Category 6 =	0.000		
Category 7 =	0.000		
Category 8 =	0.000		
Category 9 =	1.000	£80.00	£80.00
Category 10 =	0.000		
Category 11 =	0.000		
Category 12 =	0.000		
Category 13 =	0.700	£150.00	£105.00
Category 14 =	0.000		
<b>Total evidence this month =</b>	<b>5.200</b>		<b>£485.00</b>
Variable management fee per £1.00 of evidence cost		£0.05	<b>£24.25</b>
Fixed monthly management fee		£100.00	£100.00
		<b>Total net cost</b>	<b>£609.25</b>
		VAT	£121.85
		<b>Total Gross Cost</b>	<b>£731.10</b>

## Schedule 2

### Confidentiality Agreement

This Agreement is made the \_\_\_\_\_ day of \_\_\_\_\_

#### Parties

- (1) **[INSERT COMPANY NAME]** incorporated and registered in England and Wales with company number **[INSERT COMPANY NUMBER]** whose registered office is at **[INSERT REGISTERED OFFICE ADDRESS]** (the **Participant**);
- (2) **AECOM INFRASTRUCTURE & ENVIRONMENT UK LIMITED** incorporated and registered in England and Wales with company number 00880328 whose registered office is at Midpoint, Alencon Link, Basingstoke, Hampshire, England, RG21 7PP (**AECOM**);

hereinafter referred to as the **Parties** or either one of them as a **Party**.

#### Whereas:

- (A) The Participant operates as a PCS for the purposes of the Producer Balancing Scheme pursuant to Regulation 34 of the Waste Electrical and Electronic Equipment Regulations 2013 (PBS). WAS is the licensed operator of such Producer Balancing Scheme and the Administrator is appointed by WAS with regard to the operation thereof.
- (B) From time to time, certain Confidential Information of a Party hereto may be disclosed between the Administrator and the Participant in connection with the operation of the PBS. The Parties acknowledge the importance of maintaining confidentiality while at the same time, acknowledging that certain information which a Party may otherwise have classed as confidential information, may otherwise be required to be disclosed or published as part of the operation of the PBS.
- (C) Accordingly, the Parties enter into the terms and conditions of this Agreement.

#### 1 Definitions and Interpretation

- 1.1 In this Agreement the following words shall have the following meanings and the following rules of interpretation shall apply:

Business Day means a day other than a Saturday, Sunday or bank or public holiday in England or Wales.

**Confidential Information** means any information (whether written (including electronic information) or oral) disclosed by one party (**Disclosing Party**) to the other party

**(Receiving Party)** pursuant to, under or in connection with the Permitted Purpose of a confidential nature including, but without limitation, details of:

- 1.1.1 the Disclosing Party's activities, business and finances;
- 1.1.2 any intellectual property rights of a Disclosing Party including know-how, designs, trade secrets and software;
- 1.1.3 the Disclosing Party's customers and suppliers;
- 1.1.4 the Disclosing Party's plans, intentions and market opportunities and [market share obligation report];
- 1.1.5 the Disclosing Party's operations, processes, product information; and
- 1.1.6 the terms of this Agreement;

but in each case, subject to the provisions of clause 3.1.

**Disclosing Party** means a Party disclosing Confidential Information to the Receiving Party.

**Receiving Party** means the Party in receipt of Confidential Information from the Disclosing Party or otherwise acquired by that Party under or in connection with the PBS.

**PBS** shall have the meaning given to it in recital A.

**Permitted Purpose** means the operation of the PBS, in respect of which AECOM is appointed as administrator by WAS and of which the Participant is a member.

**WAS** a company registered in England and Wales with company number 10934842 whose registered office is at Corner Oak 1, Homer Road, Solihull, West Midlands, England, B91 3QG.

## 2 **Confidentiality Obligations**

2.1 In consideration of the disclosure of Confidential Information to a Receiving Party by the Disclosing Party and further in consideration of the mutual promises and covenants set out herein, each of the Parties hereby respectively agrees with and undertakes to the other, on behalf of itself and all persons to whom disclosure by it is permitted within the terms of this Agreement, that, subject as herein described including in particular at all times subject to the provisions of clause 3.1, all Confidential Information, howsoever acquired or received by the Receiving Party:

- 2.1.1 shall not be used for any purpose other than the Permitted Purpose; and
- 2.1.2 shall be held strictly confidential and shall not be divulged directly or indirectly or otherwise made available in whole or in party to any third party.

### 3 **Authorised Disclosures**

3.1 The Parties acknowledge that in order for the PBS to operate in accordance with the terms of appointment of WAS by the Secretary of State, certain information which may otherwise have been classed by the Parties hereto as Confidential Information will need to be disclosed among those entities which operate as a PCS for the purpose of the PBS and/or between the Parties hereto and/or between WAS and a Party or the Parties hereto or otherwise amongst other interested persons. Accordingly, the Parties acknowledge and agree that nothing in this Agreement is intended in any way to preclude or prevent the publication, disclosure or use of information (whether the same would otherwise have been classed as Confidential Information or not) in so far as the same is necessary for the proper operation of the PBS and Confidential Information shall not for the purposes of this Agreement include any information which is to be disclosed, published or otherwise used in the proper operation of the PBS by WAS and/or the Administrator.

3.2 The Receiving Party may disclose Confidential Information of the Disclosing Party:

3.2.1 to an affiliate of the Receiving Party directly concerned with the Permitted Purpose and whose knowledge of the Confidential Information is essential for the Permitted Purpose. For the purposes of this Agreement "affiliate" shall mean any holding company or subsidiary company of the Receiving Party or any company which is a subsidiary company of the holding company of the Receiving Party and the expressions "holding company" and "subsidiary" shall have the meaning respectively ascribed thereto by section 1159 of the Companies Act 2006; or

3.2.2 to the extent strictly necessary for the Permitted Purpose to its employees, contractors, agents, officers and/or other representatives and to its outside professional advisors (or those of its affiliate) directly concerned with the Permitted Purpose and whose knowledge of the Confidential Information is required for the Permitted Purpose; or

3.2.3 to any governmental or regulatory authority having a right to require the same or to any recognised Stock Exchange, in compliance with the rules and regulations thereof or to the extent required by law (provided that the Receiving Party shall prior to such disclosure inform the Disclosing Party of such requirement and shall disclose only such Confidential Information as is necessary to comply therewith);

and provided that prior to any disclosure of Confidential Information under Clauses 3.1.1 to 3.1.3 above, the Receiving Party shall ensure that each recipient thereof is made aware of the confidential nature of the Confidential Information, the Receiving Party shall assume full responsibility for all actions of each such recipient and provided further, that prior to any disclosure of Confidential Information to any such recipient, the Receiving Party shall first obtain from that recipient a binding agreement on terms no less strict than those hereunder and inform the Disclosing Party in writing

of such disclosure and provide the Disclosing Party with a copy of such agreement if so requested.

#### **4 Excluded information**

4.1 The undertakings contained in Clause 3 shall not apply to such Confidential Information as:

4.1.1 is at the time of being obtained by the Receiving Party within the public domain other than as a breach of this Agreement; or

4.1.2 is proved by documentary evidence as being at the time of this Agreement already lawfully in the possession of the Receiving Party;

4.1.3 after being obtained by the Receiving Party comes within the public domain other than by reason of a breach by the Receiving Party of the undertakings contained in this Agreement;

4.1.4 is properly received by the Receiving Party from a third party who is rightfully in possession of such Confidential Information and who is not bound by any obligation of confidence or secrecy;

4.1.5 is proved by documentary evidence as having been independently developed by the Receiving Party or its affiliates with no knowledge of the Confidential Information;

4.1.6 is disclosed with the Disclosing Party's written consent to disclosure;

4.1.7 is required to be disclosed by the Receiving Party by a court of competent jurisdiction, administrative agency or governmental body, or by law rule or regulation (including for the operation of the PBS operated by WAS as approved by the Secretary of State), or by applicable regulatory or professional standards, or the requirements of any recognised Stock Exchange provided that the Receiving Party has taken all practicable legal steps to protect such disclosure; or

4.1.8 it is required to disclose to its professional advisors, auditors, bankers or financiers provided that such recipient enters into a confidentiality undertaking on equivalent terms to this Agreement.

#### **5 Ownership of Confidential Information**

All Confidential Information shall remain the property of the Disclosing Party and the disclosure of Confidential Information does not amount to a licence in favour of the Receiving Party. Without prejudice to the provisions of this Agreement, the Disclosing Party confirms that the Confidential Information is given by it in good faith and other than in respect of information which the Participant is required to provide to AECOM in accordance with the operation of the PBS, the Disclosing Party does not represent,

warrant or undertake that the Confidential Information is accurate, up to date, exhaustive or complete on the subject matter concerned.

## **6 Indemnity**

6.1 [The Receiving Party hereby acknowledges that any breach by it of any of the provisions of this Agreement may cause serious damage to the Disclosing Party. The Receiving Party undertakes fully and effectively to indemnify and keep indemnified the Disclosing Party for and against all loss, damage, costs, and liabilities suffered or incurred by the Disclosing Party arising from:

6.1.1 the unauthorised disclosure of Confidential Information belonging to the Disclosing Party by the Receiving Party or any person to whom disclosure of such Confidential Information is permitted under Clause 3; or

6.1.2 a breach by the Receiving Party of its obligations under this Agreement. ]

## **7 Waiver**

Any failure of a Party in exercising any right, power or privilege hereunder shall not, nor shall any single or partial exercise thereof, preclude any exercise of any other right, power or privilege.

## **8 Inadequacy of Damages**

The Parties acknowledge that damages will not normally be an adequate remedy for breach of any of the terms set out in this Agreement and that the Disclosing Party should be entitled to equitable relief including injunctions in respect of any breach by the Receiving Party.

## **9 Copying, Returning or Destroying Confidential Information**

Each of the Parties agree and undertake to each other that the Confidential Information shall only be copied or duplicated to the extent necessary for the Permitted Purpose and that a restriction shall be placed on each copy prohibiting further reproduction or transfers. Furthermore, any of the Confidential Information and copies, and any extracts, summaries or analyses thereof, shall be returned to the Disclosing Party or destroyed or expunged from any electronic storage device (with written confirmation of the same to the Disclosing Party) within fourteen (14) working days upon expiry or sooner termination

or the Permitted Purpose or (if sooner) upon written notice to do so from the Disclosing Party, to the extent permitted by law.

**10 No Obligation to Disclose Confidential Information**

Nothing in this Agreement shall be construed as obliging any of the Parties to disclose Confidential Information to another Party or Parties.

**11 Notices**

Any notice or other communication given by a Party under this Agreement shall be in writing and shall be signed by, or on behalf of, the Party giving it, and be sent to the relevant Party's registered address. Notices are deemed received if delivered by hand; on receipt of a signature at time of delivery; if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed. All references to time are to the local time at the place of deemed receipt. The provisions of this clause 11 does not apply to notices given in legal proceedings or arbitration.

**12 Severance**

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

**13 Governing Law and Jurisdiction**

The construction, validity and performance of this Agreement shall be governed by and construed in accordance with English law and the Parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any claims or disputes which may arise out of or in connection with this Agreement.

**14 Commencement and Duration**

This Agreement shall become effective on the date first written above and shall remain in full force and effect for a period of six years thereafter or for such longer period as may be necessary to protect the confidential nature of the Confidential Information.

This Agreement is entered into on the date first set out above.

Signed by [NAME  
OF DIRECTOR], a  
Director for and on

.....  
Director



behalf of AECOM  
INFRASTRUCTURE  
& ENVIRONMENT  
UK LIMITED

Signed by [NAME  
OF DIRECTOR], a  
Director for and on  
behalf of [INSERT  
PARTICIPANT  
DETAILS]

.....

Director

**Schedule 8.7**

**Opinion from Counsel**

## WEEE ALLOCATION SCHEME UK LIMITED

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### OPINION ON COMPETITION LAW

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#### **A. INSTRUCTIONS**

1. I am instructed to advise WEEE Allocation Scheme UK Limited (“**WAS**”) on issues of competition law relating to its proposal for a new producer compliance scheme (“**PCS**”) balancing system (“**the Proposed PBS**”). The Proposed PBS is due shortly to be submitted for approval pursuant to regulation 34A(1) of the Waste Electrical and Electronic Equipment Regulations 2013 (SI 2013/3113) (“**2013 Regulations**”). It is intended as a replacement for the system currently operated by WEEE Schemes Forum Limited (“**the Current PBS**”).
2. I have been provided with the Operating Agreement and Operator Manual for the Current PBS, and drafts of documents describing the Proposed PBS.
3. I am asked to address the following topics:
  - (1) the treatment of the Current PBS under competition law;
  - (2) whether more information about bids could be published to users of a PBS consistently with competition law than is published under the Current PBS; and
  - (3) whether the Proposed PBS would comply with competition law.
4. I am mindful that, in assessing the Proposed PBS for approval, the Secretary of State expects a description of how the proposal is consistent with competition law.

#### **B. SUMMARY OF OPINION**

5. In summary, in my opinion:
  - (1) There are no obvious competition law grounds for challenging the Current PBS. However, the designers of the Current PBS may have been overly cautious about the anti-competitive risks of sharing information.

- (2) More information about bids could be published to users of a PBS consistently with competition law than is published under the Current PBS:
- (a) Competition law is generally unconcerned for example about the sharing of historical or aggregated information which does not provide a strategic advantage. Data about successful past bids could be produced by a PBS in such a way as to fall within that description.
  - (b) From the perspective of competition law, information sharing is more problematic when the information is shared between only some of the participants in a market, which is an issue under the Current PBS but not under the Proposed PBS. Not all PCSs are members of the Current PBS, whereas all PCSs would be legally obliged to belong to the Proposed PBS if it is approved by the Secretary of State.
  - (c) Under an industry-wide PBS, the publication of information about regions where few PCSs are bidding to collect regulation 34 WEEE could have pro-competitive benefits. It could lead to greater competition in those regions and therefore to lower compliance costs for the producer members of PCSs who ultimately bear the cost of such collections.
- (3) Subject to making the few clarifications identified below, the Proposed PBS as described to me would be consistent with competition law.

## **C. RELEVANT COMPETITION LAW**

### **C1. Relevance of EU law after Brexit**

6. I set out in this section of my Opinion the potentially relevant provisions of competition law. I refer to EU competition law as well as domestic UK competition law. Although it is currently expected that the UK will leave the EU at 11pm on 29 March 2019, which is before the Proposed PBS would be adopted, it is expected that the competition rules in the Treaty on the Functioning of the EU (“TFEU”) will continue to be recognised and

available in domestic law after that time, by virtue of the provision in section 4(1) of the European Union (Withdrawal) Act 2018.<sup>1</sup>

## **C2. Article 101 TFEU**

7. Article 101(1) TFEU contains the following prohibition on anti-competitive agreements, which is potentially relevant because at the heart of a PBS is an agreement between potential competitors by which work and/or costs are allocated between them:

*“The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:*

- (a) directly or indirectly fix purchase or selling prices or any other trading conditions;*
- (b) limit or control production, markets, technical development, or investment;*
- (c) share markets or sources of supply;*
- (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;*
- (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.”*

8. Agreements so prohibited are void under Article 101(2). However, Article 101(1) may be declared inapplicable in the case of:

- “- any agreement or category of agreements between undertakings,*
- any decision or category of decisions by associations of undertakings,*
- any concerted practice or category of concerted practices,*

*which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:*

- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;*

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<sup>1</sup> See the references to Articles 101(1), 102, 106(1) and 106(2) TFEU in paragraph 94 of the Explanatory Notes to the European Union (Withdrawal) Act 2018.

- (b) *afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.*"

### **C3. Article 102 TFEU**

9. Article 102 TFEU prohibits the abuse of a dominant position, in the following terms:

*"Any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it shall be prohibited as incompatible with the internal market in so far as it may affect trade between Member States.*

*Such abuse may, in particular, consist in:*

- (a) *directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;*
  - (b) *limiting production, markets or technical development to the prejudice of consumers;*
  - (c) *applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;*
  - (d) *making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts."*
10. Article 102 TFEU is potentially relevant because, to the extent that the PBS is a gatekeeper to accessing work under regulation 34 of the 2013 Regulations, and such work comprises a distinct market, the PBS holds a dominant position in relation to that market.

### **C4. Article 106 TFEU**

11. Article 106(1) and (2) TFEU concern the application of competition law to undertakings which are given special public powers. Those provisions are potentially relevant because in future there will be a legal obligation on every PCS to belong to the PBS which is approved by the Secretary of State.<sup>2</sup> They provide as follows:

*"1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the rules contained in the Treaties, in particular to those rules provided for in Article 18 and Articles 101 to 109.*

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<sup>2</sup> 2013 Regulations, reg. 34B.

2. *Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in the Treaties, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Union.”*

#### **C5. Competition Act 1998**

12. Chapters 1 and 2 of Part 1 of the Competition Act 1998 (“**1998 Act**”) contain provisions equivalent to Articles 101 and 102 TFEU respectively, save that they are concerned with effects on trade and competition within the UK, rather than between EU Member States.
13. However, by domestic provision similar to Article 106(2) TFEU, neither applies to “*an undertaking entrusted with the operation of services of general economic interest ... in so far as the prohibition would obstruct the performance, in law or in fact, of the particular tasks assigned to that undertaking.*”<sup>3</sup>
14. Furthermore, neither the Chapter 1 nor the Chapter 2 prohibition applies to the extent to which agreements are made or conduct engaged in in order to comply with a legal requirement. Accordingly, if for example a PBS scheme were anti-competitive, but PCSs were obliged by law to join that scheme, PCSs would not be affected by the Chapter 1 prohibition.

#### **D. RELEVANT MARKETS**

15. To understand impact on competition, it is necessary to assess the scope of the relevant markets. Precise market definition typically requires sophisticated economic analysis, which is not feasible for present purposes. Instead, I suggest the following possible contenders for relevant product markets that might be affected by the matters under consideration:
  - (1) The market(s) for supplying collection and treatment services to designated collection facilities (“**DCFs**”). It is arguable that there are separate markets for such services when provided under regulation 34 (because in such cases the DCF can compel the provision of services), and when provided otherwise (i.e. by freely-

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<sup>3</sup> 1998 Act, Sch. 3, para. 4.

negotiated contract). The existence and operation of a PBS will affect the activities on any such market.

- (2) The market(s) for providing membership of a PCS to producers of WEEE. There might be separate such markets for different waste streams. The existence and operation of a PBS could potentially affect the success and profitability of PCSs – whether or not membership of the PBS is mandatory – and therefore could have a consequential effect on any such market.
  - (3) The market(s) for provision of logistical and other subcontracted services to PCSs, when serving DCFs and otherwise. I understand that PCSs tend to engage subcontractors to collect and process WEEE. The existence and operation of a PBS may have a knock-on effect on the activities on such subsidiary markets, to the extent that they are used (or not used) for the provision of services in fulfilment of PCSs' obligations under the PBS.
16. In each case, due to homogeneity of regulation, the geographic markets seem likely to be at least as wide as the separate regions of the UK for the purposes of the 2013 Regulations (i.e. England and Wales; Scotland; and Northern Ireland), but they could potentially be the whole UK. The geographic market is on any view sufficient wide to engage both EU and domestic competition law.

## **E. THE CURRENT PBS**

### **E1. Article 106 etc. inapplicable**

17. The Current PBS is a voluntary scheme; PCSs are not obliged to participate in it. It was created by a group of PCSs rather than by the State. It therefore falls outside the scope of Article 106 TFEU, and outside the similar domestic provisions described in paragraphs 13 and 14 above.

### **E2. Anti-competitive agreements**

18. The provisions on anti-competitive agreements in Article 101 TFEU and the Chapter 1 prohibition in the 1998 Act are however pertinent. The Current PBS is a means by which



potential competitors cooperate. It is an example of what competition lawyers call a “horizontal” agreement. There is a risk that competition may be reduced or otherwise distorted when potential competitors work together in such structures, especially where (as here) the agreement is used to share work and/or costs between them.

