

**GDPR STANDARD CLAUSES OF CONTRACT**  
**For contractors engaged to process Personal Data**  
**on Waterways Ireland's behalf**

Waterways Ireland requires all contractors engaged in the processing of **Personal Data** to sign and implement this GDPR Addendum to contract, in compliance with the EU General Data Protection Regulation (EU-GDPR) which became effective from 25 May 2018 and the UK General Data Protection Regulation (UK-GDPR) which took effect on 31 January 2020.

**GDPR DEFINITIONS FOR IMMEDIATE REFERENCE**

**EU-GDPR:** the General Data Protection Regulation (*Regulation (EU) 2016/679*)

**UK-GDPR:** the UK General Protection Regulation

**LED:** Law Enforcement Directive (*Directive (EU) 2016/680*)

**Data Protection Legislation:** (i) the GDPR, the LED and any applicable UK and Ireland implementing Laws as amended from time to time (ii) Ireland Data Protection Act 2018 and the UK Data Protection Act, 2018 as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations, 2019 (UK) to the extent that they relate to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy.

**Data Controller:** is a natural or legal person or organisation which determines the purposes and means of processing personal data. Waterways Ireland is the Data Controller in the case of contracts awarded by the body.

**Data Processor:** is a natural or legal person or organisation which processes personal data on behalf of a Controller. The Contractor awarded such a contract by Waterways Ireland is the Data Processor acting on our behalf.

**Sub-processor:** any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement.

**Data Protection Officer:** the contact persons appointed both by the Controller and the Processor responsible for the effective compliance with Data Protection legislation and providing advice and guidance.

**Personal data:** is data that relates to an identifiable living person i.e. the '**Data Subject**'. For example, this could include a person's:-

- Name
- Address
- Phone number
- Date of Birth
- Bank Details
- Email Address

**Special Categories of Personal Data:** GDPR refers to sensitive personal data as 'Special Categories of Personal Data'. This relates to an identifiable living person but reveals any of the following:-

- Race or ethnicity
- Political opinions
- Religious or similar beliefs or other beliefs
- Physical or mental health
- Sexual orientation
- Trade Union Membership
- Biometrics (where used for ID purposes)

Note: GDPR applies to both automated and manual filing systems which hold personal and sensitive data, where such data are accessible according to specific criteria.

**Data Subject Access Request:** a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

**Protective Measures:** appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it.

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

**Personal Data Breach:** a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.

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

## **1. DATA PROTECTION CONTEXT**

**1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the Controller and the Contractor is the Processor. The only processing that the Contractor is authorised to do is listed herein at Appendix H, Schedule 1B by the Client and may not be determined by the Contractor.**

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

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

- (1.3.1) a systematic description of the envisaged processing operations and the purpose of the processing;

- (1.3.2) an assessment of the necessity and proportionality of the processing operations in relation to the services;
- (1.3.3) an assessment of the risks to the rights and freedoms of Data Subjects; and
- (1.3.4) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

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

(1.4.1) process that Personal Data only in accordance with **Schedule 1B**, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Client before processing the Personal Data unless prohibited by Law;

(1.4.2) ensure that it has in place Protective Measures, which have been reviewed and approved by the Client as appropriate to protect against a Data Loss Event having taken account of the:

- (i) nature of the data to be protected;
- (ii) harm that might result from a Data Loss Event;
- (iii) state of technological development; and
- (iv) cost of implementing any measures;

(1.4.3) ensure that:

- (i) the Contractor Personnel do not process Personal Data except in accordance with this Agreement and Schedule 1B herein);
- (ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:
  - (a) are aware of and comply with the Contractor's duties under this clause;
  - (b) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;
  - (c) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Client or as otherwise permitted by this Agreement; and
  - (d) have undergone adequate training in the use, care, protection and handling of Personal Data; and

(1.4.4) not transfer Personal Data outside of the EU unless the prior written consent of

the Client has been obtained and the following conditions are fulfilled:

- (i) the Client or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46) as determined by the Client;
- (ii) the Data Subject has enforceable rights and effective legal remedies;
- (iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Client in meeting its obligations); and
- (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;

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

**1.5 Subject to clause 1.6, the Contractor shall notify the Client immediately if it:**

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

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

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

(1.5.4) receives any communication from the Information Commissioner's Office UK, the Data Protection Commission in Ireland, or other regulatory authority in connection with Personal Data processed under this Agreement;

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

or

(1.5.6) becomes aware of a Data Loss Event.

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

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

- (1.7.1) the Client with full details and copies of the complaint, communication or request;
- (1.7.2) such assistance as is reasonably requested by the Client to enable the Client to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (1.7.3) the Client, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (i) assistance as requested by the Client following any Data Loss Event;
  - (ii) assistance as requested by the Client with respect to any request from the Information Commissioner's Office UK or the Data Protection Commission in Ireland or any consultation by the Client with the Information Commissioner's Office UK or the Data Protection Commission in Ireland.

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

- (1.8.1) the Client determines that the processing is not occasional;
- (1.8.2) the Client determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- (1.8.3) the Client determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

**1.9 The Contractor shall allow for audits of its Data Processing activity by the Client or the Client's designated auditor.**

**1.10 The Contractor shall designate a Data Protection Officer if required by the Data Protection Legislation.**

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

- (i) notify the Client in writing of the intended Sub-processor and processing;
- (ii) obtain the written consent of the Client;
- (iii) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause [1.11] such that they apply to the Sub-processor; and
- (iv) provide the Client with such information regarding the Sub-processor as the Client may reasonably require.

**1.12 The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.**

- 1.13 The Client may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office UK or the Data Protection Commission in Ireland, as is relevant to the jurisdiction of this contract. The Client may on not less than 30 Working Days' notice to the Contractor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office UK or the Data Protection Commission in Ireland.

**GDPR SCHEDULE OF PROCESSING, PERSONAL DATA AND DATA SUBJECTS**

1. The Contractor shall comply with any further written instructions with respect to processing by the Client.
2. Any such further instructions shall be incorporated into this Schedule 1B.

Description	Details
Subject matter of the processing	<i>[This should be a high level, short description of what the processing is about i.e. its subject matter]</i>
Duration of the processing	<i>[Clearly set out the duration of the processing including dates]</i>

Nature and purpose of the processing

*[Please be as specific as possible, but make sure that you cover all intended purposes.]*

*The nature of the processing: means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.*

*The purpose might include: employment processing, statutory obligation, recruitment assessment etc]*

<p>Type of Personal Data</p>	<p><i>[Examples here include: name, address, date of birth, National Insurance Number (UK) or Personal Public Service Number (Ireland), telephone number, pay, images, biometric data etc]</i></p>
<p>Categories of Data Subject</p>	<p><i>[Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</i></p>
<p>Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data</p>	<p><i>[Describe how long the data will be retained for, how it will be returned or destroyed]</i></p>

Name of Waterways Ireland representative: .....

Signature of Waterways Ireland representative: .....

Date .....

Name of Processor's representative: .....

Signature of Processor's representative: .....

Date .....