

DATED

21 OCTOBER 2021

THE SECRETARY OF STATE FOR HEALTH AND SOCIAL CARE

AND

HEADUP SYSTEMS LTD

CONDITIONS OF CONTRACT FOR THE PROVISION OF SERVICES (FULL VERSION)
PROVISION OF HEALTH INCENTIVE SOLUTION PILOT

CONTENTS

SCHEDULE 1 KEY PROVISIONS	9
SCHEDULE 2 GENERAL TERMS AND CONDITIONS	30
SCHEDULE 3 DEFINITIONS AND INTERPRETATION	90
SCHEDULE 4 SPECIFICATION	109
SCHEDULE 5 TENDER.....	131
SCHEDULE 6 PRICING	256
SCHEDULE 7 CONTRACT MONITORING.....	261
SCHEDULE 8 COMMERCIALLY SENSITIVE INFORMATION	269
SCHEDULE 9 VARIATION FORM.....	270
SCHEDULE 10 STAFF TRANSFER	272
SCHEDULE 11 KEY PERSONNEL	311
SCHEDULE 12 EXIT PLAN AND SERVICE TRANSFER ARRANGEMENTS	312
SCHEDULE 13 PROCESSING, PERSONAL DATA AND DATA SUBJECTS.....	319
SCHEDULE 14 BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN	323
SCHEDULE 15 STEP-IN RIGHTS	325
SCHEDULE 16 SERVICE LEVELS	329

THE AUTHORITY	The Secretary of State for Health and Social Care of 39 Victoria St, Westminster, London SW1 0EU acting as part of the Crown
THE CONTRACTOR	HeadUp Systems Ltd which is a company registered in [England and Wales] under company number 12365586 and whose registered office is at 10 John Street, London, England, WC1N 2EB.
DATE	08 October 2021

1. BACKGROUND

- 1.1. The Authority placed a contract notice in the Official Journal or the European Union under the following reference 2021/S 000-015670 on 07 July 2021 seeking tenders from providers interested in entering into an arrangement for the provision of a Health Incentive Solution Pilot service to the Authority.
- 1.2. On 07 July 2021 the Authority issued an invitation to tender (the “Invitation to Tender”) for the provision of a Health Incentive Solution Pilot. In response to the Invitation to Tender, the Contractor submitted a tender to the Authority on 16 August 2021 (“the Tender”). On the basis of the Tender, the Authority selected the Contractor to enter into an agreement to provide such services to the Authority.

2. THE CONTRACT

- 2.1. This Contract is made on the date set out above subject to the Order Form and the terms set out in the schedules annexed to the Contract (the “**Schedules**”). The Authority and the Contractor undertake to comply with the provisions of the Schedules in the performance of this Contract.
- 2.2. The Contractor shall supply to the Authority, and the Authority shall receive and pay for, the Services on the terms of this Contract.
- 2.3. In this Contract, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the meanings set out in Schedule 3 (Definitions and Interpretation) or the relevant Clause or Schedule in which that capitalised expression appears.

Order Form

1. Contract Reference	C48851
2. Date	21 October 2021
3. Authority	Secretary of State for Health and Social Care 39 Victoria Street, Westminster, London SW1H 0EU
4. Contractor	HeadUp Systems Ltd 10 John Street, London, England, WC1N 2EB 12365586
5. The Contract	<p>The Contractor shall supply the Services described below on the terms set out in this Order Form and the Schedules and any Annexes.</p> <p>Unless the Contract otherwise requires, capitalised expressed used in this Order Form have the same meanings as in Schedule 3 (Definition and Interpretation).</p> <p>In the event of any conflict between this Order Form and the Schedules, this Order Form shall prevail.</p> <p>Please do not attach any contractor terms and conditions to this Order Form as they will not be accepted by the Authority and may delay conclusion of the Contract.</p>
6. Services to be Supplied	<p>The Authority requires the Contractor to act as an integrator to supply and manage an integrated Health Incentive Pilot in England to be made up of the services listed below more particularly set out in Schedule 4 (Specification):</p> <ul style="list-style-type: none"> • Service requirement 1- Programme management of pilot including service integration and marketing • Service requirement 2- Pilot design, participant sampling and engagement, result analysis, and evaluation • Service requirement 3- Provision of a digital infrastructure able to engage participants, track diet and physical activity behaviours, link to incentive provision • Service requirement 4- Provision of incentives <p>Such Services to be provided in accordance with the Service Levels (where applicable) as set out in Schedule 4 (Specification) and Schedule 16 (Service Levels)</p>



7. Optional Services	Description of Optional Services (if any): N/A
8. Term	<p>The Term shall commence upon execution of this Order Form.</p> <p>And the Expiry Date shall be eleven (11) months after commencement unless it is otherwise extended or terminated in accordance with the terms and conditions of the Contract.</p> <p>The Authority may extend the Contract for up to four (4) periods each of up to three (3) months by giving not less than one (1) Month's notice in writing to the Contractor prior to the Expiry Date. The terms and conditions of the Contract shall apply throughout any such extended period. The duration of this Contract shall be no longer than twenty-three (23) months in total.</p>
9. Contract Price	The Contract Price for provision of the Services shall be £1,200,000 as more particularly set out in Schedule 6 (Pricing).
10. Payment	<p>All invoices must be send quoting a valid Purchase Order number.</p> <p>[REDACTED]</p> <p>Within ten (10) Working Days of receipt of your countersigned copy of the Contract, we will send you a unique Purchase Order number (the "PO Number"). You must be in receipt of a valid PO Number before submitting an invoice.</p> <p>All invoices must be send quoting a valid PO Number. Every payment request must be accompanied by a current statement of accounts; this is a standard commercial process and should show all invoices raised and amounts outstanding. Copy invoices requiring payment must be sent with all statement of accounts with supporting documents. The minimum supporting documents required are an invoice and packing list.</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO item number (if applicable) and the details (name and telephone number) of your Authority contact (i.e. Authority Representative). Non-compliant invoices will be sent back to you, which may lead to a delay in payment.</p> <p>If you have a query regarding an outstanding payment, please contact our Accounts Payable section by email to:</p> <p>[REDACTED]</p>
11. Authority Representative(s)	<p>For general liaison your contact will be:</p> <p>Name: [REDACTED]</p>

C38910 – DHSC - Provision of Health Incentive Solution Pilot
DHSC Open Attachment 4 Conditions of Contract for Services - Draft FV