19. I have reviewed the constitutional documents of the Current PBS and have not identified any significant competition concerns in this regard.
20. I have paid particularly close attention to the provisions on information sharing. Information sharing between competitors is a particular concern of competition authorities where there is “horizontal” cooperation.<sup>4</sup> As the European Commission explains:

*“By artificially increasing transparency in the market, the exchange of strategic information can facilitate coordination (that is to say, alignment) of companies’ competitive behaviour and result in restrictive effects on competition.”<sup>5</sup>*

21. However, the draftsman of the scheme for the Current PBS appears to have been especially (and arguably overly) cautious as regards sharing of information. In particular, section 4 of the Operator Manual for the Current PBS sets out how confidential and sensitive data is to be managed. It sets out, for example, that individual costs quoted by PBS members are not to be transparent to other members, and market share information is not to be shared between PBS members. I am told that the lack of information on invoices rendered by the Current PBS to its members, which appears to derive from this concern about information sharing, leads to practical difficulties for those PBS members in assessing how to recharge the invoiced sums to their member PCSs. Additionally, it deters verification of the calculation of the invoices. Nevertheless, under-provision of data does not appear to me to be a matter with which competition law would be concerned.
22. The Current PBS is used to allocate work between its members, specifically the fulfilment of regulation 34 requests, but each request referred to the Current PBS is by definition work which the initial recipient of the regulation 34 request did not want to fulfil itself. Once within the system, the request is allocated according to a system which

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<sup>4</sup> See, e.g., European Commission Guidelines on the applicability of Article 101 TFEU to horizontal co-operation agreements [2011] OJ C 11/1 (“**Horizontal Guidelines**”), pp. 13-23.

<sup>5</sup> *Ibid.*, para. 65.

seems to have been designed to be objective and non-discriminatory, subject to the following observation.

23. I am told that the structure of the Current PBS gives advantages to PCSs which are already familiar with the DCF making the regulation 34 request, for example through knowledge derived from contracts with that DCF for other categories of WEEE. In particular, I am informed that the short timescale for submitting a nil-cost bid under the Current PBS (within 24 hours), and the fact that the first nil-cost bid received wins, advantages the PCS who is familiar with the requesting DCF.
24. I can appreciate that this might be thought to distort competition by discouraging new entrants. However, even absent a PBS, a service provider who responds quickly will win nil-cost work, and those familiar with a location will always be better placed to offer their services faster if so minded. In other words, the Current PBS does not appear to be materially distorting the situation that would pertain even in its absence.

### **E3. Abuse of dominance**

25. As to the provisions on abuse of dominance in Article 102 TFEU and the Chapter 2 prohibition in the 1998 Act, these are only relevantly applicable to the extent that the Current PBS may hold a dominant position on a relevant market, which is not clear.

26. A dominant position is:

*“a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained on the relevant market by giving it the power to behave to an appreciable extent independently of its competitors, customers and ultimately of its consumers.”<sup>6</sup>*

27. I am not in a position to assess definitively whether the Current PBS holds a dominant position vis-à-vis the market(s) for supplying collection and treatment services to DCFs, as I do not have the relevant data. As presently advised, I can formulate an argument that it does, based on the fact in my instructions that a substantial majority of PCSs belong to the Current PBS, which seems likely to give the Current PBS a substantial advantage in dealing with DCFs who will perceive it as a convenient ‘one stop shop’. However,

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<sup>6</sup> Case 27/76 *United Brands v. Commission* [1978] ECR 207, para. 65.

counter-arguments include that PCSs are not obliged to belong to the Current PBS, and that a rival PBS could in principle be established.

28. To the extent that the Current PBS does hold a dominant position vis-à-vis the market(s) for supplying collection and treatment services to DCFs, competition law imposes on it a “*special responsibility not to allow its conduct to impair undistorted competition*”.<sup>7</sup> I have not identified any examples in the constitutional documents of the Current PBS which are abusive.
29. That is not to say that the Current PBS could not be operated in an abusive fashion, but again I have no examples. For instance, if the Current PBS could be shown to discriminate and thereby place certain trading parties at a competitive disadvantage, this might form the basis of an argument of abuse. This seems unlikely. Under the terms of the Operating Agreement for the Current PBS, any PCS may become a participant.<sup>8</sup> Moreover, operation of the Current PBS is outsourced to an independent third party (currently Anthesis) who does not appear to have any incentive to discriminate.

#### **E4. Conclusion**

30. For the reasons set out above, there are in my opinion no obvious competition law grounds for challenging the Current PBS. Further, I am not aware of any competition law complaint having been made about the Current PBS.

#### **F. THE PROPOSED PBS**

##### **F1. Mandatory and official nature**

31. Any new PBS would materially differ from the Current PBS because membership would be mandatory.<sup>9</sup> Furthermore, unlike the Current PBS, legislation would expressly provide for it: see regulations 34A-B of the 2013 Regulations. The competition law analysis therefore differs in fundamental ways.

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<sup>7</sup> Case 322/81 *Michelin v. Commission* [1983] ECR 3461, para. 57.

<sup>8</sup> Operating Agreement for the Current PBS dated 3 August 2016, cl. 3.1.

<sup>9</sup> 2013 Regulations, reg. 34B.

32. Competition law applies to “*undertakings*”. An entity performing “*a task in the public interest which forms part of the essential functions of the State*” where that activity “*is connected by its nature, its aim and the rules to which it is subject with the exercise of powers ... which are typically those of a public authority*” is not an undertaking for these purposes.<sup>10</sup> Whilst there may be some scope for argument as to whether a PBS responsible for clearing WEEE from DCFs under the new mandatory regime falls within this description, I proceed on the cautious basis (which is in any event my view) that the Proposed PBS would be an undertaking and therefore would be subject to competition law. Whilst some degree of waste clearance is probably an essential function of the State, this is a sector in which there is nowadays a substantial degree of private enterprise.
33. To the extent that the Proposed PBS would be an “*undertaking*” (which as noted above is my view) it would be an undertaking granted “*special or exclusive rights*”, by virtue in particular of regulation 34B(1) of the 2013 Regulations. Article 106(1) TFEU (reproduced in paragraph 11 above) accordingly mandates the UK to neither enact nor maintain any measure relating to the Proposed PBS which would contravene the competition rules in Articles 101 and 102 TFEU.
34. However, to the extent that the Proposed PBS would be an undertaking, it would be an “*undertaking entrusted with the operation of services of general economic interest*”. Waste management has been recognised as such a service by the Court of Justice of the EU, particularly where the service is designed to deal with an environmental problem.<sup>11</sup> Therefore, it is to be noted that to the (albeit unlikely) extent that the rules on competition truly and unavoidably obstruct the performance of the particular tasks assigned to the Proposed PBS, they do not apply: see Article 106(2) TFEU (reproduced in paragraph 11 above) and the similar domestic provision (reproduced in paragraph 13 above).

## **F2. Anti-competitive agreements**

35. I have reviewed the draft tender response document for the Proposed PBS and the draft membership terms which have been provided to me, as well as the draft heads of terms for the appointment of the proposed scheme administrator, all with a view to identifying any provisions which could be argued to breach the prohibitions in Article 101 TFEU

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<sup>10</sup> Case C-343/95 *Cali e Figli* [1997] ECR I-1547, paras. 22-23.

<sup>11</sup> Case C-209/98 *Entreprenørforeningens Affalds v. Københavns Kommune* [2000] ECR I-3743, para. 75.

and/or Chapter 1 in the 1998 Act. In my opinion the proposed scheme is compliant, but I would recommend that a few clarifications are made out of an abundance of caution. My comments are as follows:

- (1) Reference is made to a “*portal*” which will enable easier communications between stakeholders than under the Current PBS, and also to an “*online chat facility*”. It is important that these do not become a means by which PCSs could collude unlawfully. Those instructing me say that the portal and chat facility are intended only for communication between a PCS and the PBS administrator, not between PCSs. If they are to be used only in this way, there is no cause for concern. However, it would be desirable to set these features up in such a way as to preclude use as a forum for PCSs to interact with each other. If this is not possible, an appropriate use policy should be published conspicuously.
- (2) I note that under the Proposed PBS, slightly more data about winning bids is available to users than under the Current PBS. Under the Proposed PBS, all PCSs are to be notified of the total amount of the winning bid. By contrast, under the Current PBS, such information is withheld, possibly on competition grounds premised on a view that disclosure could lead to price sharing or bid rigging. I am not troubled by that change:
  - (a) The draftsman of the Current PBS – to the extent that he/she considered the issue – was probably over-cautious.
  - (b) In normal market transactions, it is relatively common for competitors to know the price paid to the winning tenderer. Data on past successful bids is not particularly useful when setting future prices or market conduct. As the European Commission’s Horizontal Guidelines state:

*“When evaluating the change in the level of transparency in the market, the key element is to identify to what extent the available information can be used by companies to determine the actions of their competitors.”*<sup>12</sup>

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<sup>12</sup> Horizontal Guidelines, para. 78.

- (c) Competition law is generally unconcerned about the sharing of historical or aggregated information which does not provide a strategic advantage.<sup>13</sup> To the extent that the data is aggregated or anonymised, there is even less cause for concern.<sup>14</sup> Data about successful past bids could be produced by a PBS in such a way as to fall within those descriptions. Indeed, I am told that the proposal is not to break down the data by WEEE category and not to identify the successful PCS.
  - (d) Moreover, the Current PBS differs from the Proposed PBS in that under the former some PCSs do not participate. Under the Proposed PBS, all PCSs would be members so no particular group of PCSs is being given an informational advantage over other PCSs.
- (3) The drafts mention that the portal will display the number of bids received in each region for each category, in order to allow greater transparency and to inform PCSs of the level of interest in each WEEE category in that region. The aim is to encourage bids in regions where there is limited interest. I do not see any particular competition concern arising from this. PCSs ought to be able to use such data to serve DCFs better. It is not readily apparent how PCSs might use such data on its own in an anti-competitive manner. Indeed, the publication of information about regions where few PCSs are bidding to collect regulation 34 WEEE could have pro-competitive benefits. It could lead to greater competition in those regions and therefore to lower prices for the producer members of PCSs who ultimately bear the cost of such collections. Nevertheless, it would do no harm for the administrator of the Proposed PBS to monitor trends with a view to detecting any unusual patterns of activity, for example tendency for there to be only one bid per region despite the display of data on number of bids (which might point to collusive market partitioning).

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<sup>13</sup> Horizontal Guidelines, para. 86: “*The exchange between competitors of strategic data, that is to say, data that reduces strategic uncertainty in the market, is more likely to be caught by Article 101 than exchanges of other types of information.*”

<sup>14</sup> Horizontal Guidelines, para. 89: “*Exchanges of genuinely aggregated data, that is to say, where the recognition of individualised company level information is sufficiently difficult, are much less likely to lead to restrictive effects on competition than exchanges of company level data.*”

- (4) There is a suggestion in the drafts that sample contracts will be available for use if required. I suggest that it is emphasised in any sample contracts that they are optional, to encourage plurality of offering in the marketplace.

### **F3. Abuse of dominance**

36. As noted in section D above, I do not have the data required to conduct a detailed analysis of relevant markets. However, it seems to me that there may be a distinct market for supplying collection and treatment services to DCFs pursuant to regulation 34 requests (given the distinct terms and regulatory treatment for such requests even though other similar services may be substitutable from the perspective of a supplier with surplus capacity). If there is such a distinct market (and even if the properly-defined market is slightly broader and includes supplying collection and treatment services to DCFs more generally than just under regulation 34), it is likely to be arguable that the Proposed PBS holds a dominant position vis-à-vis such market. The Proposed PBS would be a gatekeeper to accessing work in that market, its monopoly being reinforced by the approval of the Secretary of State pursuant to regulation 34A. This would be particularly so if a high proportion of such work came to be processed via the Proposed PBS. Accordingly, for the purpose of my analysis, I proceed on the cautious basis that the Proposed PBS would be dominant and so also subject to the special responsibility under Article 102 TFEU and Chapter 2 of the 1998 Act not to distort competition.
37. I have reviewed the draft tender response document for the Proposed PBS and the draft membership terms which have been provided to me, as well as the draft heads of terms for the appointment of the proposed scheme administrator, all with a view to identifying any provisions which could be argued to lead to an abuse of the potential dominant position just outlined.
38. A key consideration is to ensure that the Proposed PBS does not discriminate between its members in such a way as to distort competition. PCSs will have no option but to participate in the Proposed PBS; unlike under the Current PBS, members cannot opt out. In relation to discrimination, I have the following comments:
- (1) I note that directors of WAS will be appointed from member PCSs, and thereby it is envisaged that PCSs will be able to provide input into how the Proposed PBS

will operate. The member PCSs will have commercial incentives to further their own interests. It is not clear to me precisely how they might in practice further their own interests above the PBS's interests when acting in their capacity as directors of WAS, but it will nevertheless be important to ensure that they do not. So long as there is more than one director, no one PCS should have overall control, which ought to be a practical safeguard against this issue. It would be prudent to remind the directors of their obligations under company law and competition law in this regard, perhaps providing them with a short guidance note or training.

- (2) I note that it is anticipated that there will be an internal and external complaints system regarding the PBS. This is a helpful safeguard against discriminatory conduct. Users might be advised specifically that, without prejudice to the breadth of the complaints scheme, complaints of discrimination between PCSs will be particularly carefully scrutinised.

#### **F4. Conclusion**

39. For the reasons set out above, in my opinion, the Proposed PBS as described to me would be consistent with competition law, but it would be preferable to make the few clarifications which I have identified in this section F.
40. I should also emphasise that I am of necessity advising only on the structure of the Proposed PBS as presented to me. That structure could be applied inappropriately or evolve over time in an anti-competitive fashion. I would therefore recommend that a periodic review is instituted to ensure continuing compliance, and that any modifications are specifically reviewed with competition law in mind.

#### **G. OTHER MATTERS**

41. I am additionally asked to advise on whether it is appropriate to make it mandatory for PCSs to take a shareholding in WAS or whether this should be optional. I do not consider that competition law informs my answer, which is that it would be preferable for this to be optional. If the Proposed PBS is approved, PCSs will be legally obliged to belong to it. They may however be unwilling to take the responsibility of shareholding or



(conceivably) be unable for legal reasons to do so. It would accordingly be practically easier to avoid making this a mandatory requirement.

*Gerard P. Rothschild*

GERARD ROTHSCHILD

Brick Court Chambers  
7-8 Essex Street  
London WC2R 3LD

27 February 2019

WEEE ALLOCATION SCHEME UK LIMITED

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ADDENDUM TO  
OPINION ON COMPETITION LAW

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1. I refer to my Opinion on Competition Law dated 27 February 2019, which assessed the compliance of the Proposed PBS with competition law on the basis of drafts for the Proposed PBS which had been provided to me. Since the recommendations for clarifications which I made in that Opinion, those instructing me have further revised the drafts. I have read the revised drafts. The Proposed PBS as there described would in my opinion comply with competition law.

*Gerard P. Rothschild*

GERARD ROTHSCHILD

Brick Court Chambers  
7-8 Essex Street  
London WC2R 3LD

27 February 2019

## **Schedule 8.8**

### **AECOM Policies and Procedures**

1. Anti-corruption Policy
2. Modern Slavery Act Statement
3. Safety, Health & Environment
4. Whistleblowing
5. Financial Integrity Statement
6. Data Protection and IT Security
7. Privacy Program Client Statement

## **Anti-Corruption Policy**



FEBRUARY 2019

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# 1.0 PURPOSE AND SCOPE

AECOM succeeds on the merits of its own excellence and is committed to conducting its business ethically, honestly, and with integrity.

Corruption not only violates these ideals, but it is also illegal and prohibited throughout the world. As a U.S.-based company, all AECOM businesses must comply with U.S. domestic anticorruption laws that prohibit bribery within the United States and with the U.S. Foreign Corrupt Practices Act that prohibits corrupt payments outside of the United States. Ethical business conduct may also require compliance with other applicable anticorruption laws, regulations, and conventions, including the U.K. Bribery Act (UKBA); the Criminal Law of the People's Republic of China (PRC Criminal Law); the Organization for Economic Cooperation and Development (OECD) anti-bribery convention; the World Bank Guidelines on Preventing and Combating Fraud and Corruption; and all other applicable laws in every country in which AECOM does business. These will be referred to generically as "anticorruption laws" throughout this policy.

This policy does not describe all of the specific requirements of anticorruption laws or anticipate every possible situation. Rather, the purpose of this policy is to describe general ethical standards that AECOM employees and its third parties must abide by and to provide guidance on detecting and preventing corrupt practices. Please refer to AECOM's Code of Conduct and the [Ethics + Compliance Ecosystem page](#) for additional guidance on complying with these laws and with AECOM's core principles and conduct expectations.

This policy applies to AECOM and its subsidiaries, affiliates, directors, officers, employees, intermediaries, sub-consultants, other contracted third parties, and any other persons performing similar functions on behalf of AECOM worldwide.





Qingchun Plaza, China

## 2.0 POLICY

Any attempt to gain a business advantage through illegal payments, bribes, kickbacks, gifts, or other inducements will not be tolerated. AECOM employees and other persons or entities who are subject to this policy are prohibited from offering, promising, or giving a bribe or illegal inducement to anyone in the course of business. AECOM employees are also prohibited from accepting or agreeing to accept a bribe of any kind.

Additional corrupt activities such as collusion, bid rigging, coercion, and misrepresentation are also prohibited. It is a violation of this policy to alter or falsify books and records in order to conceal corrupt activity.

Any AECOM employee with knowledge of a violation of this policy is required to report it.

AECOM employees are required to complete regularly scheduled anticorruption training as assigned, generally annually as a part of Code of Conduct training. Employees must certify that they have read this policy and that they are acting and will continue to act in compliance with this policy.

# 2.1 PROHIBITED ACTIVITIES

## 2.1.1 BRIBERY

AECOM and other persons acting on behalf of AECOM may not make, offer, or authorize making payments of money or giving anything of value, directly or indirectly, to any government official in order to influence the official's actions, to obtain or retain business, or to secure an improper advantage. A corrupt act does not need to succeed in its purpose; merely offering or promising a bribe is prohibited by AECOM and anticorruption laws. AECOM also prohibits payments to private individuals or entities to obtain business or an improper advantage by corrupt means. Whether involving the public or private sector, payments of bribes or corrupt gestures of any kind are not permitted.

**Anticorruption laws do not just ban direct cash payments, and there is no minimum monetary amount for an improper payment or gesture to be considered a bribe when it is offered or accepted with a corrupt intent. Corrupt inducements can include:**

- Jobs or internships for family members
- Airfare and lodging
- Charitable or political donations
- Frequent or extravagant gifts and/or hospitality
- Gifts and/or hospitality to a friend or relative of a public sector official or AECOM client
- Lavish entertainment and/or tourist travel
- Loans
- Sexually themed entertainment or behavior
- Tickets to sporting events



Maintenance and Operational Support Contract – Afghanistan (MOSC-A)

## 2.1.2 THIRD-PARTY BRIBERY

AECOM prohibits giving or offering money or anything of value to a third party when an AECOM employee involved in the transaction knows or should have known that the money or other thing of value will be given or offered to a government official or private client to obtain an unfair advantage. That means that AECOM employees can be held liable if they consciously disregard the true purpose of a payment, attempt to remain deliberately ignorant of the truth, or fail to follow up on red flags that suggest the possibility of illegal conduct. AECOM can also be held accountable for authorizing or endorsing a payment after the fact where it knew or should have known the payment violates anticorruption laws.

Just like its employees, AECOM sub-contractors, intermediaries, and any other third parties are prohibited from offering anything of value, directly or indirectly, to any other person or entity on behalf of AECOM with a corrupt intent. When AECOM stands to benefit from a third party's interactions with a client, a government agency or official, or any other entity, there is a risk that the third party will make a prohibited promise or payment that will be attributed to AECOM. Regardless of the label used to describe them, the third parties that pose the greatest risk to AECOM and that require more careful screening are those that represent, act jointly with, or act with discretion on behalf of AECOM. Within AECOM, these higher risk business partners are the two categories of third parties typically referred to as Joint Venture Partners or Non-Technical Third Parties. Other labels used to describe Non-Technical Third Parties include:

- Sponsors
- Advocates
- Lobbyists
- Business Development Consultants
- Marketing Consultants
- Sales Agents
- Representatives
- Client Relationship Managers
- Freight Forwarders and Customs Clearance Agents
- Travel Agents

Examples of specific activities these higher risk third parties may undertake on AECOM's behalf include the following:

- Providing marketing, advocacy, or business development services to help AECOM win work
- Obtaining approvals, licenses, or permits on behalf of AECOM or an AECOM client
- Arranging inspections on behalf of AECOM or an AECOM client
- Assisting AECOM with bidding on or negotiating a contract
- Coordinating or facilitating the receipt of payment on AECOM invoices to a client

AECOM employees are prohibited from using any third party to circumvent anticorruption laws or company policies.

## 2.1.3 HIRING GOVERNMENT OFFICIALS AND RELATIVES

Hiring or awarding employment or internships to current or former government employees or to their relatives presents several corruption risks. AECOM employees may not circumvent normal hiring processes or otherwise use their influence to help government officials or their family members get jobs or internships at AECOM or another company. Additionally, current and former government employees may be subject to “revolving door” laws that impose post-government employment restrictions on employees to prevent conflicts of interest and improper business practices. Consult the policy on Hiring Government Officials for more information on complying with “revolving door” laws.

**Human Resources/Talent Acquisition plays a critical role in reducing corruption risks through screening candidates for employment and internships by:**

- Selecting candidates who are suitably qualified for the position and have not been hired in order to obtain or retain business
- Hiring according to the ordinary, approved process
- Recognizing requests from government officials, customers, or AECOM employees to hire a government official or their relative as a potential red flag and then mitigating the risk posed
- Responding to hiring referrals by saying that the application must go through the Company’s ordinary hiring process
- Ensuring that referred candidates do not receive preferential treatment
- Consulting with the senior compliance officer in the operating Group or region when there is uncertainty about the legitimacy of a hiring action

## 2.1.4 FACILITATING PAYMENTS

Facilitating payments, which are small, infrequent payments made to a government official in order to expedite or secure the performance of a routine, non-discretionary action or service, are prohibited. Examples include payments made to an individual government official to expedite or secure issuance of visas, exit stamps for passports, work permits, or tax refunds or small payments made to employees of state-owned utility companies to have service started or restored. Payments made directly to a government agency for expedited service fees in accordance with a government published fee schedule are not prohibited.

The only exception to this prohibition is where there is a clear and present danger of physical harm and the

**When mobilizing or setting up a local office in foreign countries and/or areas with complex requirements, plan ahead on the process for obtaining necessary licenses, permits, and services. Customs delays or difficulties in dealing with local utility companies are not legitimate reasons to make facilitating payments.**

facilitating payment is necessary to prevent immediate harm to an employee. In instances where consultation with in-house counsel is not possible prior to making the facilitating payment, any such payments must be reported to the Legal Department immediately.



AECOM partnered with USAID to implement Afghanistan Stability in Key Areas (SIKA)-East program



2012 Olympics - London

## 2.1.5 COLLUSION/BID RIGGING

Collusion or bid rigging occurs when businesses that would otherwise be expected to compete conspire to affect the prices of goods or services for purchasers who wish to acquire products or services through a bidding process. AECOM, its employees, and others subject to this policy may not collude on project bids or otherwise engage in improper bidding practices such as price fixing, bid suppression, complementary bidding, bid rotation, or market division.

## 2.1.6 MISREPRESENTATION

AECOM and its representatives are prohibited from making false or misleading representations of AECOM's personnel and services to clients or prospective clients, including knowingly misrepresenting the qualifications or experience of personnel or the company or regarding the progress of work. For example, misrepresenting or inflating the qualifications of AECOM personnel in order to win work with a client is prohibited.

## 2.1.7 COERCION

AECOM employees are prohibited from exercising undue influence or improper use of authority, information, physical force, or other such advantage in order to obtain or retain business. Employees should always feel comfortable reporting suspected misconduct for prompt investigation of all allegations of retaliatory acts. Individuals who retaliate against a person for making a report or participating in an investigation will face disciplinary action, up to and including termination of employment.

# 2.2 ACTIVITIES REQUIRING CAUTION

## 2.2.1 CHARITABLE AND POLITICAL CONTRIBUTIONS

Anticorruption laws do not prohibit legitimate charitable contributions or sponsorships. However, a charitable contribution or sponsorship made with the intent of receiving an improper benefit from a government official is prohibited. Moreover, payments must not be made under the guise of charitable contributions as a means to circumvent anticorruption laws.

In the United States, political contributions that are made without an improper purpose and in accordance with law are not prohibited. In other countries, political contributions may be further restricted or prohibited by law or by Group or Geography policies. However, political contributions intended to influence or obtain a specific business advantage from a government official or candidate for political office or as a means of funneling a bribe payment to that individual are prohibited everywhere.

Appropriate due diligence should be conducted with respect to charitable and political contributions to ensure the legitimacy and legality of the contributions. All approvals required by the Enterprise and/or Group/Geography Approval Matrix and by any other policy or process governing political or charitable contributions must be obtained prior to making the contribution.



## 2.2.2 GIFTS AND ENTERTAINMENT

Anticorruption laws typically do not prohibit the giving of gifts, entertainment, and other business courtesies when they are reasonable and customary. However, many countries, government agencies, and commercial enterprises specify limits on the type and value of business courtesies that can be given or received. Gifts or business courtesies may never be provided if they are being offered in exchange for an unfair business advantage or if offering them could create the perception of an improper motive. All gifts must be made in full compliance with local law and with AECOM policies and procedures, as well as the other party's policies and procedures. AECOM employees may not accept a gift from a person or organization involved in an active AECOM procurement. AECOM employees should never affirmatively request a gift from another party. An employee must not accept any gift when doing so could influence or appear to influence his or her actions. Before giving any gift or entertainment, refer to your Group or Geography's policy on gifts and entertainment for further guidance. These policies provide monetary limits or require pre-approval of offers of gifts or entertainment in order to ensure that the gift or entertainment would not be prohibited by anticorruption laws or local laws or regulations.

### Important considerations regarding gifts and hospitality:

- **Accurate recordkeeping.** Payments and expenditures for gifts of any value must be fully and accurately recorded in AECOM's books and records.
- **Frequency.** Multiple gifts given to the same recipient, even if inexpensive, may create the perception that they are being given for an improper purpose. Many government agencies have annual limits on the total value of gifts and hospitality that an employee can receive.
- **Reasonable and appropriate.** Gifts must be reasonable in value and appropriate to the recipient's position and the circumstances. Relevant circumstances include the timing and context surrounding the gift, as well as any past, pending, or future business dealings with the recipient.



## 2.2.3 REIMBURSEMENT OF CERTAIN TRAVEL AND LODGING EXPENSES

It may be permissible to cover certain reasonable and bona fide expenses for government officials or other clients when those expenses are related to sales or marketing efforts or to fulfill contractual obligations. Such expenses could include travel or lodging directly related to product demonstrations or tours of company facilities. However, AECOM must be careful to pay only the expenses legitimately related to the business purpose. For example, paying for sightseeing side-trips, for travel by significant others, or for first-class airfare will rarely, if ever, be permitted. Guidance and approval requirements for such expenses can be found on the Ethics + Compliance Ecosystem page .

## 2.2.4 PAYMENTS PERMITTED BY LOCAL LAW

A payment that would be prohibited by a particular anticorruption law may be permissible if it is lawful under the written laws of the government official's country. However, very few countries have laws that permit payments that other anticorruption laws prohibit, so this scenario would occur rarely, if at all. Prior Ethics + Compliance review and approval are necessary for any such payments.



Washington Monument, Washington D.C.

## 3.1 DEALING WITH GOVERNMENTS AND GOVERNMENT OFFICIALS

Projects involving governmental entities pose the most significant corruption risk to the Company because anticorruption laws and enforcement are largely aimed at combating corruption related to government contracts and governmental officials. In addition to AECOM's prohibition on corrupt payments to any party, our policies are often more restrictive with respect to interactions with governments and government officials than with private companies due to this increased risk.

The definition of government in anticorruption laws covers governmental agencies at every level—national, state or provincial, or local—and in every branch—executive, judicial, legislative, or administrative. Similarly, the term “official” does not just refer to those at the top of the organization; any employee of a government agency, whether paid or not, is considered a government official, regardless of rank, seniority, or position. Publicly funded or state-affiliated entities are typically considered governmental entities, even when the function of the organization does not appear to be governmental in nature. Employees of multi-lateral funding organizations like the World Bank, employees of international organizations such as the U.N., and members of royal families are also considered government officials.

**Representatives of any entity tendering a public works project will almost always be a government official, even if the organization itself does not appear to be a government institution.**

In certain countries, such as China and the many Middle Eastern countries, where state-owned entities are particularly prevalent, due diligence may be required to determine whether the client is a state-affiliated entity since AECOM policies often include different requirements when dealing with governmental entities than with private companies.

# 3.2 DEALINGS WITH INTERNATIONAL FINANCIAL INSTITUTIONS (IFIs)

IFIs, bilateral or multilateral development bank or donor agencies, including entities such as the World Bank and others, often partner with national governments and businesses. Corrupt payments to employees or agents of IFIs are prohibited. Corrupt payments in relation to IFI-funded projects or services are prohibited. IFIs all have their own anticorruption requirements that often introduce obligations beyond those of anticorruption laws.

When engaging on an IFI project, all key personnel shall formally agree to working on the project prior to proposal submission and shall complete training tailored to IFI projects in accordance with the IFI Funded Business Management Policy. The Global IFI Lead shall be informed of any potential key personnel changes.





Etihad Rail Stage 1 – UAE

## 3.3 THIRD PARTY ENGAGEMENT AND MONITORING

As discussed above, anticorruption laws prohibit corrupt payments made indirectly through third parties on behalf of AECOM, and AECOM can be held liable for those payments even if it had no actual knowledge of a third party's corrupt act. Therefore, AECOM must take measures to reduce the risk when choosing and entering into an agreement with any third party who will transact business on AECOM's behalf. Through vigilance and interactions with third parties, AECOM's employees are our first line of defense in ensuring that the third parties we work with share our ethical values and operate in a legal and compliant manner. Prior to engaging a third party, AECOM also requires that due diligence (essentially, a background check) be conducted on the third party. Due diligence may be fast, easy, and free or it may be time consuming and involve some cost to the business, but it is an essential component of AECOM's anticorruption compliance program. Such due diligence helps us establish that the third party is reputable and operates ethically.

## 3.3.1 AECOM EMPLOYEES' THIRD PARTY ENGAGEMENT OBLIGATIONS

AECOM employees who are involved in engaging or regularly interacting with third parties must act as the companies "eyes and ears" in identifying and reporting risks or suspicious behaviors. Prior to contracting with any third party, employees both in operational and functional roles need to be alert to red flags of corruption. Many of these warning signs may not be identified through desktop or even enhanced due diligence searches. The presence of a red flag does not automatically disqualify a third party and may be easily explained, but it does indicate a need for further scrutiny and implementation of safeguards against a possible violation. AECOM employees who encounter such red flags are required to satisfactorily address them prior to further engagement and should seek guidance from the Legal Department or Ethics + Compliance when necessary. Some common red flags are identified below.

### RED FLAGS

**When engaging a third party and conducting due diligence, particular attention should be paid to any potential red flags, such as:**

- The transaction involves a country that has a reputation for prevalent corruption.
- The third party has a close family or personal relationship to a government official.
- A client or government official is insistent that the third party become part of the transaction
- The third party objects to anticorruption representations in contractual agreements.
- The third party requests unusual contract terms or payment arrangements, such as a payment in cash, payment in another country's currency, or payment in a third country.
- The third party's requested compensation is disproportionate to the work to be performed.
- The third party provides only vague details about the work to be performed, makes suspicious statements about its method of operating, or is otherwise evasive or secretive about its activities. The third party is in a different line of business than that for which it has been engaged or otherwise appears unqualified for its role.

Before proposing a third party, employees should pay particular attention to the third party's compensation to ensure it is reasonable and justified. Subcontractors, which constitute the majority of AECOM's third parties, should be compensated based on the market value of the services provided. When possible, the selection of subcontractors should be decided through competitive bids or review of multiple quotations. The economic benefit conferred on Joint Venture partners, consortium members, and teaming partners should be proportional to their stake in the JV or teaming agreement or their scope of work. AECOM disfavors paying commissions and other fees to third parties where the amount of payment is contingent on winning a contract and is calculated as a percentage of the value of the anticipated sale or contract. Such contingent fee arrangements make it difficult to determine whether commission payments are justified by the third party's actual work or expertise and increase the probability that funds could be diverted to government officials. While commission rates of less than 10% may be permissible, any request to pay a third party through commissions or other contingent fee arrangements must be approved by the Legal Department or Ethics + Compliance prior to signing a contract with the third party. Additional due diligence or mitigation may be required for such arrangements.

## 3.3.2 DUE DILIGENCE

Prior to engaging or forming a joint venture or other business association with a third party, the due diligence process prescribed for the relevant operating Group or region must be completed and documented. The essential requirement of third party due diligence is to perform a risk-based inquiry to determine whether a prospective third party business partner is honest and can be reasonably expected to refrain from corrupt activities. Effective third-party due diligence should help AECOM reach the following conclusion: "I am confident that my sub consultant, joint venture partner, freight forwarder, etc. does not make corrupt payments, and that our business relationship is a normal, legitimate one. I can explain to, and convince others why my confidence is justified."

Depending on the operating Group or region, AECOM follows two methods of anticorruption due diligence which are summarized briefly below. AECOM employees are required to know which due diligence method is required of them, and are encouraged to visit the Due Diligence page on Ecosystem for guidance and/or to consult with the Legal Department.

Distribution Center, Belgium



## TWO METHODS DEPENDING ON OPERATING GROUP OR REGION

### APAC GREATER CHINA, APAC SOUTHEAST ASIA, APAC INDIA, EMEA MIDDLE EAST AND AFRICA

In some places, AECOM employees must use a prescribed risk assessment tool to evaluate third parties. The tool takes into account the type of relationship, scope of services, country of domicile, work location, and other factors and generates a risk score that automates certain approval processes prior to engagement. Based on the type of engagement and risk score, additional diligence steps prior to engagement may be required, which may include ordering an in-depth due diligence report.

### MANAGEMENT SERVICES, CONSTRUCTION SERVICES, DCS AMERICAS, EMEA UNITED KINGDOM AND IRELAND, EMEA CONTINENTAL EUROPE, APAC AUSTRALIA AND NEW ZEALAND

In other places, AECOM employees are responsible for conducting due diligence through desktop searches, media reports, and/or partnering with Ethics + Compliance for an in-depth review by an external party prior to engagement.

### 3.3.3 CONTRACTUAL REQUIREMENTS

All engagements of third parties must be done through written agreements that must include approved anti-corruption provisions that are appropriate to the risk posed by the engagement. Approved anticorruption contract terms for particular types of engagements can be found on the Ethics + Compliance Ecosystem page or through regional or group Legal counsel.

### 3.3.4 ONGOING MONITORING AND RENEWAL DUE DILIGENCE

After a contract is signed, AECOM must continue to monitor the third party for compliance with its contractual anticorruption obligations and for any red flags suggestive of misconduct. Any red flags identified during the course of the relationship with the third party must be referred to the Legal Department or Ethics + Compliance for advice and analysis, which may require undertaking additional due diligence and, in cases where serious issues are identified, termination of the relationship.

Even if no red flags are identified during the period of performance, due diligence results grow stale after a period of time and must be renewed periodically, typically every three years, to ensure there have been no changes in the third party's ownership, management, history of investigations, allegations of misconduct, or other characteristics that could change the risks related to the third party. More frequent periodic certifications of ethical compliance may also be warranted for certain third parties.

# 3.4 RECORDKEEPING AND ACCOUNTING REQUIREMENTS

Anticorruption laws require maintenance of accurate business records. AECOM and its subsidiaries must:

- Keep accurate books and records that reflect transactions and disposition of assets in reasonable detail. Misleading, incomplete, or false records of any kind are prohibited. No undisclosed or unrecorded funds or accounts may be established for any purpose. These include, but are not limited to:
  - Unrecorded or unreconciled petty cash disbursements or cash advances
  - Real or personal property held by a third party
  - Bank accounts in the name of individuals but containing corporate funds
  - Records that disguise any element of the transaction
  - Indirect payments (payments that will knowingly be made directly or indirectly to a government official)
- Develop and maintain a proper system of internal accounting controls, including periodic audits
- Report any (a) requests for payments that would violate this policy or (b) transactions, past or current, that appear to violate this policy or otherwise appear suspicious in nature.





## 3.5 AUDITING

AECOM personnel conduct periodic audits to help ensure the company's continued compliance with anticorruption laws and this policy. All AECOM employees are required to cooperate fully with authorized auditors.

Contractual provisions requiring third parties to agree that they can be audited for anticorruption compliance (often referred to as audit rights) should be included in third party contracts as often as possible. These contractual clauses are required for certain high-risk relationship types, including for non-technical third parties and certain joint venture partners.

## 4.0 DISCIPLINARY PENALTIES

Governmental investigations of anticorruption laws can result in significant cost and damage to the reputation of a business. Violations by AECOM employees of anticorruption laws and this policy may result in disciplinary measures against the culpable employees, including termination of employment. Violations can also result in significant criminal, civil, and regulatory penalties imposed by governmental entities against those AECOM employees.

# 5.0 REPORTING SUSPECTED VIOLATIONS

Employees are required to report any (a) requests for payments or other consideration that would violate this policy or (b) transactions, whether current or in the past, that appear to violate this policy or otherwise appear suspicious. Employees can report by contacting a supervisor, human resources, in-house counsel, the Ethics + Compliance department, or the AECOM Ethics Hotline.

The AECOM Ethics Hotline is available by email at [AECOMethics.hotline@tnwinc.com](mailto:AECOMethics.hotline@tnwinc.com). In North America, the hotline is available by phone at (888) 299-9602 and online at <https://reportlineweb.com/aecom>. Outside of the North America, the hotline can be reached by dialing the U.S. and 1.770.613.6332, or by visiting <https://iwf.tnwgrc.com/aecom>. Reporters may choose to remain anonymous. AECOM does not tolerate retaliation against anyone who makes an honest and sincere report of a possible violation or who participates in an investigation of possible wrongdoing.

**All reports of suspected anticorruption violations received through the AECOM Ethics Hotline are reviewed and investigated by the Ethics + Compliance department.**



Deep Rock Tunnel Connection – Indianapolis, Indiana, U.S.





#### **About AECOM**

AECOM is built to deliver a better world. We design, build, finance and operate infrastructure assets for governments, businesses and organizations in more than 150 countries. As a fully integrated firm, we connect knowledge and experience across our global network of experts to help clients solve their most complex challenges. From high-performance buildings and infrastructure, to resilient communities and environments, to stable and secure nations, our work is transformative, differentiated and vital. A Fortune 500 firm, AECOM had revenue of approximately \$18.2 billion during fiscal year 2017. See how we deliver what others can only imagine at [aecom.com](http://aecom.com) and [@AECOM](https://twitter.com/AECOM).

#### **AECOM**

1999 Avenue of the Stars  
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Los Angeles, CA 90067

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# AECOM Modern Slavery Act Statement for Fiscal Year 2017

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## 1. About AECOM

AECOM is built to deliver a better world. We design, build, finance and operate infrastructure assets for governments, businesses and organizations in more than 150 countries, including the United Kingdom. This statement is made in accordance with the Modern Slavery Act 2015 (the "Act"), and although not required by the Act, AECOM makes this statement on its own behalf as well as on behalf of its UK companies.

As a global company with hundreds of operating entities around the world, AECOM businesses face a variety of risks and regulatory requirements with respect to human trafficking, forced labor, and other forms of modern slavery. Although this statement addresses the policies and practices for all of AECOM, some AECOM businesses operate under additional policies, procedures, or practices in order to comply with applicable regulatory requirements or to address risks unique to their jurisdictions. Please inquire if you have questions about the practices of a particular AECOM business with respect to its program for preventing human trafficking or its compliance with the Modern Slavery Act.