	Email: [REDACTED] or, in their absence, Name: [REDACTED] Email: [REDACTED]	
12. Contractor Representative(s)	For general liaison your contact will be Name: [REDACTED] Email: [REDACTED] Tel: [REDACTED] or, in their absence, Name: [REDACTED] Email: [REDACTED] Tel: [REDACTED]	
13. Address notices for	Authority: Department of Health and Social Care 39 Victoria Street, Westminster, London SW1H 0EU Attention: [REDACTED] Email: [REDACTED]	Contractor: HeadUp Systems Ltd 10 John Street, London, England, WC1N 2EB Attention: [REDACTED] [REDACTED] Email: [REDACTED] Tel: [REDACTED]
14. Key personnel	Authority: Department of Health and Social Care 39 Victoria Street, Westminster, London SW1H 0EU Attention: [REDACTED] Email: [REDACTED]	Contractor: HeadUp Systems Ltd 10 John Street, London, England, WC1N 2EB Attention: [REDACTED] [REDACTED] Email: [REDACTED] [REDACTED] Email: [REDACTED]

	<p>The Contractor shall perform the Services in accordance with the UK Policy Framework for Health and Social Care Research. If the Contractor determines that the Services are Research then the Contractor shall use the NHS REC tool and GafREC to determine whether the below are required:</p> <ul style="list-style-type: none"> • NHS Research Ethics Committee review; and • Health Research Authority (HRA) and Health and Care Research Wales (HCRW) review.
--	--

Signed by the authorised representative of **THE AUTHORITY**

Name:		Signature	
Position:	Senior Category Manager		22/10/2021

Signed by the authorised representative of **THE CONTRACTOR**

Name:		Signature	
Position:	Director		

SCHEDULE 1 KEY PROVISIONS

CONTENTS

STANDARD KEY PROVISIONS	10
1. APPLICATION OF THE KEY PROVISIONS.....	10
2. ORDER OF PRECEDENCE	10
3. APPLICATION OF TUPE AT THE COMMENCEMENT OF THE PROVISIONS OF SERVICES	10
OPTIONAL KEY PROVISIONS.....	11
4. QUALITY ASSURANCE STANDARDS.....	11
5. PURCHASE ORDERS.....	11
6. IMPLEMENTATION PHASE	12
7. SERVICES COMMENCEMENT DATE	15
8. PRICE ADJUSTMENT ON EXTENSION OF TERM.....	15
9. OPTIONAL SERVICES	16
10. TERMINATION FOR CONVENIENCE	16
11. DIFFERENT LEVELS AND/OR TYPES OF INSURANCE	17
12. INCLUSION OF A CHANGE CONTROL PROCESS	18
13. GUARANTEE	19
14. MEASURES TO PROMOTE TAX COMPLIANCE.....	19
15. AUTHORITY STEP-IN RIGHTS	19
16. EXIT AND SERVICE TRANSFER.....	19
17. SUPPLY CHAIN VISIBILITY	21
18. TACKLING MODERN SLAVERY	23
19. BUSINESS CONTINUITY AND DISASTER RECOVERY	24
20. CARBON FOOTPRINT / NET ZERO OBLIGATIONS	25
21. CORPORATE SOCIAL RESPONSIBILITY AND SOCIAL VALUE REPORTING	28

STANDARD KEY PROVISIONS

1. APPLICATION OF THE KEY PROVISIONS

- 1.1. The standard Key Provisions at Clauses 1 to 3 of this Schedule 1 shall apply to this Contract.
- 1.2. The optional Key Provisions at Clauses 4 to 21 of this Schedule 1 shall only apply to this Contract where they have been checked and information completed as applicable.

2. ORDER OF PRECEDENCE

- 2.1. If there is any conflict between any part of this Contract and the Schedules and/or any Annexes to the Schedules, the conflict shall be resolved in accordance with the following order of precedence:
 - 2.1.1. Order Form;
 - 2.1.2. Schedule 1 (Key Provisions);
 - 2.1.3. Schedule 2 (General Terms and Conditions);
 - 2.1.4. Schedule 3 (Definitions and Interpretation);
 - 2.1.5. Schedule 4 (Specification);
 - 2.1.6. any other Schedules and their Annexes (other than Schedule 5 (Tender)); and
 - 2.1.7. Schedule 5 (Tender) and its Annexes (if any).

3. APPLICATION OF TUPE AT THE COMMENCEMENT OF THE PROVISIONS OF SERVICES

The Authority does not believe that TUPE will apply on entry and that it is unlikely that it will apply on exit – but the clause and schedule remain just in case

- 3.1. The Parties agree that:
 - 3.1.1. where the commencement of the provision of the Services or any part of the Services results in one or more Relevant Transfers, Schedule 10 shall apply as follows:
 - (a) where the Relevant Transfer involves the transfer of Transferring Authority Employees, Part A of Schedule 10 shall apply;
 - (b) where the Relevant Transfer involves the transfer of Transferring Former Contractor Employees, Part B of Schedule 10 shall apply;

- (c) where the Relevant Transfer involves the transfer of Transferring Authority Employees and Transferring Former Contractor Employees, Parts A and B of Schedule 10 shall apply; and
 - (d) Part C of Schedule 10 shall not apply.
- 3.1.2. where the commencement of the provision of the Services or a part of the Service does not result in a Relevant Transfer:
 - (a) Part C of Schedule 10 shall apply and Parts A and B of Schedule 10 shall not apply; and
 - (b) Part D of Schedule 10 shall apply on the expiry or termination of the Services or any part of the Services.

OPTIONAL KEY PROVISIONS

4. QUALITY ASSURANCE STANDARDS

- ☒ **(ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED AND STANDARDS INSERTED)**

- 4.1. The following quality assurance standards shall apply (alongside the Policies to be complied with set out in the Order Form) to the provision of the Services:
 - 4.1.1. Digital Technology Assessment Criteria for health and social care (DTAC);
 - 4.1.2. Government Service Standard;
 - 4.1.3. Data Security & Protection Toolkit; and
 - 4.1.4. Technology Code of Practice.

5. PURCHASE ORDERS

- ☒ **(ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED)**

- 5.1. The Authority shall issue a Purchase Order to the Contractor in respect of any Services to be supplied to the Authority under this Contract. The Contractor shall comply with the terms of such Purchase Order as a term of this Contract and shall ensure that any Purchase Order is clearly noted on each invoice. For the avoidance of doubt, any actions or work undertaken by the Contractor under this Contract prior to the receipt of a Purchase Order covering the relevant Services shall be undertaken at the Contractor's risk and expense and the Contractor shall only be entitled to invoice for Services covered by a valid Purchase Order.

6. IMPLEMENTATION PHASE

This will apply for the mobilise phase of the project which shall be treated as implementation for these purposes.

☒ **(ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED AND THE SCHEDULE INSERTED)**

6.1. This Clause, the following definitions shall apply:

- 6.1.1. **“Delay”**: a delay in the successful achievement of a Milestone.
- 6.1.2. **“Detailed Implementation Plan”**: the detailed plan for the implementation of the Services that is developed in accordance with Clause 6.3 of this Schedule 1, as amended from time to time in accordance with the Change Control Process.
- 6.1.3. **“Implementation Plan”**: the Outline Implementation Plan unless and until it is superseded by the Detailed Implementation Plan.
- 6.1.4. **“Key Milestone”**: any Milestone which is identified as "key" in the Implementation Plan or by operation of the Change Control Process.
- 6.1.5. **“Key Milestone Date”**: the date for completion of any Key Milestone as set out in the Implementation Plan.
- 6.1.6. **“Milestone”**: an event or task described in the Implementation Plan which, if applicable, shall be completed by the relevant Milestone Date.
- 6.1.7. **“Milestone Date”**: the date set against the relevant Milestone in the Implementation Plan by which the Milestone shall be completed.
- 6.1.8. **“Outline Implementation Plan”**: the outline plan set out in Schedule 5 for the implementation of the Services

Development of the Detailed Implementation Plan

- 6.2. Prior to commencement of delivery of the Services, there is an implementation phase and therefore all references in Clause 1.5 (Provision of Services) of Schedule 2 to the Implementation Plan shall apply.
- 6.3. The Detailed Implementation Plan shall be agreed as follows:
 - 6.3.1. the Contractor shall prepare and deliver to the Authority for the Authority's approval a draft of the Detailed Implementation Plan within ten (10) Working Days of the Commencement Date;

- 6.3.2. the Contractor shall not be entitled to propose any Variation to the Key Milestone Dates set out in the Outline Implementation Plan;
- 6.3.3. the Authority shall review and comment on the draft Detailed Implementation Plan as soon as reasonably practicable.
- 6.3.4. following such review and consultation, the Authority shall formally approve or reject the draft Detailed Implementation Plan no later than twenty (20) Working Days after the date on which the draft Detailed Implementation Plan is first delivered to the Authority. If the Authority rejects the draft Detailed Implementation Plan, the provision of Clause 6.4 (Rejection of Detailed Implementation Plan) of this Schedule 1 shall apply.
- 6.3.5. Once the draft Detailed Implementation Plan is approved, it shall replace the Outline Implementation Plan.

Rejection of Detailed Implementation Plan

- 6.4. The following shall apply if the Authority rejects the draft Detailed Implementation Plan:
 - 6.4.1. the Authority shall inform the Contractor in writing of its reasons for its rejection; and
 - 6.4.2. The Contractor shall then revise the draft Detailed Implementation Plan (taking reasonable account of the Authority's comments) and shall re-submit a revised draft Detailed Implementation Plan to the Authority for the Authority's approval within ten (10) Working Days of the date of the Authority's notice of rejection.

The provisions of Clause 6.3 (Development of the Implementation Plan) of this Schedule 1 and this Clause 6.4 (Rejection of Detailed Implementation Plan) shall apply again to any resubmitted draft Detailed Implementation Plan, provided that either party may refer any disputed matters for resolution in accordance with Clause 19 (Dispute Resolution) of Schedule 2 at any time.

Implementation

- 6.5. The Contractor shall perform each of the tasks identified in the Implementation Plan by the applicable Milestone Date assigned to the particular task in the Implementation Plan.
- 6.6. If the Contractor is relying on a dependency to be performed by the Authority in order to achieve a Milestone or Key Milestone, the Contractor shall ensure that any such dependency is:
 - 6.6.1. incorporated into the Implementation Plan; and

- 6.6.2. notified to the Authority at least ten (10) days prior to the date when the Contractor requires the dependency to be performed and completed by the Authority.
- 6.7. In the event that the Contractor fails to comply with Clause 6.6, above, any non-performance of a dependency by the Authority shall not be treated as a Default by the Authority and the Authority shall use reasonable endeavours to complete such dependency as soon as reasonably practicable.
- 6.8. If, at any time, the Contractor becomes aware that it will not (or is unlikely to) successfully achieve any Milestone by the applicable Milestone Date, it shall immediately notify the Authority of the fact of the Delay, the reasons for the Delay, the consequences of the Delay for the rest of the Implementation Plan and how the Contractor proposes to mitigate the Delay.
- 6.9. Subject to Clause 6.11.2 of this Schedule 1, the Parties acknowledge that the Contract Price shall not be increased as a result of a Delay.
- 6.10. If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Contractor shall pay to the Authority such Delay Payments (calculated as set out by the Authority in the Implementation Plan) and the following provisions shall apply:
- 6.10.1. the Contractor acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Authority as a result of the Contractor's failure to achieve the corresponding Milestone;
- 6.10.2. Delay Payments shall be the Authority's exclusive financial remedy for the Contractor's failure to achieve a Milestone by its Milestone Date except where:
- (a) the Authority is otherwise entitled to or does terminate this Contract; or
- (b) the delay exceeds the number of days (the "**Delay Period Limit**") specified in the Implementation Plan commencing on the relevant Milestone Date;
- 6.10.3. the Delay Payments will accrue on a daily basis from the relevant Milestone Date until the date when the Milestone is Achieved; and
- 6.10.4. no payment or other act or omission of the Authority shall in any way affect the rights of the Authority to recover the Delay Payments or be deemed to be a waiver of the right of the Authority to recover any such damages.
- 6.11. The Parties acknowledge that:

- 6.11.1. where a Delay is caused by a Default of the Contractor, the Authority shall (subject to the restriction in 6.10.2) be entitled to claim any direct loss and/or expense that cannot be mitigated that it incurs as a result of the Default of the Contractor; and
- 6.11.2. where a Delay is caused by a Default of the Authority (and for the purposes of this Clause 6.11.2, a Delay caused by a failure of the Authority to perform a dependency specified in the Implementation Plan shall only be treated as a Default of the Authority in accordance with the provisions of Clauses 6.6 and 6.7 of this Schedule 1) and the Contractor has demonstrated to the Authority's satisfaction that it has incurred a direct loss and/or expense as a result of the Default of the Authority, in which circumstance the Contractor shall be entitled to compensation to the extent that it cannot mitigate that loss or expense.
- 6.12. Any disputes about or arising out of Delays shall be resolved through the dispute resolution procedure set out in Clause 19 (Dispute Resolution) of Schedule 2. Pending the resolution of the dispute, both parties shall continue to work together to resolve the causes of, and mitigate the effects of, the Delay.