## 2. Our Policies

At AECOM, we are committed to doing the right thing in all that we do. We are a signatory to the United Nations Global Compact, and our Code of Conduct (available at <http://www.aecom.com/about-aecom/ethics/>) further reflects that commitment to ethical business practices. AECOM's Code of Conduct provides that we do not condone the use of forced labor or human trafficking and emphasizes that we will not knowingly conduct business with subcontractors, business partners, suppliers or third parties who violate these laws. AECOM's Code of Conduct applies to all AECOM employees, officers and directors, including those of our subsidiaries and joint ventures, where AECOM has the majority interest. We expect that our suppliers, agents, business partners, consultants and licensees will follow similar principles and we also expect our consultants, subcontractors and other third parties to be aware of and adhere to the ethical standards set out in the Code of Conduct. In addition to the policies and procedures described in this statement, AECOM complies with all applicable laws and regulations regarding human trafficking, forced labor, and other forms of modern slavery.

We are finalizing a global anti-human trafficking policy to reinforce AECOM's already established commitment to human rights. This policy will include a prohibition on the use of human trafficking and/or forced labor consistent with our existing Code of Conduct. As with AECOM's current approach, this global policy will set the baseline for anti-human trafficking compliance, will require that AECOM businesses adhere to any more rigorous legal requirements imposed by their jurisdictions or by particular clients, and will allow AECOM businesses to implement additional policies and procedures to address their specific compliance risks or needs.

## 3. Procurement

AECOM's Global Procurement Policy sets high-level expectations and acceptable practices for the procurement of goods and services on behalf of AECOM, its subsidiaries, clients and third parties. Further, our Sustainable Procurement Policy addresses our specific commitment to work collaboratively with and provide support to our internal teams and suppliers in their compliance with all requirements on human rights, discrimination and global labor standards, including AECOM's commitment to the principles set by the UN Global Compact. In terms of our efforts to ensure that AECOM's suppliers similarly do not condone modern slavery or human trafficking, the activities of the Supply Chain Management and Procurement teams are undertaken in a manner consistent with the AECOM Code of Conduct and our commitment to eliminating from our supply chain suppliers who do not share these values.

AECOM is actively exploring implementation of a global procurement system that will standardize the process for onboarding vendors, sub-contractors, and other third parties in order to standardize the due diligence performed on its supply chain. This tool will evaluate suppliers in a variety of areas, including their compliance with international norms regarding

human trafficking and forced labor. AECOM is also drafting standard clauses related to human trafficking and modern slavery to insert into contractual terms and conditions used with AECOM suppliers throughout the world.

#### **4. Training**

AECOM requires that all of its employees complete online training on the Code of Conduct and acknowledge they have read and understand the Code of Conduct, which prohibits human trafficking and forced labor. In addition, employees are required to complete training on evolving areas of compliance on a regular basis. Short training videos, webinars and in-person training sessions are important means of reaching as many employees as possible. The Ethics and Compliance intranet pages have practical guidance in easy-to-understand summaries, Q&A documents, and scenarios on a wide range of topics. AECOM is currently evaluating its training content in this area and is working with an outside vendor to ensure that additional training and reference materials on human trafficking and modern slavery are available to the employee populations that require supplemental training based on unique risks or regulatory requirements.

#### **5. Measuring our Effectiveness**

We take seriously our responsibility to monitor the effectiveness of our policies in this area. AECOM investigates complaints about suspected human trafficking activities relating to AECOM projects or divisions and takes prompt corrective action where warranted.

Additionally, each geography and business line has an ethics and compliance committee that meets three times a year and reports periodically to AECOM's Global Ethics & Compliance Committee regarding relevant issues. To encourage compliance with its ethics policies, AECOM maintains a 24-hour, seven-day-per-week hotline with extensive language capabilities open to all employees, contractors and third parties, and individuals with concerns may make complaints anonymously. All complaints made through the ethics hotline or other reporting methods are reviewed and investigated. AECOM does not tolerate acts of retaliation against anyone who makes a good faith report of a possible violation, or who participates in an investigation of possible wrongdoing.

This statement will be reviewed and updated annually.

Signed on behalf of AECOM



Michael S. Burke

Chairman and Chief Executive Officer

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# Safety, Health & Environment Policy

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## Purpose

This policy establishes the framework to attain best-in-class Safety, Health and Environmental (SH&E) performance in the interest of benefitting AECOM's employees and stakeholders in the global marketplace.

## Policy

AECOM is committed to exceptional levels of performance in safeguarding our people and the environment as one of our Core Values. Keeping our people safe is our most important measure of success. We strive to be the beacon of safety excellence in the industries and global communities in which we work.

To advance our SH&E program, we are committed to:

- Zero work-related injuries to AECOM employees and protection of the environment as a result of our activities.
- Providing a highly effective SH&E management system that drives continual review and improvement.
- Meeting client requirements and properly incorporating all safety, health and environmental rules and regulations at the local, state, provincial and national levels.
- Developing an exceptional safety culture where our people embrace ownership for the safety of themselves and others.
- Advancing our goals of pollution prevention, resource conservation and environmental sustainability.
- Setting and meeting aggressive SH&E performance goals and Core Value Metrics to promote continuous improvement.
- Working with employees and business partners to continuously improve SH&E performance.
- Recognizing and celebrating those who contribute to excellent SH&E performance.
- Striving to make AECOM the provider of choice for the safe execution of design, build, finance, operate and maintenance work globally.

The commitment to this policy by the leadership, management and employees of AECOM provides the foundation for a safe workplace, operational excellence and long-term business success.

## Expectations

Safety is a core value and a key to our success. We demand continuous improvement in our journey toward a “zero” incident culture, where everyone is committed to safety, health and environmental excellence.

To that end, we demand:

- Our leaders, managers, supervisors and employees demonstrate their commitment in their actions and decisions to assure that every person goes home safe every day.
- Our employees embrace safety as a core value both on and off the job.
- Each employee is committed to his/her own safety and that of his/her fellow employees.
- We will incorporate AECOM's Life-Preserving Principles into our work planning and execution.
- We proactively and aggressively identify, manage and eliminate hazards in the workplace.
- We train and prepare our people to have the knowledge, skills, competency and equipment required to work safely.
- We stop our employees from working if the work cannot be executed safely or if conditions or behaviors on the work activity are unsafe.
- All employees immediately report safety, health and/or environmental incidents, near-misses, unsafe conditions, and at-risk behaviors to their supervisor; and that we diligently work to correct the problem.

Our SH&E expectations will be accomplished by the demonstrated leadership of management, compliance with regulatory requirements and participation of AECOM personnel.

## Review and Communication

This Policy will be reviewed annually to ensure it meets the needs of the company, and will be made available to all persons under the control of the company.



March 4, 2018

Michael S. Burke

Date

Chairman and Chief Executive Officer

UK&amp;I

# Whistle Blowing

H3UKI-001-PR6

## 1. Purpose and Scope

AECOM will fulfil our responsibilities to all employees and the wider community by conducting all aspects of our business at the highest level of excellence and professionalism, and by operating in an ethical manner. In order to meet these standards, we rely on all our employees, irrespective of their role within the Company, to point out ways in which we can improve the conduct of our business and make our decisions within a clear ethical framework.

## 2. Eligibility

This document applies to all employees in the AECOM group within the United Kingdom and the Republic of Ireland. For the purpose of this document, this includes permanent, temporary, as and when, agency staff, secondees and volunteers (collectively referred to as employees

## 3. Aims of this Document

- a. We encourage a culture of openness, allowing all our employees to raise and resolve any ethical issues or problems which are in the public interest as quickly as possible. The Company aims to;
  - i. provide avenues for employee to raise concerns in confidence and receive feedback on any action taken (where possible and appropriate to do so);
  - ii. ensure that employees receive a response to their concerns and are aware of how to pursue them if they are not satisfied; and
  - iii. reassure employees that they will be protected from any reprisals or victimisation if they have a reasonable belief that they have made a disclosure in the public interest.
- b. A grievance is, by contrast, a dispute about the employee's own employment position and has no additional public interest dimension. The Grievance – EMEA – UKI Procedure should be used to resolve an employee's concern that does not have a public interest aspect to it.
- c. It is important to note that the Whistle Blowing Procedure should not be used to reconsider any matters which have already been addressed under Grievance, Disciplinary or other procedures.

## 4. Legislation

- a. The law provides protection for employees who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in the public interest by an employee who has a reasonable belief that one of the following has occurred:
  - i. a criminal offence;
  - ii. a miscarriage of justice;
  - iii. a danger to the health and safety of any individual(s);
  - iv. damage to the environment;
  - v. a breach of a legal obligation; or
  - vi. a deliberate attempt to conceal of any of the above.
- b. It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be committed, a reasonable belief made in good faith is sufficient.
- c. An employee who makes a qualifying disclosure has the right not to be dismissed, subjected to any other detriment, or victimised because the individual has made a disclosure.



- d. The Company encourages employees to raise their concerns under this procedure in the first instance. If an employee is not sure whether or not to raise a concern, the employee should discuss the issue with their Line Manager or a member of the Human Resources (HR) team.

## 5. Safeguards

### 5.1 Protection

This Procedure is designed to offer protection to those employees of the Company who disclose such concerns provided the disclosure is made:

- a. In good faith.
- b. In the reasonable belief of the individual making the disclosure that it tends to show malpractice or impropriety.

### 5.2 Confidentiality

The Company will treat all Whistle Blowing disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation or action required. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

### 5.3 Untrue Allegations

If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. In making a disclosure the individual should exercise due care to ensure the accuracy of the information. If, however, an individual makes malicious or vexatious allegations, and particularly if they persist with making them, disciplinary action may be taken against that individual.

## 6. Procedure

### 6.1 Making a Disclosure

In the first instance, and unless the individual reasonably believes their Line Manager may be involved in the wrongdoing, any concerns should be raised with the employee's Line Manager in writing. If the individual believes the Line Manager to be involved, or for any reason does not wish to approach the Line Manager, concerns can be reported to a more senior manager, a member of the HR team, or to the Ethics and Compliance team. An appropriate investigation manager will then be appointed if required.

### 6.2 Contact Details

- a. UK&I Employee Relations HR team email address: [HR.EmployeeRelations.europe@aecom.com](mailto:HR.EmployeeRelations.europe@aecom.com)
- b. UK&I Employee Relations telephone number: +44 (0)1727 535 050
- c. Ethics and Compliance email address– [ethicsandcompliance@aecom.com](mailto:ethicsandcompliance@aecom.com)
- d. Ethics and Compliance telephone numbers–
  - i. Ireland - Dial: 1-800-550-000, you will then be prompted to enter the following toll-free number: 888-299-9602.
  - ii. United Kingdom - Dial 155 to contact the local operator and ask to make a reverse charge call to the following US number: 770-776-5645.

### 6.3 Disclosure Process

- a. Due to the varied nature of potential allegations, which may involve internal investigations and/or third party involvement, it is not always possible to give precise timescales. However, an investigating manager will be appointed and it will be their responsibility to ensure that the investigations are undertaken as timely as possible without affecting the quality of the investigation.
- b. The action taken will depend on the nature of the concern. It may be resolved by agreed action without the need for investigation or it may be:
  - i. investigated internally;
  - ii. referred to the police; and/or
  - iii. referred to an external party or regulator.
- c. If an investigation is required, the appointed Investigating Manager will investigate the concern and will be responsible for:
  - i. Writing to the complainant acknowledging that an investigation will be carried out;
  - ii. Informing the employee against whom the complaint is made as soon as is practically possible (so long as this does not hinder the investigation);
  - iii. Obtaining full details and clarifications of the complaint;
  - iv. Considering the involvement of third parties such as the police or regulating bodies;
  - v. Fully investigating the allegation with the assistance, where appropriate, of other individuals;
  - vi. Concluding the investigation by writing a report containing the findings of the investigation, conclusions as to the validity of the allegations and recommendations for further action;
  - vii. Inform the complainant in writing of the outcome of the investigation and the action that is proposed (where possible and appropriate).

### 6.4 Record Keeping

Details of all concerns raised and the subsequent investigation will be retained in line with the Records Management and Retention Procedure – AECOM Global

### 6.5 Further Advice

If the complainant is not satisfied with the outcome of the internal Whistle Blowing Procedure, they may report the matter to external parties. The following are possible contact points:

- a. Health & Safety Executive.
- b. Public Concern at Work (the leading authority on public interest whistleblowing)
- c. The police.

## 7. Responsibilities

### 7.1 Employee

- a. Raise a concern in writing as soon as an employee has a reasonable suspicion.
- b. Provide a full account and evidence of the concern raised where possible.
- c. Raise concerns in good faith and maintain confidentiality.

## 7.2 Line Manager or Investigating Manager

- a. Send a written acknowledgment of the concern to the complainant.
- b. Ensure the employee is aware of and understands the Whistle Blowing Procedure.
- c. Protect the identity of the employee, where possible and appropriate.
- d. Ensure investigations are undertaken as timely as possible without affecting the quality of the investigation.
- e. Keep the complainant informed of the progress of the investigation and when it is likely to be concluded.
- f. Where possible, report to the complainant in writing the outcome of the investigation and the action that is proposed (excluding the outcome of any disciplinary process arising).

## 7.3 Human Resources

- a. To provide advice and guidance to managers and employees on the Whistle Blowing Procedure and to provide support as required.
- b. Assisting in the appointment of a suitable Investigating Manager if required.
- c. Supporting any further investigation into any allegations of harassment or victimisation experienced by the complainant.

## 8. Terms and Definitions

None

## 9. References

- a. [Grievance – EMEA – UKI H3UKI-001-PR5](#)
- b. [Records Management and Retention Procedure – AECOM – Global Q1-004-PR1](#)

## 10. Records

- a. Correspondence

## 11. Appendices

None

## 12. Change Log

Rev #	Change Date	Description of Change	Location of Change
0	5 November 2018	Formatted to the latest IMS template 2018 Annual Review First release as H3UKI-001-PR6	All pages

**Q** Alberto is a financial controller who learns that his AECOM business unit is going to be reviewed by Audit Services for the first time since it was acquired a year ago. He becomes upset and defensive when the audit team reviews expense report reimbursements and petty cash processes and asks him questions about some of the payments. He tells his supervisor that the auditors are not treating him with respect and do not understand the local culture by questioning his work. How should his supervisor respond?

**A** Alberto's supervisor should explain that he needs to appreciate that audit is one of the key means by which AECOM meets its responsibilities to its shareholders, management and employees as a public company. The company relies on accurate and complete records as the basis of our financial system and in order to access capital markets. All of us have a duty to cooperate fully and completely with audits and investigations and integrate any lessons learned as a result into our work.

## FINANCIAL INTEGRITY

### PROTECTING INSIDE INFORMATION

In our work for AECOM, we sometimes have access to information about our company and our business partners that is not available to the general public. In order to avoid unfair and illegal transactions, we must never buy or sell the stock of any company (including AECOM) about which we possess inside information.

For information to be considered "inside", it must be both material (meaning that it would affect the decisions of a reasonable investor) and non-public (meaning that it has not been released to the public). Information becomes public only after two full trading days have passed since the public release of the information.

Inside information can be either positive or negative, and commonly includes the following examples:

- Projections of future earnings or losses.
- News of a pending or proposed merger.
- News of a significant sale of assets.
- Declaration of a stock split or offering of additional securities.
- Changes in executive management.
- Significant new products or discoveries.

If you have any questions as to whether the information you possess qualifies as inside information, please consult our [Insider Trading Policy](#) or contact In-House Counsel.

## **PREVENTING MONEY LAUNDERING**

AECOM is committed to helping in the global fight against money laundering. "Money laundering" is the process by which a person or group tries to conceal illegal funds or attempts to make the sources of their illicit funds look legitimate. In order to keep AECOM from becoming inadvertently involved in this type of misconduct, we should always perform due diligence on customers, suppliers, intermediaries and other business partners who wish to conduct business with our company. Look out for "red flags" that may signal money laundering activities. For example, make sure that the party with whom you are conducting business maintains a physical presence, is engaged in legitimate business and has proper compliance processes in place. If you need more information about how to identify money laundering, you should consult In-House Counsel.

## **ADDITIONAL EXPECTATIONS**

Certain company officers and the directors of AECOM have a special responsibility to promote integrity within our company. Their role requires them to ensure that our company's public disclosures are accurate and complete. In order to do so, these individuals are required to know and understand the financial disclosure laws that apply to their work.

Violations of financial disclosure laws will be viewed as a severe offense that may result in disciplinary action, up to and including termination. This includes failing to report potential violations by others. If you believe that a violation has occurred, contact Management, the Ethics and Compliance Office or In-House Counsel. If you prefer to report on an anonymous basis, where allowed by law, you may submit a report by contacting the [AECOM Ethics Hotline](#). Keep in mind that it is against company policy to retaliate against anyone who makes an honest and sincere report of violations.

## Data Protection and IT Security

### Data Protection:

AECOM understands and manages its requirement to ensure that held data is processed fully in accordance with the General Data Protection Regulations 2018

AECOM operating companies AECOM Limited, AECOM Environmental Solutions Limited and AECOM Infrastructure & Environment UK Limited are registered under the Data Protection (Charges and Information) Regulations 2018 with the Information Commissioner's Office.

The registration numbers are:

AECOM Limited: Z9142576, AECOM Environmental Solutions Limited: ZA274047, AECOM Infrastructure & Environment UK Limited: Z8781017

AECOM's procedures relating to the management of information are maintained from board-level with guidance from recognised auditors Ernst & Young. We have a Data Protection Officer whose role is to oversee and advise on our procedures for the management of data and compliance.

### Security Standards

AECOM ranks the confidentiality of the information it gathers and the proprietary interests of its clients among its highest priorities. AECOM is engaged by a wide range of clients demanding the highest data security requirements including the Ministry of Defence in the UK and the Department of Defence in the United States.

AECOM uses a multi layered security model to control access to our company computer systems and resources. Security begins at a physical level by strictly controlling access to our offices, server and communication rooms. Network access is managed by Microsoft's domain security model which is strictly audited to ensure all accounts and password meet company policy.

Access to project data is controlled, on request, by the Project Director and can be granularly applied to manage team or individual user access to folders, sub-folders or files as required by the client. AECOM control access to client and or project data at a granular level on all our internal systems to an appropriate level of security to meet the sensitivity of the data being held. This can be accomplished by reviewing and quantifying the risk and level of security required.

Staff who require remote access to AECOM's network resources are securely managed by using certificate based secondary authentication which ensures only AECOM computers can connect to the network. Access is provided through secure network hubs which are equipped with Cisco firewall, intrusion detection and logging devices which are monitored 24 x 7 by our Network Management provider; Cisco Remote Operations.



All desktop, laptop and server equipment is protected by Microsoft's Forefront Client Security software which provides anti-virus and malware protection.

If required, project specific resources such as laptop and desktop computers can be encrypted. Details of individual client requirements can be included as part of project requirement discussions.

All Inbound and outbound email communications are processed by Microsoft's secure Frontbridge email filtering service. This allows all mail to be scanned and processed before it reaches AECOM's internal network.

### GDPR

Any data that falls under the auspices of the GDPR is stored and managed in the AECOM "GDPR Enclave".

The Enclave is file storage physically in AECOM London, UK Data Centre.

The enclave can only be accessed by authorised user and then only to specific areas/folders specific to the user.

Access utilises 2 factor authentications. The enclave records all interactions with data in the enclave and so is fully auditable

### Incident Response

AECOM maintains a global incident response team which is prepared to handle all forms of computer emergencies, including data breaches. The AECOM Computer Emergency Response Team (AECOM-CERT) follows documented and tested procedures based upon industry best practices in order to respond to each situation in an efficient, effective and repeatable way.

AECOM also maintains an internal data forensics capability for those situations which require forensic investigation or which may end up being associated with a prosecution. Our procedures derive from a number of industry sources including the 'Forum for Incident Response and Security Teams' (FIRST) and their 'Best Practices Guide Library' (BPGL).

The AECOM-CERT actively monitors AECOM's computing environment for any signs of malicious activity. If an attack is discovered, every effort is made to block or quarantine it as quickly as possible. In the event of a security incident in which client data is put at risk the AECOM-CERT quickly notifies both AECOM Management and our General Counsel. Throughout the entire incident response process an emphasis is placed upon maintaining an appropriate level of communication with all stakeholders, keeping all parties informed and engaged.