7. SERVICES COMMENCEMENT DATE

☒ **(ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED AND THE DATE IS INSERTED IN CLAUSE 7.1 OF THIS Schedule 1)**

- 7.1. The Services Commencement Date shall be 11 October 2021.

8. PRICE ADJUSTMENT ON EXTENSION OF TERM

☒ **(ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED)**

- 8.1. The Contract Price shall apply for the Term. In the event that the Authority agrees to extend the Term pursuant to Clause 6.2 (Term) of Schedule 2 the Authority shall, in the one (1) Month period prior to the expiry of the Term or, as the case may be, in such other period as may be appropriate, enter into discussion, in good faith, with the Contractor (for a period of not more than thirty (30) Working Days) to agree a Variation to the Contract Price.
- 8.2. If the Parties are unable to agree a Variation to the Contract Price in accordance with Clause 8.1 of this Schedule 1, the Contract shall terminate at the end of the Term.
- 8.3. If a Variation in the Contract Price is agreed between the Authority and the Contractor, the revised Contract Price will take effect from the first day of any period of extension and shall apply during such period of extension.

- 8.4. Any increase in the Contract Price pursuant to Clause 8.1 of this Schedule 1 shall not exceed the percentage change in the Office of National Statistics' Consumer Prices Index or another such index as may be specified in Schedule 6 (Pricing).

9. OPTIONAL SERVICES

☐ (ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED)

- 9.1. The Authority may require the Contractor to provide any or all of the Optional Services at any time by giving notice to the Contractor in writing. The Contractor acknowledges that the Authority is not obliged to take any Optional Services from the Contractor and that nothing shall prevent the Authority from receiving services that are the same as or similar to the Optional Services from any third party.
- 9.2. If a Variation to the Contract is proposed, the Contractor shall, whether as part of the Change Control Process or otherwise, provide details of the impact (if any) that the proposed Variation will have on the relevant Optional Services.
- 9.3. Following receipt of the Authority's notice pursuant to Clause 9.1 of this Schedule 1:
- 9.3.1. The Parties shall document the inclusion of the relevant Optional Services within the Services as a Variation or the Change Control Process, if applicable, modified to reflect the fact that the terms and conditions on which the Contractor shall provide the relevant Optional Services have already been agreed;
 - 9.3.2. any additional charges for the Optional Services shall be incorporated in the Contract Price as specified in Schedule 6 (Pricing); and
 - 9.3.3. the Contractor shall, from the date specified by the Authority provide the relevant Optional Services.

10. TERMINATION FOR CONVENIENCE

☒ (ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED)

- 10.1. The Authority may terminate this Contract at any time by issuing a Termination Notice to the Contractor giving one (1) Month's written notice. The Authority may extend the period of notice at any time before it expires, subject to agreement on the level of Services to be provided by the Contractor during the period of extension of such notice. Such notice shall not be served within three (3) Months of the Commencement Date.
- 10.2. Subject to Clauses 14 (Indemnity and Limitation of Liability) and 15 (Insurance) of Schedule 2, should the Authority terminate this Contract in accordance with this Clause 10 (Termination for Convenience) of this Schedule 1, then the Authority shall indemnify the Contractor against any commitments, liabilities or expenditure which represent an

unavoidable direct loss to the Contractor by reason of the termination of the Contract, provided that the Contractor takes all reasonable steps to mitigate such loss. Where the Contractor holds insurance, the Authority shall only indemnify the Contractor for those unavoidable direct costs that are not covered by the insurance available. The Contractor shall submit a fully itemised and costed list of unavoidable direct loss which it is seeking to recover from the Authority, with supporting evidence, of losses reasonably and actually incurred by the Contractor as a result of termination under this Clause 10 (Termination for Convenience) of this Schedule 1.

10.3. The Authority shall not be liable under this Clause 10 (Termination for Convenience) of this Schedule 1 to pay any sum which:

10.3.1. was claimable under insurance held by the Contractor, and the Contractor has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy;

10.3.2. when added to any sums paid or due to the Contractor under the Contract, exceeds the total sum that would have been payable to the Contractor if the Contract had not been terminated prior to the expiry of the Term; or

10.3.3. is a claim by the Contractor for loss of profit, due to early termination of the Contract.

11. DIFFERENT LEVELS AND/OR TYPES OF INSURANCE

☒ **(ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED AND THE TABLE SETS OUT THE REQUIREMENTS)**

11.1. The Contractor shall put in place and maintain in force the following insurances with the following minimum cover per claim:

Type of insurance required	Minimum cover
Employer's Liability	£5,000,000
Public Liability	£5,000,000
Professional Indemnity	£5,000,000
Cyber Liability Insurance	£10,000,000

12. INCLUSION OF A CHANGE CONTROL PROCESS

☒ **(ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED)**

- 12.1. Any changes to this Contract, including to the Services, may only be agreed in accordance with the Change Control Process set out in this Clause 12 (Inclusion of a Change Control Process) of this Schedule 1.
- 12.2. Either Party may request a Variation to the Contract provided that such Variation does not amount to a substantial modification of the Contract within the meaning of the Regulations and the Law.
- 12.3. A Party may request a Variation by completing a draft Variation Form to the other Party giving sufficient information for the receiving Party to assess the extent of the proposed Variation and any additional cost that may be incurred.
- 12.4. The Contractor must provide an Impact Assessment of the proposed Variation on the Services either:
- 12.4.1. with the Variation Form, where the Contractor requests the Variation; or
 - 12.4.2. within ten (10) Working Days following receipt of a draft Variation Form requested by the Authority, or such other time agreed by the Parties.
- 12.5. The Parties may agree to adjust the time limits specified in the Variation Form to allow for the preparation of the Impact Assessment.
- 12.6. In the event that the Variation to the Contract cannot be agreed or resolved by the Parties, the Authority can either:
- 12.6.1. agree that the Contract continues without the Variation;
 - 12.6.2. terminate the Contract with immediate effect, unless the Contractor has already provide part or all of the Services, or where the Contractor can show evidence of substantial work being carried out to provide the Services; or
 - 12.6.3. refer the matter to be resolved in accordance with the dispute resolution procedure in accordance with Clause 19 (Dispute Resolution) of Schedule 2.
- 12.7. If the Parties agree the Variation, the Contractor shall implement such Variation and be bound by the same provisions so far as is applicable, as though such Variation was stated in the Contract.
- 12.8. Within ten (10) Working Days of the Parties agreeing the Variation the Contractor shall deliver to the Authority a copy of this Contract updated to reflect all Variations agreed in

the relevant Variation Form and annotated with a reference to the Variation Form pursuant to which the relevant Variations were agreed. Upon receipt of the updated Contract from the Contractor the Authority shall review such updated Contract to verify its accuracy and shall thereafter notify the Contractor whether such updated Contract is approved. Following approval, the Contractor shall provide to the Authority such further copies of the updated Contract as the Authority may from time to time request.

13. GUARANTEE

☐ **(ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED)**

- 13.1. Promptly following the execution of this Contract, the Contractor shall, if it has not already delivered an executed deed of guarantee to the Authority, deliver the executed deed of guarantee to the Authority as required by the procurement process followed by the Authority. Failure to comply with this Key Provision, if applicable, shall be an irremediable breach of this Contract.

14. MEASURES TO PROMOTE TAX COMPLIANCE

☐ **(ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED)**

- 14.1. The Procurement Policy Note: Measures to Promote Tax Compliance Action 03/14 applies and therefore all references in Clauses 9.2 (Warranties) and 16.2.9 (Termination) of Schedule 2 together with the associated definitions in Schedule 3 (Definitions and Interpretation), shall apply.

15. AUTHORITY STEP-IN RIGHTS

☒ **(ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED AND THE SCHEDULE INSERTED)**

- 15.1. If the Contractor is unable to provide the Services then the Authority shall be entitled to exercise Step-In Rights set out in Schedule 15.

16. EXIT AND SERVICE TRANSFER

☒ **(ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED)**

- 16.1. In the event of the termination or expiry of the Contract for any reason the Contractor shall provide the Transitional Assistance Services to the Authority in accordance with the requirements of the Exit Plan and both Parties shall comply with their respective obligations set out in Schedule 12 (Exit Plan and Service Transfer Arrangements). The Contractor shall co-operate with the Authority and/or the Replacement Contractor to the

extent reasonably required to facilitate the smooth migration of the Services from the Contractor to the Authority or the Replacement Contractor.

- 16.2. The Authority shall pay the Transitional Assistance Services Charges in respect of the provision of the Transitional Assistance Services, except in circumstances where the Authority has terminated the Contract pursuant to Clause 16 (Termination) of Schedule 2.
- 16.3. The Contractor shall, within three (3) Months after the Commencement Date, produce an Exit Plan based on the principles set out in Schedule 12 (Exit Plan and Service Transfer Arrangements) for the orderly transition of the Services from the Contractor to the Authority or any Replacement Contractor in the event of any termination or expiry of the Contract. Within ten (10) Working Days after the submission of that Exit Plan, the Parties shall meet and use all reasonable endeavours to agree the contents of that Exit Plan, based on the principles set out in Schedule 12 (Exit Plan and Service Transfer Arrangements). If the Parties are unable to agree the contents of the Exit Plan within that ten (10) Working Day period, the principles set out in Schedule 12 (Exit Plan and Service Transfer Arrangements) shall apply and either Party may refer the dispute for resolution in accordance with the dispute resolution procedure set out at Clause 19 (Dispute Resolution) of Schedule 2.
- 16.4. The Contractor shall update the Exit Plan no less than once every three (3) months to reflect changes in the Services and shall keep the Exit Plan under continuous review. Following each update, the Contractor shall:
 - 16.4.1. submit the revised Exit Plan to the Authority for review;
 - 16.4.2. within ten (10) Working Days after the submission of the revised Exit Plan, the Parties shall meet and use all reasonable endeavours to agree the contents of the revised Exit Plan, based on the principles set out in Schedule 12 (Exit Plan and Service Transfer Arrangements) and the changes that have occurred in the Services since the Exit Plan was last agreed; and
 - 16.4.3. if the Parties are unable to agree the contents of the revised Exit Plan within that ten (10) Working Day period, the previous version shall continue to apply and either Party may refer the dispute for resolution in accordance with the dispute resolution procedure set out at Clause 19 (Dispute Resolution) of Schedule 2.
- 16.5. Until the agreement of the Exit Plan, the Contractor shall provide the Transitional Assistance Services in accordance with the principles set out in Schedule 12 (Exit Plan and Service Transfer Arrangements) and the last-approved version of the Exit Plan (insofar as this still applies) to the Authority in good faith. The Contractor shall ensure that it is able to implement the Exit Plan at any time.

16.6. Within thirty (30) days after service of a Termination Notice by either Party or six (6) Months prior to the expiration of the Contract:

- 16.6.1. the Contractor shall update the Exit Plan into a final form that could be implemented immediately and in doing so, provide as much detail as is appropriate given the nature of the termination or expiry and the timing of termination, so that such Exit Plan can be submitted to the Authority for review and approval;
- 16.6.2. the Parties shall meet and use their respective reasonable endeavours to agree the contents of such Exit Plan based on the principles set out in Schedule 12 (Exit Plan and Service Transfer Arrangements) ; and
- 16.6.3. until the agreement of the updated Exit Plan, the Contractor shall provide the Transitional Assistance Services in accordance with the last-approved version of the Exit Plan (insofar as this still applies) to the Authority in good faith.

17. SUPPLY CHAIN VISIBILITY

☒ (ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED)

Visibility of Sub- Contract Opportunities in the Supply Chain

17.1. The Contractor shall:

- 17.1.1. subject to clause 17.3, advertise on Contracts Finder all Sub-Contract opportunities arising from or in connection with the provision of the Services above a minimum threshold of twenty five, thousand pounds (£25,000) that arise during the Term;
- 17.1.2. within ninety (90) days of awarding a Sub-Contract to a Sub-contractor, update the notice on Contract Finder with details of the successful Sub-contractor;
- 17.1.3. monitor the number, type and value of the Sub-contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Term;
- 17.1.4. provide reports on the information at clause 17.1.3 to the Authority in the format and frequency as reasonably specified by the Authority; and
- 17.1.5. promote Contracts Finder to its contractors and encourage those organisations to register on Contracts Finder.

- 17.2. Each advert referred to at clause 17.1.1 of this Schedule 1 shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Contractor.
- 17.3. The obligation on the Contractor set out at clause 17.1 shall only apply in respect of Sub-Contract opportunities arising after the Commencement Date.
- 17.4. Notwithstanding clause 17.1, the Authority may by giving its prior approval, agree that a Sub-Contract opportunity is not required to be advertised by the Contractor on Contracts Finder.