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# Privacy Program

## Client statement

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### About AECOM

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AECOM (NASDAQ: ACM) is a global network of experts working with clients, communities and colleagues to develop and implement innovative solutions to the world's most complex challenges.

Delivering clean water and energy. Building iconic skyscrapers. Planning new cities. Restoring damaged environments. Connecting people and economies with roads, bridges, tunnels and transit systems. Designing parks where children play. Helping governments maintain stability and security.

We connect expertise across services, markets, and geographies to deliver transformative outcomes. Worldwide, we design, build, finance, operate and manage projects and programs that unlock opportunities, protect our environment and improve people's lives.

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### Mission and Strategy

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At AECOM we take our responsibilities to protect the privacy of our employees, our clients and our shareholders very seriously. AECOM's privacy program includes a privacy team comprised of legal, human resources, marketing, IT, and operational experts who are fully up-to-speed on requirements and best practices issued by international regulatory bodies, including the European Commission, the UK Information Commissioners' Office, the European Union (EU) Article 29 Data Protection Working Party, and others as appropriate.

### Mission Statement

We will ensure the confidentiality, integrity, and availability of AECOM's information assets, in order to safeguard our intellectual property, customer and employee personal data.

### Strategy

The program adopts an adaptive approach to data protection based on regulatory requirements, industry best practices and common privacy and security principles.

Our approach is based on:

- Global privacy principles and data protection laws and regulations
- Global data protection policies, procedures and guidelines
- The secure transfer and storage of all data held within the control of the company
- The secure storage of all physical equipment under the control of the company
- The implementation and integration of associated standards in conjunction with client and regulatory requirements
- The use of objective measurement processes/equipment and analysis;
- Continuous improvement of process to meet or exceed legislation, regulations and relevant Codes of Practice applicable to our business and business strategy;
- Provision of robust user and phishing awareness programs.

### EU-U.S. Privacy Shield

AECOM complies with the EU-U.S. Privacy Shield Framework ("Privacy Shield") as set out by the U.S. Department of Commerce regarding the collection, use, and retention of personal information transferred from the European Union to the United States. AECOM has certified to the Department of Commerce that it adheres to the Privacy Shield Principles. To learn more about the Privacy Shield program, and to view our certification, please visit <https://www.privacyshield.gov>.

AECOM's participation in the Privacy Shield applies to all personal information that is transferred from the European Union, the European Economic Area, and Switzerland to the United States. AECOM will comply with the Privacy Shield Principles in respect of such personal information.

## AECOM's Privacy Framework

People	Human Resources	<ul style="list-style-type: none"> <li>Pre-employment screening and checks</li> <li>Privacy and security awareness training.</li> <li>AECOM Ethics Hotline for reporting concerns</li> </ul>
	Policies and Standards	<ul style="list-style-type: none"> <li>Documented policies and standards to cover technologies in use</li> <li>Documented data protection and privacy policies</li> <li>Vendor management</li> <li>Privacy and security risk management</li> <li>Communication, review and revision</li> <li>Breach response</li> <li>Business continuity</li> </ul>
Process	Physical Security	<ul style="list-style-type: none"> <li>Access control systems</li> <li>Data center access control systems with 24x7 support</li> </ul>
	Audit and Compliance	Support to compliance requirements and audit and assessment programs imposed by clients and regulations
	Security Risk Controls	<ul style="list-style-type: none"> <li>Firewalls, network and host intrusion detection</li> <li>Vulnerability scanning and penetration testing</li> <li>Incident response</li> <li>Hardened servers and workstations</li> <li>Authentication complexity and screen locks</li> <li>Patch management, logging, change control</li> </ul>
Technology		

### More Information

Questions can be sent to your business contact or to [privacyquestions@aecom.com](mailto:privacyquestions@aecom.com)

## Commitment to Compliance

The following measures are in place to ensure AECOM protects the privacy of its employees, clients and investors at all times:

- A [Global Privacy Statement](#) which sets out AECOM's third-party personal data management practices.
- Privacy and security awareness communications and training tailored to business units and specific functions.
- A working group focused on compliance with the EU's General Data Protection Regulation (GDPR).
- Use of EU Model Clauses (also known as Standard Contractual clauses) with third parties who are not certified under the Privacy Shield or who are transferring data to non-approved countries outside the United States.
- Strict vendor management process for third party sub-contractors we hire as part of the services provided to clients, which includes data protection contract terms for vendors hosting or accessing personal data and a Privacy Impact Assessment in the case of large-scale processing of personal data. Third parties must also complete a privacy compliance questionnaire and submit copies of external assessment reports, such as SSAE-16 and ISO 27001 audit statements.
- A Data Protection Officer in the EU
- Mature Governance, Risk, Compliance and Information Security Program led by AECOM's Chief Information Security Officer. AECOM's program is designed to protect all information assets proactively by employing a "Predict-Prevent-Detect-Respond- Innovate" approach.
- Robust breach and incident response plan and reporting requirements.

## Cyber Essentials Plus Certification

- AECOM's UK offices are certified under the Cyber Essentials Plus requirements. Cyber Essentials is a government-backed, industry-supported scheme to help AECOM protect its network from common cyber attacks
- In order to maintain this certificate, AECOM undergoes rigorous auditing by a trusted external certifying body, using a range of tools and techniques.



**Schedule 8.9**

**Summary of AECOM relevant experience**

4.1	a proven track record of managing client money and third party funds combined with practical experience of working in a regulatory environment;
	<p>Selected AECOM projects for Government and regulators include:</p> <hr/> <div data-bbox="349 436 669 577">  </div> <div data-bbox="716 443 795 470"> <p><b>DPSA</b></p> </div> <div data-bbox="716 489 1442 611"> <p>AECOM is the sole holder of the global goods and equipment framework for the UK Government's Department for International Development (DFID), the replacement for the previous Procurement Agent frameworks.</p> </div> <div data-bbox="716 627 1442 961"> <p>DPSA is a service led by AECOM which brings together expertise in procurement, logistics, supply chain, international development, risk management and security, to support the delivery of aid and development programmes. We specialise in complex and multi-category supply chain projects across a range of sectors. DPSA provides procurement services for a wide range of goods and equipment for aid and development purposes, and logistics for the safe and secure delivery of the goods and equipment. DPSA's technical assistance covers procurement advice, assurance and audit; and professional development.</p> </div> <div data-bbox="716 978 1442 1251"> <p>DPSA undertakes the acquisition of goods and equipment through open, fair and transparent procurement processes. We seek multiple bidders for every opportunity, and bids are evaluated against relevant criteria to ensure the best offer can be given to our clients. AECOM's internal process management systems are certified to international quality, environmental and occupational health and safety standards, including BS OHSAS 18001: 2007 Occupational Health and Safety Management System certificate.</p> </div> <div data-bbox="716 1268 1442 1390"> <p>DPSA's customers/clients come from across the aid and development sector. They include implementing partners, national and international NGOs, donors, governments and public sector departments.</p> </div> <hr/> <div data-bbox="354 1432 516 1671">  </div> <div data-bbox="716 1432 1170 1459"> <p><b>Fleet Operator Recognition Scheme</b></p> </div> <div data-bbox="716 1478 1442 1627"> <p>The FORS is a paid for membership scheme, administered by AECOM on behalf of Transport for London (TfL). It is designed to offer best practice information and advice to commercial vehicle operators who travel to or within the capital.</p> </div> <div data-bbox="716 1644 1442 1795"> <p>AECOM is commissioned to manage, develop and deliver the FORS benchmarking system, together with a series of workshops and online operator toolkits which focus on reducing fuel use, CO2 emissions, Penalty Charge Notices and accidents in the freight sector. The web based system:</p> </div> <div data-bbox="764 1812 1382 1843"> <ul style="list-style-type: none"> <li>• Allows users to Submit evidence for recognition.</li> </ul> </div>

- Allows users to Maintain performance records for their fleet.
- Assists administrators in the management of recognised members.
- Provides detailed reporting of operator performance.
- Integrate with 3rd Parties via bespoke APIs.
- Delivers a Content Management System and eLearning platform
- Provides an interactive map of member locations.

The Software team maintains parallel environments for development and user acceptance testing. They regularly work with external development teams to integrate Application Programming Interfaces to allow server-to-server communication. AECOM also provides Helpdesk support, hosting and maintenance of web site, and administration and maintenance of the database.



### **Low Level Waste Repository**

UK Nuclear Waste Management Ltd, an AECOM-led consortium, operates the United Kingdom's national low level and intermediate waste repository in northern England. The facility is one of 19 sites owned by the Nuclear Decommissioning Authority (NDA). The scope of work focuses on managing the national Low Level Waste Repository, maintaining its future capacity, and overseeing the UK National Low Level Waste Programme to ensure that lower activity waste is managed effectively. In addition, the British government has tasked AECOM and its partners to develop a UK-wide low-level waste strategy.



### **Defence Infrastructure Organisation**

AECOM, in partnership with Capita and PA Consulting, has a contract with the UK Ministry of Defence (MoD) to manage the UK's national and international defence estate portfolio. The overall contract has a value of approximately £400 million, or \$670 million, to the partnership over the ten-year base period.

As the strategic business partner for the Defence Infrastructure Organisation (DIO), the partnership is responsible for strategic disposal of sites, allocation of assets and construction and maintenance of estate infrastructure in the UK and abroad. This includes military bases, accommodation for service personnel and their families and training facilities.

Functions delivered by the team include hard and soft facilities management, workforce planning and transformation, utilities management, project and programme delivery and strategic asset management.

In total, DIO manages assets worth more than £21 billion and maintains over 45,000 buildings, 50,000 houses and 135,000 bed spaces for the UK Armed Forces. The estate, totalling

	<p>some 230,000 hectares, represents one per cent of the UK landmass, making MoD one of the largest landowners in the country. MoD also has the use of some 220,000 hectares of private land, through a range of access agreements. The 4,900 personnel in DIO also manage UK military bases in Germany, Cyprus, Falkland Islands, Gibraltar and Belize.</p> <hr/>
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**Schedule 8.10**

**WAS / AECOM Implementation Schedule**



**Schedule 8.11**

**CVs of AECOM staff engaged in administration roles**

## Mike Bains, BSc CChem Waste Management Specialist

**Key skills**

Waste strategy and policy  
Hazardous and industrial waste management  
Oil and gas waste management

**Language skills**

English

**Education**

BSc, Chemistry - University of Leeds (1993)

**Professional affiliations**

Chartered Chemist (CChem)  
Member of the Royal Society of Chemistry

**Nationality**

British



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Mike has over 20 years of experience in waste management consultancy, covering many different waste types and many countries across Europe, Asia, the Middle East and Africa. His project experience ranges from advising national and regional governments on waste policy and regulation, through to carrying out audits and condition surveys on hazardous waste management facilities.

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### Selected project experience

**Old Oak North - Waste Collection Options Study, UK (Old Oak and Park Royal Development Corporation, 2018)**

Waste management specialist in a team advising the developer for the UK's largest urban regeneration scheme on potential options for waste collection. Options under consideration including conventional bins, underground bins and vacuum collection. Project includes collection of case study information, conceptual design of alternative systems, assessment of systems against criteria, and financial evaluation.

**Waste Management Plan for the Deep Water Contract Areas 1 and 3 in the Saline Basin, Mexico (Statoil/BP 2018)**

Technical lead for the preparation of a waste management plan for offshore exploration activities in Mexico. Scope of work included identification and assessment of facilities suitable for managing drill cuttings, hazardous waste and other waste streams from drilling activities, in accordance with Mexican regulations and client's internal requirements.

**End-of-Waste Criteria and Streamlining Secondary Raw Material Concept in the Turkish Waste Legislation, Turkey (European Bank for Reconstruction and Development, 2017-18)**

Team leader and technical lead for a project to develop a general methodology and guidelines for separately developing the end-of-waste criteria according to the Turkish context. The results of the study will help the Government streamline the administrative procedures necessary for achieving end-of-waste in different waste streams, reduce the existing and future volumes of waste materials in Turkey, and extract value of materials that otherwise would have been considered waste.

**HS2 Phase 2b Environmental Impact Assessment, UK (HS2, 2017)**

Discipline lead for waste and materials for the EIA of a section of HS2 Phase 2b, the proposed high speed rail line between Birmingham and northern England. Responsible for identifying relevant policies and waste management capacity, estimating waste arisings, and assisting with the route-wide assessment of waste management and materials impacts.

**A303 Stonehenge (Highways England, 2017)**

Discipline lead for waste and materials as part of an Environmental Impact Assessment for a road project. The project comprises an upgrade of an existing road with the World Heritage Site of Stonehenge, with construction of a new tunnel. Key issues include the management of excavated material from the tunnel, in an area of high ecological, landscape and archaeological sensitivity.



**Waste Duty of Care Audits, UK (Environment Agency, 2017)**

Project manager and technical lead for a series of audits into how the waste duty of care requirements are interpreted and implemented by waste producers. As part of the project, a range of waste producers in a variety of sectors and locations were visited and interviewed.

**Materials to Land Project, UK (Environment Agency, 2016-17)**

Technical advisor (waste) for a multi-stage Environment Agency project to evaluate current practices and risks associated with the application of wastes to agricultural land. Responsible for preparing sampling and analytical protocols, reviewing previous reports and other relevant data, and advising on the risks and potential mitigation measures to improve the performance of the sector.

**Waste Assessments, Pharmaceutical Sites, Global (Pfizer, 2016-18)**

Project manager and principal assessor of project to optimize waste management performance for an international pharmaceutical manufacturer. The scope includes visiting sites manufacturing active pharmaceutical ingredients (API), assessing their current waste management operations, and identifying improvements in how waste is generated, handled and managed which can meet the two objectives of reducing the cost of waste management, and minimizing the quantities of waste generated. The sites assessed were located in Ireland, United States and Puerto Rico.

**Hazards to Biological Treatment and Landspreading from Wastes from the Textile Industry – Rapid Evidence Assessment, UK (Environment Agency, 2016)**

Project manager for a study for the Environment Agency to assess the hazards associated with the biological treatment and landspreading of wastes arising from wool scouring. The project included liaison with waste producers to identify the processes and characteristics of the waste, and an international literature review to assess the possible hazards associated with, in particular, pesticide residues which may be present in the waste.

**Construction and Demolition Waste Management and Recycling Technical Assistance Project, China (Ministry of Housing and Urban-Rural Development, 2015-16)**

Construction and demolition waste policy expert and team leader for an ADB-funded project for the Chinese Ministry of Housing and Urban-Rural Development (MOHURD) to assess current construction and demolition waste (CDW) management in the People's Republic of China; review international good practice in CDW management and recycling; and develop a set of policy recommendations for the regulation of CDW management and the promotion of CDW recycling in China

**Capacity and Capability Project, UK (Highways England, 2015-16)**

Materials specialist and project manager of a project for Highways England to identify potential capacity constraints associated with Highways England's road investment strategy. Responsible for assessing the availability and geographic spread of critical raw materials and associated processing plant, identifying potential bottlenecks, and developing solutions.

**Waste Assessments, Pharmaceutical and Consumer Product Sites, Europe-wide (Johnson & Johnson, 2014-15)**

Project manager and principal assessor of project to reduce waste management costs and waste quantities for an international producer of pharmaceuticals and consumer products. The scope includes visiting operating sites throughout Europe, assessing their current waste management operations, and identifying improvements in how waste is generated, handled and managed which can meet the two objectives of reducing the cost of waste management, and minimizing the quantities of waste generated.

**Establishing best available techniques (BAT) for oil and gas activities Management of extractive wastes, UK (Environment Agency, 2014-15)**

Project manager for a study on behalf of UK Environment Agency to determine BAT for managing extractive waste (e.g. drilling cuttings, fluids and cement). Project included literature review and consultation with stakeholders.

# Matthew Pilgrim

## Regional Director, Software Solutions

**Key skills**

Software development

**Years of experience**

20

**Education**EngD in Computer  
Visualisation  
MSc in Construction Innovation  
BEng Hons in Building  
Services Engine**Professional affiliations**Member British Computer  
Society

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Dr Matthew Pilgrim is a Regional Director and a Chartered IT Professional responsible for the development and delivery of engineering software solutions. He heads AECOMs Software Solutions Market Sector and has extensive experience in enabling clients meet their current and future technology requirements. He has previously held the position of assessor on several InnovateUK competitions and chaired internal technical innovation working groups.

Matthew leads a team of software experts based in multiple locations across the UK. His team are responsible for the design and delivery of several large scale software systems where real-time data collection, storage, analysis and presentation is key.

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### Selected project experience

**Compliance Monitoring Tool (CMT), Highways England (HE):**

The CMT allows HE staff to interactively conduct map based data analytics and visualise speed and lane compliance across the managed motorway network. This is based on real-time data received and processed in a cloud environment developed specifically for the project. Matthew lead the architecture and development of the systems web based interface, server side processing and database storage. The new approach means that queries that could be constructed by relatively few individuals are now available to a wider audience. This allows novice users to conduct sophisticated data analysis and visualise the results without the need to install software or download data. The project was initially commissioned as a Proof of Concept and then following strong positive feedback sponsored through to the development of a production quality system (December 2018). Total value: approx. £270,000

**Freight Operators Recognition Scheme (FORS) for Transport for London (TfL), London:**

AECOM was been commissioned for a five year period to manage, develop and deliver the FORS benchmarking system, together with a series of workshops and online operator toolkits which focus on reducing fuel use, CO2 emissions, Penalty Charge Notices and accidents in the freight sector. The web based system allows users to submit evidence, maintain records, manage members and produce detailed reports. The system is developed in PHP and MySQL and hosted in a shared environment. Matthew is responsible for planning architectural changes and day-to-day delivery. Value: approx. £600,000

**Bristol is Open Strategic Review – Digital Lead, BiO Board:**

BiO is a joint venture between the University of Bristol (UoB) and Bristol City Council (BCC) launched in April 2015 with the aim of providing the city of Bristol with a fully flexible, programmable and open ICT platform. AECOM were asked to review the current strategy, digital platform and long term viability of the initiative. Matthew undertook all aspects of the digital review. Value: approx. £30,000

**Dublin City Visitor Orientation Strategy – Digital Lead, Fáilte Ireland:**

A significant review of how visitors to Dublin receive key tourist information and are assisted in their orientation/navigation around the city. Matthew is currently leading the Digital Work stream and is responsible for collecting evidence of the existing solutions, comparing these to the tourist board's objectives and making recommendations for improvements. The exercise requires coordination and advice to other work streams and the production of indicative costs. Value: approx. £15,000

**Consents Tracker – Architecture, engagement & design lead, TransPennine Route Upgrade for Network Rail:**

Matthew led the design and development of a sophisticated data driven web application for the management of environmental/ planning consents. The system, based on a relational database, has both temporal and spatial data and is integrated with P6 for programme management and a GIS platform for location coordination. As well as overall stakeholder engagement and architecture Matthew developed the core algorithms for optimising the Gantt process. Value: approx. £85,000

**Pre-emptive Traffic Management System (PTMS), Derbyshire County Council and the Department for Transport.**

Matthew led the development of a prototype system that utilises 3rd Party floating vehicle data analytics to trigger traffic management interventions. These are published for display in-vehicle, via a mobile app, and on mobile roadside message signs using advanced cloud hosted software. The system, based on an in-house rules engine, was designed and built from the ground up and then used for road-trials. The resulting evidence is now being used to secure funding for a production system. Value £85,000.

**Smart Mobility Hub, Dublin County Council and Enterprise Ireland.**

AECOM have been awarded Phase 1 funding to build an innovative travel planning tool. The eHub will support and encourage staff in making sustainable travel choices that are in line with Council policy and extract maximum value from existing resources e.g. eBikes/eCars. The tool, an idea and design created by Matthew, will use a modular software approach allowing travel modes and choices to be added. Value £11,000.

**Workforce management iPad App for London Highways Alliance Contract, London:**

Matthew managed the delivery of an iPad based GIS application using the esri Xamarin forms SDK. The team designed and developed the mapping component of the application which displays and gathers information about road repairs. Value: £11,000.