Visibility of Supply Chain Spend

- 17.5. In addition to any other management information requirements set out in the Contract, the Contractor agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the “**SME Management Information Reports**”) to the Authority, which shall include:
 - 17.5.1. the total contract revenue received directly on the Contract;
 - 17.5.2. the total value of sub-contracted revenues under the Contract (including revenues for non-SMEs/non-VCSEs); and
 - 17.5.3. the total value of sub-contracted revenues to SMEs and VCSEs.
- 17.6. The SME Management Information Reports shall be provided by the Contractor in the correct format as required by the Authority from time to time. The Contractor agrees that it shall provide the information detailed at Clause 17.5, above, and acknowledges that the required information may be changed from time to time (including the data required and/or format) by the Authority. The Authority agrees to give at least thirty (30) days’ notice in writing of any such change.
- 17.7. The Contractor further agrees and acknowledges that it may not make any amendment to any required Supply Chain Information Report template without the prior approval of the Authority.
- 17.8. Without prejudice to Clause 25 (Assignment, Novation and Sub-contracting) of Schedule 2, the Contractor shall:
 - 17.8.1. pay any sums which are due from it to any Sub-contractor or Unconnected Sub-contractor pursuant to any invoice (or other notice of an amount for payment) on the earlier of:
 - (a) the date set out for payment in the relevant Sub-contract or Unconnected Sub-contract; or

- (b) the date that falls sixty (60) days after the day on which the Contractor receives an invoice (or otherwise has notice of an amount for payment); and

- 17.8.2. include within the management information produced by it pursuant Clause 7 (Contract Management and Monitoring of Contractor's Performance) of Schedule 2 and Schedule 7 (Contract Monitoring) a summary of its compliance with this Clause 17.8, such data to be certified every six (6) Months by a director of the Contractor as being accurate and not misleading.
- 17.9. If the Contractor fails to pay ninety five per cent (95%) or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days in either of the previous two six Month periods, the Contractor shall provide to the Authority within fifteen (15) Working Days of submission of the management information required by Clause 17.8.2, above, an action plan (the “**Action Plan**”) for improvement. The Action Plan shall include, but not be limited to, the following:
- 17.9.1. identification of the primary causes of failure to pay ninety five per cent (95%) or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt;
 - 17.9.2. actions to address each of the causes set out in sub-paragraph 17.9.1; and
 - 17.9.3. mechanism for and commitment to regular reporting on progress to the Contractor's board of directors.
- 17.10. The Action Plan shall be certificated by a director of the Contractor and the Action Plan or a summary of the Action Plan published on the Contractor's website within ten (10) Working Days of the date on which the Action Plan is provided to the Authority.
- 17.11. Where the Contractor fails to pay any sums due to any Sub-contractor or Unconnected Sub-contractor in accordance with the terms set out in the relevant Sub-contract or Unconnected Sub-contract, the Action Plan shall include details of the steps the Contractor will take to address this.
- 17.12. The Contractor shall comply with the Action Plan or any similar action plan connected to the payment of Sub-contractors or Unconnected Sub-contractors which is required to be submitted to the Authority as part of the procurement process and such action plan shall be included as part of the Contractor's Tender (to the extent it is not already included).

18. TACKLING MODERN SLAVERY

☒ (ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED)

- 18.1. The Contractor shall, and procure that each of its Sub-contractors shall, comply with any anti-slavery policy of the Authority that is notified to the Contractor and is provided to the Contractor ("**Authority's Anti-slavery Policy**").
- 18.2. The Contractor shall:
- 18.2.1. implement due diligence procedures for its Sub-contractors and other participants in its supply chains, to ensure that there is no slavery or trafficking in its supply chains;
 - 18.2.2. respond promptly to all slavery and trafficking due diligence questionnaires or any modern slavery risk assessment or identification tools issued to it by the Authority from time to time and shall ensure that its responses to all such questionnaires are complete and accurate;
 - 18.2.3. maintain a complete set of records to trace the supply chain of all Services provided to the Authority regarding the Contract;
 - 18.2.4. permit the Authority and its third party representatives, on reasonable notice during normal business hours, but without notice in case of any reasonably suspected breach of this Clause 18 (Tackling Modern Slavery) of this Schedule 1 or Clause 30.5 (Modern Slavery, Child Labour and Inhumane Treatment) of Schedule 2, to have access to and take copies of the Contractor's records and any other information and to meet with the Contractor Personnel to audit the Contractor's compliance with its obligations this clause;
 - 18.2.5. implement annual audits of its compliance and its Sub-contractors' and contractor's compliance with the Authority's Anti-slavery Policy, either directly or through a third party auditor. The first set of audits shall be completed by 31 December 2021; and
 - 18.2.6. implement a system of training for its employees to ensure compliance with the Modern Slavery Act 2015 and the Authority's Anti-slavery policy.

19. BUSINESS CONTINUITY AND DISASTER RECOVERY

☒ **(ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED)**

- 19.1. At least thirty (30) Working Days prior to the Commencement Date the Contractor shall prepare and deliver to the Authority for the Authority's written approval a BCDR Plan, which shall detail the processes and arrangements that the Contractor shall follow to:
- 19.1.1. ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services; and

- 19.1.2. the recovery of the provision of the Services in the event of a disaster
- 19.2. Following receipt of the draft BCDR Plan from the Contractor, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such dispute shall be resolved in accordance with Clause 19 (Dispute Resolution) of Schedule 2.
- 19.3. The Contractor shall test its BCDR Plan at reasonable intervals, and in any event no less than once every twelve (12) Months or such other period as may be agreed between the Parties taking into account the criticality of this Contract to the Authority and the size and scope of the Contractor's business operations. The Contractor shall promptly provide to the Authority, at the Authority's written request, copies of its BCDR Plan, reasonable and proportionate documentary evidence that the Contractor tests its BCDR Plan in accordance with the requirements of this Clause 19.3 of this Schedule 1 and reasonable and proportionate information regarding the outcome of such tests. The Contractor shall provide to the Authority a copy of any updated or revised BCDR Plan within fourteen (14) Working Days of any material update or revision to the BCDR Plan.
- 19.4. The Authority may suggest reasonable and proportionate amendments to the Contractor regarding the BCDR Plan at any time. Where the Contractor, acting reasonably, deems such suggestions made by the Authority to be relevant and appropriate, the Contractor will incorporate into the BCDR Plan all such suggestions made by the Authority in respect of such BCDR Plan. Should the Contractor not incorporate any suggestion made by the Authority into such BCDR Plan it will explain the reasons for not doing so to the Authority.
- 19.5. Should a Business Continuity Event occur at any time, the Contractor shall implement and comply with its BCDR Plan and provide regular written reports to the Authority on such implementation. During and following a Business Continuity Event, the Contractor shall use reasonable endeavours to continue to supply the Services in accordance with this Contract.

20. CARBON FOOTPRINT / NET ZERO OBLIGATIONS

☐ **(ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED)**

- 20.1. [The parties acknowledge that the UK Government has committed to bring all greenhouse gas emissions to net zero by 2050 pursuant to the Climate Change Act 2008 (2050 Amendment) Order 2019.
- 20.2. As a condition of this Contract the Contractor warrants that:
- 20.2.1. it has undertaken an assessment of the Carbon Footprint; and

- 20.2.2. so far as it is aware, the Carbon Footprint projected to be incurred as set out in **[Schedule/Annex]** is true and accurate as at the date of this Contract.
- 20.3. The Contractor undertakes:
- 20.3.1. to develop and implement a plan of continuous improvement with the objective of reducing the Carbon Footprint throughout the Term by **[set reduction target]** [per Contract Year] and shall provide a copy of that plan to the Authority on request;
 - 20.3.2. to re-assess the Carbon Footprint every **[one][three]** Contract Years;
 - 20.3.3. to provide the Authority with a written confirmation of the results of each assessment within one month of the completion of each assessment under Clause 20.3.2 of this Schedule 1;
- 20.4. The Contractor shall at the Authority's request arrange for the Carbon Trust to undertake an independent assessment and verification of the Carbon Footprint and make a copy of the results of that assessment and verification available to the Purchaser as soon as reasonably practicable after receipt (but no more than once in any period of **[two]** Contract Years).]
- 20.5. [Contractor acknowledges and understands the Authority's Net Zero Target. Accordingly, the Contractor shall:
- 20.5.1. set its own Net Zero target (the "Contractor NZ Target") with a target achievement date the same as or earlier than the Net Zero Target Date (the "Contractor NZ Date");
 - 20.5.2. agree the Contract Target with the Authority;
 - 20.5.3. achieve the Contract Target;
 - 20.5.4. ensure that this Clause 20 of this Schedule 1 will be copied into any and all of its supply chain contracts that relate to its obligations under this agreement;
 - 20.5.5. introduce emission reduction technologies, processes and policies as well as offsetting and, where technologically and commercially feasible, carbon removal initiatives, to achieve the Contractor NZ Date;
 - 20.5.6. undertake and keep up to date full and complete records of Carbon Reporting activity and data and provide the same to the Authority each year and more frequently as the Authority may reasonably request;

- 20.5.7. attend, on reasonable notice, meetings with the Authority Representative or other nominated representative to present the Contractor's plan to achieve, and current progress towards, the Contractor NZ Date;
- 20.5.8. not do or omit to do anything which could reasonably be expected to cause the Authority to miss its Net Zero Target Date, whether pursuant to this contract or otherwise.
- 20.6. If:
- 20.6.1. the Contractor fails to comply with any of the obligations in clause 20.5; or
- 20.6.2. the Authority, having reviewed the Carbon Reporting and discussed with the Contractor its progress to achieve the Contractor NZ Date, determines (acting reasonably) that the Contractor is making insufficient progress towards achieving the Contractor NZ Date; or
- 20.6.3. the Contractor fails to achieve the Contractor NZ Target by the Contractor NZ Date, the Authority may, without affecting any other right or remedy available to it:
- (a) terminate this agreement by giving one month's written notice to the Contractor;
 - (b) require the Contractor to plant a number of Native Trees in the UK sufficient to compensate for the Authority's shortfall in progress towards the Contractor NZ Date attributable to the delivery of the Services; and/or
 - (c) recover from the Contractor any costs reasonably incurred by the Authority in achieving the Contract Target to the extent by which that Contract Target is missed by the Contractor by:
 - i. obtaining carbon credits to offset the Contractor's net Greenhouse Gas emissions footprint attributable to the delivery of the Services; or
 - ii. planting, or arranging for the planting of, Native Trees to offset the Contractor's net Greenhouse Gas emissions footprint attributable to the delivery of the Services.
- 20.7. The Contractor shall, at its own cost, submit a report to the Authority within 20 Working Days identifying the emergence of new and evolving relevant technologies and processes which could accelerate the achievement of the Contractor NZ Date. Such report shall provide sufficient detail to enable the Authority to evaluate properly the benefits of the new technology or process. The Authority may only require the Contractor to provide such report no more than once in any period of **[two]** Contract Years.

20.8. The Contractor warrants to Authority that:

- 20.8.1. it has sufficient resources, infrastructure and materials to achieve the Contract Target by the date of the expiry of the contract;
- 20.8.2. none of the Services supplied under this agreement will be of lower quality as a result of working towards the Contract Target;
- 20.8.3. it will not offer preferential terms to those other customers who do not require a Contract Target or similar obligations in their contracts.

20.9. For the purposes of this Clause 20, the term Net Zero Target Date shall mean the first year by which the Authority aims to achieve the Net Zero Target, being 1 January [2050].]

21. CORPORATE SOCIAL RESPONSIBILITY AND SOCIAL VALUE REPORTING

☒ (ONLY APPLICABLE TO THE CONTRACT IF THIS BOX IS CHECKED)

Corporate Social Responsibility and Social Value Reporting

21.1. The Contractor shall complete the Corporate Social Responsibility Report in relation to its provision of the Services under this Contract and provide the Corporate Social Responsibility Report to the Authority on the date and frequency outlined in Clause 21.2 of this Schedule 1.

Reporting Requirements

21.2. The Contractor shall provide to the Authority the following corporate social responsibility and social value reporting requirements (the “**Corporate Social Responsibility Report**”) at the specified intervals. The Contractor acknowledges that the Authority may make reasonable adjustments to the Corporate Social Responsibility Report reporting requirements during the Term.

Report Name	Content of Report	Frequency of Report
Modern Slavery	Reporting on due diligence and compliance with modern slavery obligations included in the Contract in relation to the Contractor and its supply chain.	Quarterly reporting throughout the Term
Social Value	SV1:	Quarterly reporting from the Commencement Date

	<ul style="list-style-type: none"> • Number of full-time equivalent (FTE) employment opportunities created under the contract, by UK region. • Number of apprenticeship opportunities (Level 2, 3, and 4+) created or retained under the contract, by UK region. • Number of training opportunities (Level 2, 3, and 4+) created or retained under the contract, other than apprentices, by UK region. • Number of people-hours of learning interventions delivered under the contract, by UK region. <p>SV2:</p> <p>For each of the following categories(start-ups. SMEs, VCSEs; mutuals):</p> <ul style="list-style-type: none"> • The number of contract opportunities awarded under the contract; • The value of contract opportunities awarded under the contract in £; and • Total spend under the contract, as a percentage of the overall contract spend. <p>SV3:</p> <ul style="list-style-type: none"> • Number of people-hours spent supporting local community integration, such as volunteering and other community-led initiatives, under the contract. 	
--	---	--