**Project Database Review and Analysis for European Investment Bank (EIB), Brussels:**

Matthew conducted an analysis of EIB's current and future needs relating to project data, including storage, management, retrieval, analysis, and visualisation functions. He analysed the existing business processes for preparing Board Reports, data storage and the EIBs Project Directorates Internet and Intranet platforms. AECOMs team proposed options for the operational implementation of a new system including tools, uses, results, timescales, resources for data encoding, risks, costs, benefits, maintenance, licences, operation, storage, additional capacity, training, etc. The proposals considered compatibility with other systems, in particular with other EIB databases and ECs TENtec system and addressed issues surrounding hosting, compatibility, security and information sharing. The proposal offered an appropriate balance between pragmatism and ambition. Other issues such as cost of maintenance, operation, storage options and eventual needs were tackled in the report. Value: €140,000

**Car Park Decision Support Tool for Wolverhampton City Council (WCC):**

A Microsoft Access tool to help WCC to compare and decide between scenarios where different developments affect the number of parking spaces in city car parks. Matthew led the development of a Microsoft Access relational database that provides a self-contained solution with a user friendly interface. The tool makes complex what-if scenario analysis possible with limited user input. The result can be exported to Excel for further analysis. The turn-key solution involved requirement analysis, specification, design, implementation, reports, testing, delivery and support documentation.

**Construction Logistics and Cyclist Safety (CLOCS) for Transport for London (TfL), London:**

Designed to reduce construction vehicle related cycling injuries the CLOCS Manager is a modern website designed to gather, store, analyse, visualise, report and share incident information. Matthew led the delivery of the website and its associated database to Transportation for London. Value: approx. £100,000

## Lynn Morgan, BSc

### Associate Environmental Consultant

**Key skills**

Environmental permitting,  
Environmental compliance  
Waste management/duty of  
care  
Environmental due diligence

**Years of experience**

19

**Years with AECOM**

17

**Qualifications**

BSc Environmental  
Geoscience

**Professional affiliations**

Practitioner member of the  
Institute of Environmental  
Assessment and Management  
(PIEMA)

**Language skills**

English

**Nationality**

British

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Lynn is an Associate Environmental Consultant with over 19 years' experience, specialising in providing environmental permit and compliance support.

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Lynn works within AECOM's Environmental Liability Solutions team and provides environmental permitting support to clients in the south of England. She is based in AECOM's Wimbledon office.

Lynn has provided environmental permitting support for over 10 years to a range of clients, including those in the energy/power, large volume organic chemicals, pharmaceutical and food and drink sectors. Her experience includes managing and delivering environmental permit applications, supporting on-going environmental permit compliance, responding to Section 61 notices relating to updated BREF notes and preparing permit surrenders.

Lynn has conducted environmental compliance assessments for a number of industrial clients and has project managed/directed a number of multi-site due diligence audit programmes with environmental compliance, due diligence and waste duty of care foci. She has managed and acted as lead auditor for a number of waste facility/duty of care audit programmes for industrial clients for over the past 12 years.

Lynn studied geology at university and prior to joining AECOM, worked as an environmental consultant focussing on contaminated land quality assessments for planning and due diligence purposes.

### Selected project experience

**Environmental Permit Significant Variation Support (Combustion/Power)**

Lynn project managed and successfully delivered an application for a significant environmental permit (Part A) variation for an additional combined cycle gas turbine power plant located in South East England. This involved the extension of the existing footprint of a power plant to accommodate the new turbine plant. Lynn prepared the overall application report (consolidating the entire application and including an assessment against BAT requirements) and managed/presented a suitable H1 impact assessment, a Site Condition Report (land quality), a noise survey and impact assessment, a CHP Readiness assessment and detailed atmospheric dispersion modelling. The application was successful, with only minimal questions being raised by the Environment Agency. AECOM also supported the planning application for the expansion, which included delivery of an Environmental Impact Assessment along a similar timeframe to the Environmental Permit Application (EIA). Lynn worked with the AECOM's EIA team to ensure a consistent approach to both the Environmental Permit Application and the EIA.

**Environmental Permit Application Support (Combustion/Power)**

Lynn project managed and provided support for two Environmental Permit applications for existing open and combined cycle gas turbine electricity generation plant in the UK. Application support included review of BAT for all sections of the application, preparation of the Application Site Report and specific written sections of the main application.

### **Environmental Permit Variation Application Support (Combustion)**

Lynn project managed and delivered an application for a substantial variation to an existing Part A environmental permit for a plasterboard manufacturing facility located in south west England. The application was required as the facility due to the proposed extension of the existing facility and addition of air emission points. Lynn prepared and successfully delivered the application, which included the main application report (including a review against BAT), updated Site Condition Report, assessing the land quality and Environmental Risk Assessment.

### **Environmental Permit Compliance Support: Mercury in Wastewater review (Oil & Gas)**

Lynn project managed a review of mercury concentrations in wastewater discharged from a facility into a estuarine section of a river, in the oil and gas sector. The assessment included screening of the wastewater emissions using the EA H1 Impact Assessment tool.

### **MATTE assessment for COMAH facility (Large Volume Organic Chemicals)**

Lynn project managed an assessment of the potential impacts of a theoretical tank release to an estuary located adjacent to a manufacturing facility. The assessment was prompted by the Environment Agency who required the facility to ascertain whether such a tank release could lead to a Major Accident to the Environment (MATTE), as defined by the COMAH Regulations. The work involved modelling of the overground flow of the release, modelling of dispersion of the release in the estuary and application of the latest MATTE guidance to the results. Lynn consolidated the different aspects of the work into an overall report which was submitted to, and accepted by, the Environment Agency.

### **Environmental Permit (PPC) Application Support & Ongoing Permit Compliance Support (Large Volume Organic Chemicals)**

Lynn project managed and delivered a Part A environmental permit application for a major UK laundry product manufacturer located in south east England, as prompted by the change from IPC to PPC Regulations. The application was submitted in 2006. Since that time, Lynn has project managed and continues to manage ongoing permit compliance support, which has included air quality dispersion and odour assessments/management, air quality emissions monitoring procedure, waste disposal options appraisal, waste and water minimisation audit, site closure plan, partial permit surrender, soil and groundwater assessment and 4 yearly permit reviews. The 4 yearly permit reviews focus on accident management, energy efficiency, raw materials, waste, closure and decommissioning plans and the Site Protection Monitoring Programme.

### **Environmental Permit, Section 61 Notice Response (Large Volume Organic Chemicals)**

Lynn prepared a comprehensive response to the Environment Agency in relation to the update of the BREF for the LVOC sector for a major laundry manufacturer. The work involved assessment of current operations against the relevant requirements of the new BREF. Lynn project managed development of an updated Environmental Risk Assessment for the site and H1 assessment for releases to controlled waters, as well as preparing the main BAT assessment report for submission to the Environment Agency.

### **Environmental Site Closure/Permit Surrender Support (Large Volume Organic Chemicals)**

Lynn project managed and successfully delivered an application to surrender a Part A environmental permit for a large manufacturing facility located on south coast of England, which produced styrene, synthetic rubber and latex. Lynn provided environmental support during the planning and demolition of the plant, facilitated progress and decision meetings with site management and the Environment Agency.

The work included management of a Phase II intrusive soil and groundwater investigation, noise assessment, ecology assessment, as well as support planning requirements for demolition, including Habitats Directive and EIA screening assessment. Lynn worked closely with with AECOM's soil and groundwater, noise assessment and EIA teams in order to deliver the work within the required timescales. Lynn managed the production of a comprehensive final Site Condition Report (land quality), for the facility and prepared/delivered the main permit surrender report which consolidated the various studies undertaken. The permit was successfully surrendered with minimal follow-up questions from the Environment Agency.

### **Environmental Site Closure/Permit Surrender Support (Large Volume Organic Chemicals)**

Lynn project managed and delivered an application to surrender a Part A environmental permit for a catalyst manufacturing plant located near Enfield, Middlesex. Lynn provided environmental support during the planning and decommissioning of the plant and attended meetings with the Environment Agency. Lynn managed the production of a comprehensive final

Site Condition Report, assessing the land quality, for the facility and presented this, and prepared/delivered the main permit surrender report. The permit was successfully surrendered with no follow-up questions from the Environment Agency.

#### **Environmental Site Closure/Permit Surrender Support (Food & Drink)**

Lynn project managed and delivered an application to surrender a Part A environmental permit for a commercial brewery located on the River Thames in south west London. The work involved participation in an initial planning workshop to help define a site closure plan for the site. Lynn provided support throughout the closure and decommissioning of the brewery, including attending regular on-site progress meetings with the Environment Agency. Lynn prepared and submitted the permit surrender report and associated documentation. The permit was surrendered with minimal comments from the Environment Agency.

#### **Environmental Permit Compliance Support: Air Quality Dispersion Modelling and BAT Assessment**

Project Manager for air quality dispersion modelling and BAT Assessment for odor, for a resin manufacturing facility in southern England.

#### **EMS Support for a Major Wind Power Company**

Lynn provided and project managed support to an off-shore wind power company in advance of an ISO14001 recertification audit. The work comprised the gap analysis of existing EMS procedures already developed for their operations in order to map these across to the construction side of the business. This involved interviews with key personnel including those managing marine consents, document review and oversight of pre-audit on-site training for the auditees.

#### **Phase I environmental compliance and due diligence audits**

Lynn has conducted phase I environmental compliance and due diligence audits of a wide range of sites including chemical manufacturing plants, LPG storage facilities, two airports in Southern Europe (including fuel depots), petrol pumping stations, as well as a number of engineering works and manufacturing facilities based in the UK and in Europe.

#### **Waste Facility Audit Programme**

Lynn currently directs and has previously project managed an ongoing programme of waste facility audits in Europe for the Waste facilities Audit Association (WFAA). Waste facilities audited include: clinical waste incinerators, material recycling facilities (MRFs), hazardous waste treatment, recovery and landfilling operations. In addition, Lynn has also acted as lead auditor for a number of these audits. The audits assess compliance with waste and environmental legislation and permits, operational controls, design of the facilities and potential associated liabilities, whilst also considering future constraints posed by anticipated changes in waste legislation. The audits also include discussions with local regulators.

#### **Environmental Compliance Audit**

Lynn acted as a lead auditor for a corporate environmental compliance audit of a toothpaste manufacturing facility in SE England. She subsequently delivered environmental compliance training to the new EHS manager at the facility.

#### **Corporate Environment Compliance Audit of a manufacturing facility in South East England**

Lynn provided on-site local legislation support for a US corporate compliance team for a 5 day environmental compliance audit of a manufacturing facility.

#### **Packaging Waste Regulations**

Assisting a multi-facility engineering company (manufacturer of pumps and valves) with meeting their obligations relating to the packaging waste regulations. Project manager and advisory contact for site managers. Also chaired a workshop for site managers.

#### **Environmental Due Diligence Assessment of global retail company**

Lynn project managed phase I vendor due diligence assessments of associated manufacturing facilities based in Europe, and also an internet-based questionnaire assessment of 2,000 retail facilities across the world.

#### **Packaging, WEEE and Battery Data Audits.**

Lynn has project managed and acted as a lead auditor for an annual programme of annual independent compliance member audits of packaging, WEEE and battery data, on behalf of a Producer Compliance Scheme.

**Waste Management Compliance Assessment and Management System Support for a global vehicle manufacturer**

Lynn coordinated and was a lead auditor for waste management audits of a range of the company's UK operations including manufacturing plants, offices, a training centre and warehouse, to identify current compliance with waste management legislation and identify gaps in current waste management practices and procedures. She then assisted the company in the development of UK level corporate management framework and written procedures for waste management and also provided training support to key company employees.

**Environmental compliance/EMS support for a major oil and gas pipeline, Eastern Europe.**

Lynn project managed a range of projects associated with the pipeline, which included groundwater monitoring, environmental aspects of contractor activities (including oil spill response) and duty of care audits of local waste management facilities. Lynn undertook Phase I assessments of various operations along the pipeline and compiled an aspects/impacts register required in accordance with the company's EMS.

## **Rick Parkman, BSc PhD FGS**

### **Practice Leader for Remediation & Industrials (EMIA)**

**Key skills**

Environmental Liability  
Management & Risk Mitigation  
In the Industrials Sector

**Years of experience**

27 years

**Education**

Ph.D. Environmental  
Geochemistry  
B.Sc. (Hons)  
Environmental Science

**Registrations/Certifications**

Fellow of the Geological  
Society (FGS)

**Professional affiliations**

Fellow of the Geological  
Society (FGS)

**Language skills**

English, Basic French

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Rick is part of AECOM's senior leadership team responsible for the delivery of EHS and Remediation Services across UK & Ireland and in Europe, Middle East and Africa (EMEA).

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#### **Professional history**

Rick is on the steering group and lead representative for AECOM at the Network for Industrially Coordinated Sustainable Land management in Europe (NICOLE) which is a leading forum promoting co-operation between industry, academia and service providers on the development and application of sustainable technologies in contaminated land management, risk assessment and remediation. Rick's day to day technical remit involves directing projects concerning the provision of strategic engineering and environmental support. Projects are concerned with managing environmental risk, mitigation, remediation (chemical and radiological), waste management, change of use and brownfield redevelopment considering relevant environmental legislation, often adopting pragmatic optioneering and decision making protocols. Projects have been undertaken to satisfy both Contaminated Land and PPC/ IED regulatory frameworks and to support due diligence, merger/acquisition, site divestiture and redevelopment processes. Rick has overseen several projects involving the assessment of financial provisions for contaminated land and environmental compliance, supporting clients with land asset rationalisation programs as part of corporate business risk and/or due diligence management activities. Through this work Rick has served a variety of public (government) and private sector clients, especially in the Chems & Pharms, Manufacturing, Petrochemicals, Nuclear,

Mining, Waste Management and Legal & Financial sectors. He has also led projects and contract frameworks with both DEFRA and the Environment Agency.

In more recent years, Rick has been involved with contaminants of emerging concern, including poly and perfluoroalkylated substances (PFAS). He has participated in working groups, external conferences and is leading an on-going project in Scandinavia, specifically concerned with developing a long term site wide remediation and waste management strategy to deal with PFAS contamination. He also leads AECOM's PFAS initiative for the EMEA region.

#### **Project Experience**

##### **ENVIRONMENTAL LIABILITY MANAGEMENT**

##### **CONTAMINATED LAND MANAGEMENT, REDEVELOPMENT, PERMITTING & DUE DILIGENCE**

**NCCF Framework, Environment Agency, UK**  
Project Director for the National Contaminated Land Consultancy Framework (NCCF) and predecessor contract, the Environmental Services Framework (ESF) Agreement with the Environment Agency (EA) with gross revenue annual returns up to approximately £0.5M. Projects under the ESF/ NCCF contract primarily undertaken in support of Part 2A assessments and protection of water resources, following the introduction of the Water Framework Directive (WFD).

**Materials To Land Phase 1 (2015-2016) and Phase 2 (2017), Environment Agency, UK**  
Project Director for the Materials to Land Phase 1 project (approx. £600K completed in 2016) and Phase 2 project (approx. £250K completed in 2017) undertaken in accordance with the NCCF framework. AECOM was employed to assess issues associated with the spreading of wastes to agricultural land in England to reduce uncertainty



Rick Parkman, **BSc PhD FGS**  
Practice Leader for Remediation & Industrials (EMIA)

around the agronomic benefits and environmental risks from the use of waste on land. The project included site visits and waste and soil sampling work at over 40 active materials to land sites, as well as desk based assessments of environmental risks and agricultural benefits, including risks from spreading of high readily available nitrogen (RAN) wastes on fields within groundwater Safeguard Zones (SGZ), alongside review of EA supplied case studies to identify challenges and constraints experienced by EA staff in relation to land spreading.

#### **C&D Risk Assessment, DEFRA, UK**

Project Manager and then Director for an England-wide risk assessment study of approximately 2000 Cleansing & Disinfection burial sites on behalf of DEFRA with a budget in excess of £500K. The project was undertaken over several years and involved the assessment and reporting of field and laboratory data, risk assessment and the undertaking of desk-top studies/reviews (often as part of Phase I Investigations). The project also included assistance with emergency response and supporting negotiations with farm occupants and regulators. Work with Defra and the Environment Agency who were on the project steering group.

#### **Project Phoenix, Confidential Client, UK**

Project Director providing strategic consultancy support for a multinational client seeking to divest a former chemical manufacturing site in the UK. URS/ AECOM has provided assistance in managing and mitigating potential environmental liabilities to support the potential sale and redevelopment. Various phases of intrusive site investigation and risk assessment have been undertaken and the findings have been incorporated as part of a detailed remedial options appraisal considering various potential future site end uses. The project also involved assessment of a number of key constraints to site redevelopment, including ecology, legacy mining issues (associated with former mines and drainage adits identified on or near the site), as well as existing infrastructure and heritage issues. As such, Rick was required to oversee multidisciplinary teams, including our Planning specialists, in the delivery of potential solutions to support the planned sale and redevelopment of the site, working through the client in collaboration with the local authority, regulators and local community groups as project stakeholders.

#### **Confidential Chemical Client, UK**

Project Director for a former chemical site in North West England that AECOM had been involved

with for several years, originally working for the former Chemical manufacturer providing soil and groundwater baseline data for the site. AECOM then worked with the new owner (Developer) providing consultancy support to facilitate change of use for a mixed redevelopment.

#### **Global client account manager, Major Chemical/ Pharmaceutical company,**

overseeing Environmental works to help the client manage potential liabilities, supporting them with operations, site rationalization and divestiture, including land sale and redevelopment.

#### **Client Lead // Project Director for Pharma site, UK**

Project Director for various phases of site investigation works undertaken over several years for their site in north west England operated by the multi-national pharmaceutical company. Various investigations undertaken to satisfy both corporate and regulatory compliance in addition to supporting land rationalisation programmes for site activities to facilitate disposal of parts of the site for redevelopment and more recently in preparing other parts of the site for expansion. Works also included building and asbestos surveys.

#### **Client Lead // Project Director for Pharma Site Divestiture, UK.**

Project Director and client lead; oversaw all the environmental works in support of the planned sale of the facility in North East England including costed decommissioning, demolition and remediation management plans.

#### **Multinational Pharmaceutical Facility, North West England**

Project Director for various phases of works undertaken over several years for a multinational pharmaceutical company based in north west England in support of land acquisitions and site disposals. Projects included Phase I and II Environmental and Technical Due Diligence assessments and a voluntary remediation scheme following decommissioning and demolition. Assistance was also provided with regards to refurbishment and upgrading of some of the manufacturing facilities and overseeing permit variations with the Environment Agency.

#### **Confidential Pharma Client, North East England**

Project Director for a project AECOM was involved with since 2005 involving a voluntary remediation action being pursued by the client for a Pharmaceutical facility in north east England. Primary role was in overseeing the technical

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Practice Leader for Remediation & Industrials (EMIA)

direction of the project through detailed site investigation, risk assessment, remedial design and implementation together with validation and leading negotiations with the regulatory authorities to close out.

**Project Director for a former manufacturing site in northern England**, oversaw vendor due diligence environmental assessment and remedial works (remediation of a large pond/ lagoon) and assisted the client with site decommissioning and surrender of the PPC permit including detailed regulatory negotiations to secure successful permit surrender in 2009.

**Project Director for multi-national manufacturing client** Undertook post acquisition environmental due diligence at two sites in northern England. Projects included detailed Phase II site investigation and risk assessment in order to assess ground contamination issues of significant material value.

**Project Director for several phases of works (site investigation, risk assessment and remediation)** at a pharmaceutical facility in north east England. The works have been undertaken to support Corporate and Regulatory Compliance (e.g. PPC permit) for on-going operation of the facility and works have been undertaken through several changes of management/ ownership over the years.

**Contaminated Land specialist on a due diligence team** put together to support a potential third party acquisition of a large petrochemical facility in the UK. Project Director for a site in northern England owned by a Chemicals client who had closed the facility and was seeking to surrender the PPC permit and sell off part of the site. Two phases of investigative works were undertaken in separate areas of the site to facilitate the permit surrender and the planned sale of the site. Negotiations have been successfully closed out with the regulator to secure the permit surrender.

**Project Director, remediation of a solvent recovery site, Northern England.** A past spill led to groundwater beneath the site and adjacent land becoming contaminated with a kerosene-type product. Designed and installation a drainage trench to abstract the contaminated groundwater from beneath the site. Follow up works included supervision of the operation and maintenance of the system for several year and risk assessment works to negotiate the return of a lease for a parcel of land to the neighbouring land owner.

**Project Director, Emergency Response Contamination Clean up.** Following a fire at a client's site as a result of an arson attack, the contaminated firewater impacted a culvert and stream on and off site. Rick was called in, during the immediate aftermath of the fire incident to help oversee the environmental works to prevent the subsequent spread of contamination downstream of the site and oversee the clean up works. The work involved teams excavating, trenching and tankering contaminated groundwater off site. Later on, subsequent works, including ecological surveys were undertaken to demonstrate that the quality of the surface water system was improving as a result of the intervention work. The works were completed under close cooperation and scrutiny from the Environment Agency in the immediate aftermath of the event (a fisheries site was identified downstream), with daily meetings in the mornings and evenings to monitor progress against the agreed action plans.

**Project Director for a Phase II site investigation** for a Pharmaceutical company seeking to divest a parcel of land to a neighbouring property, potentially for redevelopment and contaminated with oils and hydrocarbons arising from historical use as a refueling area.

**Project Manager for a large site in Northern England, formerly used as a chemical works.** The project involved detailed Phase II site investigation and risk assessments, demolition, asbestos and ecological surveys, all required in support of applications for planning as part of the American client's divestiture strategy to seek maximum return through sale for residential brownfield redevelopment.

**Key Account Manager/ Project Director for various environmental works (IPPC, exit assessment, Contaminated Land liabilities)** for a client involved in the waste recovery sector with several sites in the UK and Europe.

**Client Lead and Project Director, Global EHS Review.** Oversaw the EHS Assessment and subsequent vendor due diligence appraisal for the client with approximately 70 sites across UK, continental Europe, South America and Asia

**Client Account Manager/ Project Director for Major Global Industrial client.** Provided consultancy support in preparation for the client's planned sale and divestiture of a site in Southern England. Completed desk studies and site investigations for due diligence and permit

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compliance. Undertook detailed reviews and costed models for demolition and remediation of the site and supported the client with the permit surrender works which were successfully completed in 2018.

#### **Client Manager for Industrial site in Switzerland**

Supported the local AECOM team with their oversight of remediation works completed in 2016, and the associated regulatory negotiations with the authorities, working in close consultation with the client's Remediation Manager for EMEA.

#### **Project Director/Manager, Portugal**

Provided consultancy advice to satisfy environmental due diligence works required in support of the Client's planned purchase on separate occasions of chemical collection and distribution businesses based in Portugal (two sites) and Greece. The works involved combined Phase 1 and Phase II site assessments and subsequent design for remedial treatment and containment systems.

**Project Manager/Director for a baseline site assessment** report for a metal foundry business to support the IPPC permit application. Project involved the provision of a detailed Phase 1a report and follow on Phase 1b/2 site investigation report. All works performed to the satisfaction of both the client and the Regulator (Environment Agency).

**Project Manager, Phase II soil and groundwater and geotechnical site investigation at a 400KV substation site in northern England.** Oversaw the design and supervised the site investigation on behalf of a major UK electrical power supplier. Project team members were all trained as Competent Persons, capable of recognising and working with the hazards normally associated with a large electrical distribution centre. Site works required rigorous health and safety training and supervision, and all works were performed in accordance with CDM regulations. A QRA was also performed and the findings used to develop a comprehensive set of recommendations provided to the client in the detailed site report.

#### **Major Oil Company, Johannesburg, South Africa**

Managed and supervised on-site, a Phase II investigation for a foundry production plant in Johannesburg, South Africa. The overall objective was to assess soil and groundwater quality and

associated liabilities at the subject site. The work was undertaken on behalf of a multi-national client and as part of a multi-site project undertaken at various sites around the world. The investigation was undertaken on a fast turnaround time basis to meet the tight deadlines set by the client's global programme of divestitures (value 30K).

#### **ENVIRONMENTAL CHEMISTRY/ HYDROCHEMISTRY/ GEOCHEMISTRY**

**Project Director for an on-going project commissioned by Environment Agency Wales (EAW)** to develop an outline design for an appropriate system to treat the acid and metal rich mine waters arising from Parys Mountain, Anglesey, UK, the site of a former copper mine, and discharging via the Afon Goch stream into the Irish Sea.

#### **European Industrial Facility, Peer Review**

Independent peer review of a third party report for a manufacturing facility in Europe where potentially elevated levels of fluoride had previously been detected in soil and groundwater. Provided a headline review of the report which detailed results of Geochemical studies undertaken in both the laboratory and field and through more detailed geochemical modelling as part of an overall appraisal to assess whether or not remedial works may be required.

#### **Hydrochemistry/Geochemistry specialist, European Chemical Client**

Worked with the project team concerned with the assessment and derivation of appropriate remedial strategies for a contaminated landfill site emanating high concentrations of acid and metal rich leachate. Simplistic hydrochemical and water mass balance modelling were completed as part of the overall site assessment report.

#### **Redevelopment of former chemical works, UK**

Specialist consultant hired to advise a commercial developer with regard to the best methods for redeveloping an industrial facility and former ROF facility contaminated with phosphorus. Consulted on available development options and associated risks (primarily relating to the chemical behaviour of phosphorus within the environment) with preferred methods presented for review and acceptance by the local regulatory authorities.

**Project Manager for a Europe-wide data survey and collection exercise specifically for boron in surface waters (for all 15 EU**

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**countries).** The work was undertaken as part of a risk assessment procedure for boric acid, required under the EU existing Substances Regulations. The work was successfully managed by coordinating data collection through several key representatives based in our network of offices located throughout Europe. The project findings have been published in an international peer reviewed journal (see publication list).

## **NUCLEAR/ RADIOLOGICAL**

**Geochemistry Specialist, Sellafield Safety Case review.** Reviewed third party reports concerned with the near and far field safety case.

### **Nuclear Waste Effluent Pipeline Decommissioning Option Study, UKAEA Winfrith, UK:**

Project Director, reviewed potential ground contamination issues (including tritium) arising from the historic and current use of the Winfrith sea pipeline and to identify the key potential radiological risks arising from future decommissioning operations, and the methods to mitigate these risks (including methods of waste sentencing etc).

### **Nuclear Licensed Waste repository, UK:**

Project Manager for a research project designed to assess the feasibility of various inerting options that may be implemented as a safety measure in a large scale decommissioning project for a radiological waste repository sited on a nuclear licensed facility in the UK.

### **Former Veterinary Research Establishment, Southern England:**

Project involved the assessment of chemical, radiological and biological contamination and the subsequent decommissioning of this site. Assisted in the supervision of the controlled decommissioning of the site, including negotiations to identify appropriate disposal routes for the clinical, chemical and radiological waste (considered to arise from historical use of radiotracers).

### **Former Hospital in Greater London:**

Radiological survey of parts of the building that were formerly used to store open and closed sources for radiotherapy purposes. Clearance of the buildings was required before the buildings could be converted into residential flats.

### **Audit of a Nuclear Licensed Site, UK:**

Audit team specialist for an environmental audit of various operational buildings at a large nuclear

licensed facility in the UK.

### **Field Engineer**

Field engineer for numerous contaminated land investigations in the early stages of consultancy career using a variety of intrusive techniques including window sampling, shell and auger, continuous flight/hollow stem and rotary (air and water flush). The main components of the site work have involved supervising drillers, logging boreholes, collecting soil vapour data and soil gas & groundwater samples in accordance with US EPA protocols. Overseen numerous investigations undertaken in a wide variety of industrial sectors (e.g., oil & petroleum, general manufacturing, chemical & pharmaceutical). Examples include:

- an adhesive manufacturing site where potential problems of solvent contamination were envisaged,
- a former oil depot with significant soil and groundwater hydrocarbon contamination, often occurring as free product,
- an aluminium packaging site with soil and groundwater hydrocarbon contamination resulting from the use of rolling oils in the production process,
- a manufacturing site with volatile organic compound (VOC) contamination of the soil and groundwater resulting from the use of solvents on site and with metal contamination mainly due to the presence of mercury at elevated levels,
- a circuit board manufacturing facility with potential problems of hydrocarbon contamination resulting from the former use and storage of chlorinated solvents on the site,
- a former mill in northern England with a history of metal contamination in soil and groundwater, the main potential concern being Cr (VI) contamination,
- A chemical polymer plant in Scotland, investigating the extent and magnitude of VOC contamination in soil and groundwater.

## **Additional Responsibilities/ Training**

Previous role as Chemicals & Pharmaceuticals Market Segment Leader (MSL) for UK & Ireland.

Former Quality Management System Coordinator (QMC) and Laboratory QA Coordinator (LQC) for the Manchester Office.

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Trained as a Radiological Protection Supervisor (RPS). Successfully completed the RPS training course conducted by the National Radiological Protection Board (NRPB) at Harwell (20-24 September 1999).

Previously trained as a Classified Worker: this is required to work in radiologically Controlled Areas.

URS (now AECOM) Certified Project Manager

**Lead Representative for AECOM on the Network for Industrially Coordinated Sustainable Land Management in Europe (NICOLE)** (previously called Network for Industrially Contaminated Land in Europe).

- **Appointed to the Steering Group in May 2014 as Vice Chair of the Service Provider Group (SPG).**
- **Became Chair of the SPG in 2016** (current position).
- **Chaired the Organising Committee and hosted the Spring Workshop held in Manchester, UK in June 2015** on Unconventional and Emerging Contaminants.
- **Emerging Contaminants Working Group** – was an active member on this working group which initially focused on PFAS.
- **Led the set-up of a new Working Group on asbestos in soil which formally started in October 2017**, working with other colleagues and industry members.
- **Organising committee member for the Joint NICOLE meeting with the International Committee on Contaminated Land (ICCL) held in October 2017, Copenhagen.** The ICCL are regulators and policy-makers dealing with contaminated land management. The NICOLE meeting focused on Groundwater Management on Contaminated Sites
- **Organising committee member for NICOLE Fall Workshop** on “Data & Risk” 14-16 November 2018, Bristol, UK

## Previous Experience

**Post Doctoral Research Associate in the Departments of Earth Sciences and Chemistry at the University of Manchester (1995-1998):**

Managed a laboratory-based research programme investigating the interaction of metal ions with natural solid phases, and in particular

systems which are relevant to the problems of radioactive waste and mine waste pollutions. Relevant experience includes:

Member of the Radiochemistry Research Group. All laboratory work conducted, where appropriate, in designated Controlled or Supervised areas (Classified worker), e.g. for radiotracer work;

Registered User at the Daresbury Laboratory Synchrotron Radiation facility near Warrington (1991-1998). Work involved the analysis of samples spiked with various heavy metals and radioactive isotopes (specifically, depleted U and <sup>237</sup>Np);

Geochemical modelling: some experience of using PHREEQE & EQ3/6 to validate experimental data;

Presented papers at scientific conferences in the UK and overseas (Poland, USA) and published a number of abstracts and papers in peer-reviewed journals (see publication list).

## Publications

**Abstract publications of papers presented at conferences:**

- Parkman R. H., Curtis C. D. and Vaughan D.J. (1993) Metal fixation and mobilisation in the sediments of the Afon Goch estuary, Dulas Bay. 11th European meeting of the Society for Environmental Geochemistry and Health, Aberystwyth, UK.
- Parkman R. H., Curtis C. D. and Vaughan D.J. (1994) A study of the processes which fix and release heavy metals in the sediments of Dulas Bay estuary. Biogeochemistry of Intertidal Sediments Conference, Reading, UK. (Poster).
- Parkman R. H., Curtis C. D. and Vaughan D.J. (1994) Metal fixation and mobilisation in the sediments of the Afon Goch estuary, Dulas Bay. 3rd International Symposium on Environmental Geochemistry, Krakow, Poland.
- Livens F. R., Morris K., Parkman R. and Moyes L. (1996) Actinide Chemistry in the Far Field. Chemistry of the Nuclear Fuel Cycle Conference, Manchester, UK.
- Parkman R. H., Charnock J. M., Livens F. R. & Vaughan D. J. (1997) Interaction of strontium ions in aqueous solution with the surfaces of calcite. 4th International Conference on the Biogeochemistry of Trace Elements, Berkeley, California.
- Vaughan D. J., Parkman R. H., Livens F. R. and Charnock J. M. (1997) Interaction of metal ions in aqueous solution with iron oxide and sulfide minerals: applications of X-ray Absorption Spectroscopy. American Geophysical Union Annual

- Fall meeting, San Francisco, California (Invited Abstract).
- Parkman R, Bowden L., Pearce S., Knott R., Goodman P (2013) Parys Mountain Metal Mine, Anglesey, Wales: Sustainability in Mine Water Remediation. NICOLE Workshop in Lisbon, Portugal entitled Implementation of Sustainability in Management of Contaminated Land in particular using emerging green technologies.
  - Parkman R, Bowden L., Pearce S., Knott R., Goodman P (2013) Seeking a sustainable solution for minewater discharge: the importance of stakeholder engagement and the role of innovation; Case Study: Parys Mountain Metal Mine, Anglesey, Wales. Brownfield Briefing Conference, London, UK, entitled Risk Assessment & Remediation: New Advances and Practical Solutions to Achieve Cost-Effective, Sustainable Brownfield Remediation (Invited Presentation).
  - Parkman R, Bewley R, Tan S, Bardos P, van Zutphen M and Smith J. (2014) The Regulatory Basis For Sustainable Remediation Practice In The European Union and United Kingdom. The NICOLE/Common Forum Joint Workshop in Berlin entitled A European policy framework on contaminated land: Enabling integrated land management and promoting sustainability.
  - Parkman R & Bewley R. (28 May 2015) The Regulatory Basis For Sustainable Remediation In The European Union and UK. Renare Mark Sustainable Remediation Seminar, Malmö, Sweden (Invited Presentation).
  - Parkman, R. Developing Effective Management Strategies for dealing with Emerging Contaminants 30 March 2017 Invited Presentation at the Brownfield Briefing Groundwater conference in London.
  - Parkman R., Casson R, Liang S and Huang J (2018) New PFAS treatment Technology: DE-FLUORO™, RemTech Europe, Ferrara, Italy 19-21<sup>st</sup> September 2018.
  - Parkman R., Casson R, Liang S and Huang J (2019). A new Treatment Technology for destroying PFAS. PetroEnvironment 30<sup>th</sup> Anniversary Conference, 19-21<sup>st</sup> February 2019, Al-Khobar, Saudi Arabia.
  - Parkman R. H., Charnock J. M., Livens F. R. & Vaughan D. J. (1998) Interaction of strontium ions in aqueous solution with the surfaces of calcite and kaolinite. *Geochim. Cosmochim. Acta* 62, 1481-1492.
  - Parkman R. H., Charnock J. M., Bryan N, Livens F. R. & Vaughan D. J. (1999) Reactions of copper and cadmium ions in aqueous solution with goethite, lepidocrocite, mackinawite and pyrite. *American Mineralogist* 84, 407-419.
  - Moyes L. N., Parkman R. H., Charnock J. M., Vaughan D. J., Livens F. R., Hughes C. R. & Braithwaite A. (2000) Uranium uptake from aqueous solution by interaction with goethite, lepidocrocite, muscovite and mackinawite: an X-ray absorption spectroscopic study. *Environmental Science & Technology* 34, 1062 - 1068.
  - Wyness A. J., Parkman R. H. and Neal C. (2003) A summary of boron surface water quality data throughout the European Union. *The Science of the Total Environment*, vols 314-316, pp 255-269.
  - CL:AIRE & NICOLE, 2015. A review of the legal and regulatory basis for sustainable remediation in the European Union and the United Kingdom. Joint SuRF-UK/NICOLE report. CL:AIRE, London. Prepared by AECOM (Bewley & Parkman). This can be downloaded at: <http://www.claire.co.uk/surfuk>

#### **Journal Publications (peer-reviewed papers):**

- Parkman R. H., Curtis C. D., Vaughan D.J. and Charnock J. M. (1996) Metal fixation and mobilisation in the sediments of the Afon Goch estuary - Dulas Bay, Anglesey. *Applied Geochemistry*, 11, 203-210.
- Livens F. R., Morris K., Parkman R. and Moyes L. (1996) Actinide Chemistry in the Far Field. *Nuclear Energy*, 35(5), 331-337.

**Schedule 8.12**

**CV for Prof Margaret Bates**

**Professor Margaret Bates BSc PhD FCIWM CEnv IWM**

**An internationally recognised waste and resource expert with a track record of delivering practical support to governments, industry and the informal sectors.**

**EMAIL:** [margaret.bates@northampton.ac.uk](mailto:margaret.bates@northampton.ac.uk) / batesmargaretp@gmail.com

**TEL:** Work 01604 893352  
Mobile 07905351547

**EDUCATION:**

**1987 – 1991**

BSc (Hons.) Applied Biology. Upper Second Class (2i)  
Polytechnic of East London.

**1991- 1996**

PhD “The effects of heavy metal speciation on methanogenesis in landfill”.  
University of East London

**EMPLOYMENT HISTORY:**

**2005 – present**

**The University of Northampton**

**Manager of the Centre for Sustainable Wastes Management (2012 appointed Professor of Sustainable Wastes Management)**

Waste Electrical and Electronic Equipment (WEEE) expert for International Solid Waste Association

Associate Editor for Journal of the Air & Waste Management Association (JA&WMA)

Invited member of the Scottish Government Expert Panel on Environmental Charging and Other Measures

Project advisor CSERVEES (H2020 Research project)

Project team – LAWEEDA Latin American-**European** network on waste electrical and electronic equipment research, development and analyses

Project team – PolyCE - Post-Consumer High-tech Recycled Polymers for a Circular Economy

Expert - Promotion of sustainable growth in Palestine through an environmentally safe, innovative and economically valuable treatment of WEEE

Obtaining and delivering research and consultancy projects, in excess of £4 million, including all budgetary and compliance issues.

Tutor on WEEE waste policy and legislation development for StEP / United Nations University ewaste (WEEE) Academy. Expert in waste management in developing countries with a focus on Africa. Undertaken studies in Egypt, Ghana, Kenya, Nigeria, Tanzania, Uganda and Zambia.

Advisor to Kenyan and Nigerian regulators on development of WEEE policy.



Building the reputation of the Centre and the wider university through work with multinational companies, international organisations (such as the United Nations), governments, media and the private sector. I am an invited contributor to a range of trade press and work with radio, television and newspapers to advise on waste issues.

Academic adviser for Ewaste (WEEE) Alliance for Africa

Advising businesses on waste management issues, including four Knowledge Transfer Partnerships.

Liaising with government departments eg DEFRA and BEIS. Providing independent advice to businesses and the public sector.

Teaching and developing material for taught and distance learning wastes management provision.

Chair of CIWM Scientific and Technical Committee, member of CIWM Executive Committee and General Council.

Producing peer reviewed academic papers and conference presentations.

PhD examiner for Universities of Abertay, Aberystwyth, Hull, Wolverhampton, Bradford, Hull, Leeds, Nottingham, Manchester, Plymouth, Imperial College, Open University and Cranfield, as well as universities in Malaysia, Finland and Austria. MRes Examiner Swansea University, and DEng Loughborough

Guest lecturer for University of Central Lancashire, Kingston University and United Nations University.

Working with OEM (Original Equipment Manufacturer) Alliance to develop recycling infrastructure in Africa for WEEE.

Establishing International links and developing collaborations regarding research, education and training.

Recognised (by BBC, Sky, United Nations University, Environment Agency and others) as an expert on WEEE.

Member of Advisory Group for Associate Parliamentary Sustainable Resource Group.

Advising and evaluating grant funding for national and international organisations such as the EU and research councils.

## **1997 – 2005**

### **University College Northampton**

#### **Lecturer/ Senior Lecturer**

Contributing to the development and activities of the wastes management group. Writing and delivering material for HNC, BSc, MSc and MBA level wastes management provision.

Establishing and maintaining WARMNET ( a network of all UK universities involved in wastes management teaching and research.

Responsible for obtaining and delivering funded research, consultancy and educational development projects. Undertaking and co-ordinating externally funded research and consultancy work.

Supervising MPhil and PhD students on a range of funded projects including £150,000 and £160,000 from SITA Environmental Trust.

Leading the promotion and profile raising activities of the wastes management team.

Producing peer reviewed academic papers and conference presentations.

**1995 - 1997**

**University of East London**

**Specialist Lecturer**

Delivering specialist wastes management and environmental management provision and degree and masters level.

Coordinating University Research Assessment Exercise.

**1991- 1995**

**University of East London**

**Research Assistant**

PhD research project "The effects of heavy metal speciation on methanogenesis in landfill". Also undertook some undergraduate level teaching, and private sector consultancy work.

**1989 – 1990**

**Centre for Applied Microbiology and Research, PHLS, Porton Down**

**Sandwich Student**

**A one year placement investigating the microbiology of methane generation in landfill.**

#### **KEY ACHIEVEMENTS:**

##### **The University of Northampton**

- Fellow of Chartered Institution of Wastes Management (CIWM)
- Board member Resources and Waste UK
- President CIWM (2016-2017)
- Board member WAMITAB (Waste Management Industry Training and Advisory Board)
- International Waste Manager
- Voted second most influential person in UK waste and resource sector (2017)
- Chair of Chartered Institution of Wastes Management (CIWM) Scientific and Technical Committee,
- member of Individual Producer Responsibility Sub Group of WEEE Advisory Board,
- CIWM Executive Committee,
- Steering Committee of All Party Sustainable Resource Group
- Advisor to Kenyan and Nigerian governments for WEEE regulations
- Advisory Panel member – WEEE Compliance fund research
- Anglian Centre Councillor for CIWM,
- Evidence Advisory Panel of the Collaborative WReSCE (Waste, Resources & Sustainable Consumption Evidence Programme). (past)

## Research

Externally funded research supervision / involvement included:

- REBUS – resource efficient business models – developing the evidence – UK and Netherlands
- LaWEEEda –Latin American-European network on WEEE research, development and analyses
- Post-Consumer High-tech Recycled Polymers for a Circular Economy – PolyCE
- Developing the infrastructure and capacity for sustainable wastes management in developing countries
- Resource efficiency for social enterprises
- The role of the informal sector in wastes management in Nigeria
- Assessing infrastructure needs for sustainable wastes management
- The Influence of Waste Management Practices on Human Health: A Study of the Microbial Flora in the Waste Stream
- The characterization and analysis of landfill fires
- In-Vessel composting of animal by-products derived from tannery waste
- Developing best practice for effective and integrated sustainable waste management for the regions of England: key areas for information future enhanced waste strategy in East Midlands.
- The impact of public attitudes and behavior on effective valorization of household organic waste into agriculture compost. Case study Limbe and Douala(Cameron)
- The impact of clean technologies on the microbiological flora in tannery effluents
- Sustainable Management of Tannery Hair Waste through composting and potential markets for products
- Developing sustainable management for healthcare waste: the utilization of structure system analysis methods to inform best practice
- The utilization of Reed Bed system for treatment of wastewater
- Making the Business case: evaluation of the opportunities for new waste management technologies for MSW, industrial and commercial waste in England
- Restored Landfill sites as reservoir of pollinator diversity
- Biodiversity contribution of restored landfill sites
- Willowbed treatment of landfill leachate

Invited expert on WEEE issues for United Nations University, Dell, Nokia, Microsoft, HP, Phillips and a range of governments.

Supervisor of various funded research projects, PhD project investigating the need for new waste infrastructure, the environmental effects of leather manufacture, the benefits of EEE (electrical and electronic equipment) reuse, and the benefits of effective WEEE recycling in developing countries (co funded by HP).

On the editorial board for *Communications in Waste and Resource Management* and *Wastes and Resource Management*. Reviewer for *Waste Management* journal, *Waste Management Research*, *Resources, Conservation and Recycling*, *Science of the Total Environment*, *Communications in Waste and Resource Management*, and *Chemical Speciation and Bioavailability*.

Assessor for EPSRC, DEFRA, Innovate UK, WRAP, H2020, EU FP7, British Council, QNRF, and other grant applications in the areas of wastes management, eco innovation, resource efficiency and security.

Involved in the development and promotion of HNC (distance learning) Wastes Management, BSc (full time and distance learning) Wastes Management, MSc Wastes Management, MSc International Wastes Management and MBA Wastes (e-learning).

Instrumental in securing approximately £3 million of external funding, over 5 years. These include £1.5 million from SITA Environmental Trust, over £150,000 from Northamptonshire Partnership, 2 Knowledge Transfer Partnership projects, wastes minimisation contracts with organisations such as IKEA Distribution and Northamptonshire Police, 3 projects from emda via the BREW funding stream and training for WRAP. Manager of Waste Management Efficiency Project for EMIEP, and W2RNET for emda and framework contracts with WRAP and Envirowise.

Instrumental in the unique collaboration between the University and the Parliamentary Sustainable Waste Group to develop learning materials.

Involved in various waste related projects, these include; Northamptonshire Resource Efficiency Project, Corby Waste Not, the Environment Agency funded Anglian Wastes Minimisation Survey, investigating the impact of Best Value legislation, the development of a wastes management resource on the internet, the use of reed beds to treat poultry litter, using reed beds to treat landfill leachate and developing markets for recyclates in Northamptonshire.

I have acted as an expert witness for Northamptonshire County Council and advised emda, Invest Northamptonshire, HM Revenue and Customs, Northamptonshire Partnership and UK Trade and Investment, on wastes management issues, on a regional and sub-regional basis.

#### **University of East London**

Lectured in wastes management and environmental science.

Co-ordinated University submission for Research Assessment Exercise.

#### **Centre for Applied Microbiology and Research**

Carried out research on generation of methane gas from landfill sites of different ages and types.

#### **ACADEMIC PAPERS (peer reviewed):**

James, K., Goodwin, L., Evans, D., Cherry, C., Pidgeon, N. and Bates, M. (2017) [Citizens](#). In: Walport, M. and Boyd, I. (eds.) *Report of the Government Chief Scientific Adviser: From Waste to Resource Productivity: Evidence and Case Studies*. London: Government Office for Science. pp. 125-136.

Jones, J., Jackson, J., Bates, M. P. and Tudor, T. L. (2016) Factors influencing corporate pro-environmental behaviour - a case study from the UK construction sector. *International Journal of Environment and Sustainable Development (IJESD)*. **15**(1), pp. 1-15. 1474-6778.

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**Bates, M. P.** (2017) Circular Economy. Big Green Event. Southampton 12<sup>th</sup> Oct 2017

**Bates, M. P.** (2017) Waste or Resources – Just a question of semantics? Kent Resource Partnership 22 Sept 2017

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**Bates, M. P.** (2017) Circular Economy. Invited presentation, NAMI, Nepal June 2017

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**Bates, M. P.** (2016) Circular economy - opportunities and options. Invited Presentation presented to: Bathroom and Kitchen Industry Business Conference 2016, Belfry Hotel, Sutton Coldfield, 04 October 2016

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**Bates, M** (2015) EfW – part of a circular economy? *Circular Economy and Energy from Waste Seminar.* Corby 8<sup>th</sup> September

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Wired  
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**Schedule 8.13**

**AECOM Conflicts of Interest Policies and Procedures**

# CONFLICTS OF INTEREST POLICIES AND PROCEDURES

## *AECOM TECHNOLOGY CORPORATION AND ITS OPERATING GROUPS*

### **PURPOSE**

This Conflicts of Interest Policy (“Policy”) sets forth the internal guidance for AECOM Technology Corporation (“AECOM”), its Operating Groups, and their respective employees to be able to identify, evaluate and avoid or mitigate circumstances that may reasonably create a perceived or actual conflict between the interests of AECOM and its clients or others (“COI”). COIs can arise with respect to government, private sector and/ or multilateral institution procurements wherein AECOM, as a result of an acquisition, prior work or on-going work, has access to information or is defining procurement requirements that could provide an unfair advantage in obtaining subsequent business or could otherwise cast doubt on the part of AECOM to perform its services in an independent and objective manner. COIs can also arise if one part of AECOM is performing tasks for a customer such as project evaluation that could involve overseeing or evaluating the performance of another part of the company.

COI guidelines and restrictions are common in government and multilateral institution procurement rules; however, such guidelines and restrictions apply to all of AECOM’s work. The requirements imposed by U.S. regulations with respect to COI, as described in this policy, whilst principally applicable to AECOM’s work with the United States government are also intended as useful background information for all of AECOM’s operations in other areas of the world to sensitize employees to COI risks in pursuing business.

### **BACKGROUND**

Although there are many different circumstances that can lead to an actual or perceived COI, the primary concerns related to COI tend to fall within the following broad categories:

#### Organizational

#### Organizational Conflicts of Interest –

Organizational conflict of interest” (“OCI”) means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to a client, or the person’s objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage. An OCI may affect any project upon which AECOM is providing services regardless of geography, business line or client.

Specific laws have identified three distinct situations where an OCI may arise concerning AECOM’s work with the U.S. government. However, these situations can arise under applicable procurement rules involving other international governmental, institutional and provide sectors entities throughout the world:

1. Biased Ground Rules. Situations in which a firm, as part of its performance of a government contract, has in some sense set the ground rules for another government contract by, for example, writing the statement of work or the specifications. In these "biased ground rules" cases, the primary concern is that the firm could skew the competition, whether intentionally or not, in favor of itself. These situations may also involve a concern that the firm, by virtue of its special knowledge of the agency's future requirements, would have an unfair advantage in the competition for those requirements.
2. Impaired Objectivity. Situations where a firm's work under one government contract could entail evaluating itself, either through an assessment of performance under another contract or an evaluation of proposals. In these "impaired objectivity" cases, the concern is that the firm's ability to render impartial advice to the government could appear to be undermined by its relationship with the entity whose work product is being evaluated.
3. Unequal Access to Information. Situations in which a firm has access to nonpublic information as part of its performance of a government contract and where that information may provide the firm a competitive advantage in a later competition for a government contract. In these "unequal access to information" cases, the concern is limited to the risk of the firm gaining a competitive advantage; there is no issue of bias.

Individual Conflicts of Interest – These types of concerns focus on individuals. Concerns arise primarily from the risk of corruption where a person associated with the activity may unduly influence a procurement in order to personally benefit from the result. This may be direct, such as “hiring” a procurement official to perform work under the awarded contract, or indirect, such as agreeing to hire a family member of the procurement official as a condition of award.

Business Conflicts of Interest – These types of COIs arise not from a potential violation of formal procurement rules, but rather from circumstances that may jeopardize business relationships because of a perceived violation of “trust.” These types of COIs may arise if a client or others that sensitive, confidential or proprietary information may be disclosed due to the nature of a new business relationship. As an example, a regulatory agency may determine that it would be inappropriate for a major consultant to perform similar types of services directly to the regulated community.

## **CLIENT CONSIDERATIONS**

The type of client will also be a significant factor in evaluating whether an actual or potential COI may exist.

Generally, governmental entities will be very sensitive to potential COI matters due to the potential impact of claims of abuse in the expenditure of public funds and the resultant loss of public confidence in the government’s procurement and purchasing systems. Similarly, these

same concerns apply at multilateral institutions such as the World Bank and European Community. However, as noted above, any client for whom AECOM provides services will be sensitive to the need to avoid COIs that may affect AECOM's ability to independently and objectively perform its services.

Such concerns are often addressed at the transnational level through treaties and compacts, such as the establishment of formal anti-bribery policies, such as the UN Declaration Against Corruption and Bribery in International Business Transactions and the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Organization for Economic Cooperation and Development ("OECD").

Concerns are often addressed at the national level in order to protect both the national government's own procurement policies (such as the Organizational COI provisions of the Federal Acquisition Regulations in the United States) and to protect the nation's reputation for respecting the laws of countries (e.g., U.S. Foreign Corrupt Practices Act ("FCPA")).

These concerns also extend to state, regional and local political jurisdictions, which generally have their own internal requirements for conducting business.

## **SPECIFIC CONTRACTUAL RESTRICTIONS**

The first step in identifying and determining the standards applicable to a COI is to review the procurement requirements of the entity offering the award. This includes the express contractual language contained in the individual procurement. For example, applicable provisions related to procurements with the U.S. government, which are indicative of the type of COI requirements imposed by governmental entities, are attached hereto as Appendix A.

A governmental agency may include a much more simplified provision than is described in Appendix A which states that the bidder (and all of its affiliates) is precluded from bidding of future work arising from the activities being performed under this planning or design contract.

Although such express COI provisions are less frequent in commercial contracts, many large government contractors routinely include such restrictions in their contracts to other parties even if the work performed is not to be performed pursuant to a government prime contract.

## **MERGERS AND ACQUISITIONS**

Consideration of acquisitions, divestitures and other business changes requires careful and early review for possible conflicts of interest. In the case of a potential acquisition, the deal team will need to carefully consider whether the business activities of a potential target company might raise an actual or potential OCI in relation to current or future AECOM business areas. For instance, if a target company is engaged in the preparation of plans or specifications that may relate to a project an AECOM business unit is currently performing, or considering performing in the future, the potential for an Impaired Objectivity OCI should be recognized and carefully considered by management with the assistance of the General Counsel.



## **IMPLIED RESTRICTIONS**

Even in those events where the contract does not expressly address COI restrictions, similar requirements are frequently contained in standard procurement policies or may be reflected in applicable professional industry standards.

## **MERGERS AND ACQUISITIONS**

Individuals that are working on projects, proposals or other matters which may result in a potential conflict of interest related to M&A activities are excluded from the AECOM due diligence team and they are not granted access to the documents and materials provided for review by AECOM. A record is kept of all individuals that are provided with access to records during due diligence in order to confirm the integrity of this process. If an issue is identified during due diligence which may give rise to a potential conflict of interest, a team designated by AECOM will review the issue and determine whether an OCI Plan is appropriate to address the issue. Appropriate notification of existing clients will also be addressed.

## **AECOM POLICY**

AECOM employees are expected to be sensitive to potential COI issues impacting their services and to take reasonable measures to identify, evaluate, and eliminate or minimize potential COI issues. An employee is expected to raise such issues with their appropriate supervisors or to bring such matters to their assigned AECOM Legal Counsel for further guidance. Likewise, AECOM officers and management are expected to be cognizant of an COI and to diligently identify such issues and notify their appropriate AECOM Legal Counsel once such issues become known. In either case (whether an employee or an officer/manager identifies the COI issue), once the appropriate AECOM Legal Counsel is notified of the issue, Counsel will work with senior management within his/her Operating Group, the Executive Management Team member for his/her Operating Group, AECOM's Assistant General Counsel for Operations and its Assistant General Counsel for Compliance in order to determine if the COI may be properly mitigated. If this group determines that an OCI Mitigation Plan may be developed for the issue, this team shall work together in order to prepare an appropriate COI Mitigation Plan. If appropriate, this group shall also determine the appropriate form of notice that must be sent to a client or other party upon identifying the COI.

It is not always possible for AECOM to mitigate a COI, if one exists. However, once AECOM has analyzed potential COI issues and has determined that a COI Mitigation Plan may be properly developed, an effective COI Mitigation Plan will include the following requirements:

- Training of AECOM personnel, and subcontractors and consultants retained by AECOM for a project, with respect to potential conflict of interest issues and scenarios that could arise during a project.

- The inclusion of appropriate clauses in AECOM’s agreements for a project providing for the need to maintain the confidentiality of sensitive, proprietary or protected information, and express references to non-disclosure of such information to unauthorized parties.
- Establishment of restrictions (or “walls”) between individuals that are working on different aspects of a project in order to avoid the appearance of a conflict.
- Establishment of appropriate restrictions upon the individuals that may communicate within AECOM, with the client, and with third parties involved in a project.
- Formalized reporting requirements among personnel working on a project.
- Establishment of procedures for documenting the activities of project personnel, including restricting access to written materials and within the IT system.
- Regular audits of the activities and performance of project personnel (AECOM, consultants and subcontractors) to ensure compliance with the established COI Mitigation Plan.

## **PROCEDURES**

Because of the broad range of circumstances that can lead to a potential COI, there is no single list of questions that can be used to determine whether a specific COI may exist in a given set of circumstances. However, there is a general process that can be followed to help identify and deal with potential conflicts on a case-by-case basis.

The initial step is to review the potential contract in order to make a determination of whether an actual or potential COI may exist. If the circumstances indicate that a potential COI is likely to exist, the AECOM employee is expected to raise the concern to appropriate management or to the assigned Legal Counsel for further evaluation of the potential COI.

If a potential COI is then determined to exist, the next step is to evaluate the potential aspects of the COI and determine whether steps may be implemented in order to neutralize or minimize the potential COI. This evaluation should be made with the group identified above (see “AECOM Policy”) in order to determine what additional actions may be necessary. If it is determined that the OCI may be neutralized or effectively mitigated, an “OCI Mitigation Plan” should then be developed to clearly identify the potential COI and what steps AECOM proposes to take in order to neutralize or mitigate the COI.

It is important to realize that a COI may be waived by the impacted party, provided a proper notice has been given to the impacted party. The written notice and identification of the specific person to be given such notice is frequently addressed under the “Notice” provisions of a contract. Such notice must generally be given in a “timely” manner, so internal AECOM review of an OCI must be comprehensive and promptly analyzed as soon as the matter is identified (see “AECOM Policy” above).

If the impacted parties are willing to accept an OCI Mitigation Plan and it is determined by AECOM that it is appropriate to proceed, then internal safeguards must be implemented to ensure that any related mitigation plan is properly carried out.

## APPENDIX A

## H.11 ORGANIZATIONAL COI

- a. An organization COI means that because of other activities or relationships with other persons or entities, a Contractor is unable, or potentially unable to render impartial assistance or advice to the Government, or the Contractor's objectivity in performing the contract work is, or might be otherwise impaired, or the Contractor has an unfair competitive advantage. Organizational COI includes situations where the capacity of a Contractor (including the Contractor's executives, directors, consultants, subsidiaries, parent companies or subcontractors) to give impartial, technically sound advice or objective assistance is or may be impaired or may otherwise result in a biased work product because of any past, present or planned interest, financial or otherwise, in organizations regulated by or assisted by DOT or in organizations whose interest may be substantially affected by Departmental activities.
- b. The Contractor is responsible for maintaining and providing up-to-date COI information to the Contracting Officer. If, after award of this contract or task order, the Contractor discovers a COI with respect to this contract or task order which could not reasonably have been known prior to award, or if any additional conflicts or potential conflicts arise after award, the Contractor shall give written notice to the Contracting Officer as set forth below.
- c. The Contractor's notice called for in paragraph b. above shall describe the actual, apparent, or potential COI, the action(s) the Contractor has taken or proposes to take to avoid or mitigate any conflict, and shall set forth any other information which the Contractor believes would be helpful to the Contracting Officer in analyzing the situation.
- d. The Contractor has the responsibility of formulating and forwarding a proposed mitigation plan to the Contracting Officer, for review and consideration. This responsibility arises when the Contractor first learns of an actual, apparent, or potential COI. Corporate counsel review of the proposed mitigation plan is necessary to ensure a timely review and final determination by the contracting officer.
- e. If the Contracting Officer in his/her discretion determines that the Contractor's actual, apparent, or potential COI remains, or the measures proposed are insufficient to avoid or mitigate the conflict, the Contracting Officer will direct a course of action to the Contractor designed to avoid, neutralize, or mitigate the COI. If the parties fail to reach agreement on a course of action, or if having reached such agreement the Contractor fails to strictly adhere to such agreement during the remaining period of contract performance, the Contracting Officer has the discretion to terminate the contract for default. No determination or decision by the Contracting Officer under this clause shall be reviewable under FAR Clause 52.233-1, "Disputes Clause (JUL 2002)," which is also incorporated by reference herein.
- f. The Contractor's misrepresentation of facts in connection with a COI reported or a Contractor's failure to disclose a COI as required shall be a basis for default termination of this contract.
- g. The Contractor is prohibited from submitting qualifications, bids, proposals, offers, solicitations, or similar documents to the Grantee it is supervising during the contract and task order performance periods.

**h. Management of conflicts of interest by the Contractor will be a part of performance evaluations.**