SCHEDULE 2 GENERAL TERMS AND CONDITIONS

CONTENTS

1.	PROVISION OF SERVICES	32
2.	KEY PERSONNEL	35
3.	CONTRACTOR PERSONNEL	35
4.	MANNER OF CARRYING OUT THE SERVICES	37
5.	USE OF AUTHORITY EQUIPMENT	38
6.	TERM	39
7.	CONTRACT MANAGEMENT AND MONITORING OF CONTRACTOR'S PERFORMANCE	39
8.	PRICE AND PAYMENT	40
9.	WARRANTIES	41
10.	INTELLECTUAL PROPERTY	44
11.	AUTHORITY DATA	47
12.	PROTECTION OF PERSONAL DATA	48
13.	RECORDS RETENTION AND RIGHT OF AUDIT	54
14.	INDEMNITY AND LIMITATION OF LIABILITY	54
15.	INSURANCE	57
16.	TERMINATION	58
17.	CONSEQUENCES OF EXPIRY OR EARLY TERMINATION OF THE CONTRACT	61
18.	RECOVERY UPON EXPIRY OR EARLIER TERMINATION OF THE CONTRACT	62
19.	DISPUTE RESOLUTION	63
20.	CONFLICT OF INTEREST	64
21.	CHANGE MANAGEMENT	65
22.	FORCE MAJEURE	66
23.	EQUALITY AND DIVERSITY	68
24.	NOTICE	69
25.	ASSIGNMENT, NOVATION AND SUB-CONTRACTING	69
26.	PREVENTION OF FRAUD AND BRIBERY	73
27.	CONFIDENTIAL INFORMATION	75
28.	FREEDOM OF INFORMATION ACT	77
29.	TRANSPARENCY	78
30.	CORPORATE SOCIAL RESPONSIBILITY	79
31.	FINANCE ACT	83
32.	DISRUPTION	84

33.	COMPLAINTS	84
34.	NON-SOLICITATION.....	85
35.	HEALTH AND SAFETY.....	85
36.	PUBLICITY	86
37.	SAFEGUARDING PROVISIONS	87
38.	GENERAL.....	88

GENERAL TERMS AND CONDITIONS

1. PROVISION OF SERVICES

1.1. The Contractor shall ensure that the Services and Deliverables:

- 1.1.1. comply in all respects with the Specification;
- 1.1.2. are supplied promptly and in any event within any time limits as may be set out in this Contract; and
- 1.1.3. are supplied in accordance with the Contractor's Tender and the provisions of this Contract;

1.2. The Contractor shall (and shall procure that each Sub-contractor shall):

- 1.2.1. perform its obligations under this Contract, including in relation to the supply of the Services and Deliverables in accordance with:
 - (a) all applicable Law;
 - (b) in accordance with the Anti-slavery Policy and if Key Provision 18 (Tackling Modern Slavery) shall apply in accordance with the Authority's Anti-slavery Policy; and
 - (c) Good Industry Practice;
 - (d) any quality assurance standards as set out in the Order Form and or Key Provisions or such other applicable guidelines and standards as may be issued from time to time by the Authority to the Contractor;
 - (e) use all reasonable endeavours to comply with guidance and advice from the Authority on research governance which may be issued from time to time;
 - (f) the Contractor's own established procedures and practices to the extent that the same do not conflict with the requirements of Clauses 1.2.1(a) to 1.2.1(d), above; and
- 1.2.2. deliver the Services using efficient business processes and ways of working having regard to the Authority's obligation to ensure value for money.
- 1.2.3. ensure full communication takes place between the Parties and such others as may be notified to the Contractor by the Authority and the Contractor shall advise the Authority as required on the Research;

1.2.4. Comply with the following research ethics obligations:

- (a) Any questionnaires or forms or both used in surveys shall be submitted in draft to the Authority together with explanatory notes, covering letters to recipients and any other relevant documents;
- (b) the Contractor shall cause to be kept full, detailed and accurate records of all of activities and results obtained in connection with the Research. In this respect, the Contractor shall and shall procure that the staff and sub-contractors shall at all times:
 - i. observe professional standards;
 - ii. comply with the relevant provisions of Clause 37 (Safeguarding Provisions) of Schedule 2; and
 - iii. where relevant keep scientific notebooks recording all results, research, development and other work carried out in respect of the Research and the results of such research, development and other work in accordance with academic practice;
- (c) Unless any of the exceptions or other exclusions described in GAfREC apply, the Contractor will submit the Research for review by a Research Ethics Committee recognised by the Authority if the Research proposed involves:
 - i. potential research participants identified from, or because of, their past or present use of the Care Services (including Care Services provided under contract with the private or voluntary sectors), including participants recruited through these Care Services as healthy controls;
 - ii. potential research participants identified because of their status as relatives or carers of past or present users of Care Services;
 - iii. collection of information from users of Care Services;
 - iv. use of previously collected information from which individual past or present users of Care Services could be identified, either directly from that information, or from its combination with information in, or likely to come into, the possession of someone to whom the information is made available;
 - v. prisoners; or
 - vi. social care,

with a view to obtaining the Research Ethics Committee's favourable opinion of the Research. The Contractor will provide the Authority's Representative with a copy of the Research Ethics Committee's favourable opinion once they have been given (whether unconditionally or subject to conditions) or inform the Authority's Representative if either is withheld. Research activity requiring ethical approval shall not commence until such favourable opinion is given. If you will identify and/or approach potential research participants for your pilot programme through the NHS (including through General Practitioners), depending on the nature of the activity, you may require [NHS REC Approval and/or HRA and HCRW Approval](#) to allow for Participant Identification Centre (PIC) activity, even if NHS organisations are not research sites. You should review the guidance at this [link](#).

- 1.3. In the event that the Contractor becomes aware of any inconsistency between the requirements of Clauses 1.2.1(a) to 1.2.1(d) of this Schedule 2, the Contractor shall immediately notify the Authority Representative in writing of such inconsistency and the Authority Representative shall, as soon as practicable, notify the Contractor which requirement the Contractor shall comply with.
- 1.4. The Authority may inspect and examine the manner in which the Contractor supplies the Services during normal business hours on reasonable notice.
- 1.5. Immediately following the Commencement Date, the Contractor shall, if specified in the Key Provisions, implement the Services fully in accordance with the Implementation Plan.
- 1.6. The Contractor shall commence delivery of the Services on the Commencement Date, if specified in Clause 7 (Services Commencement Date) of Schedule 1 (Key Provisions).
- 1.7. The Contractor shall comply fully with its obligations set out in the Specification and the Tender.
- 1.8. If the Authority informs the Contractor in writing that the Authority reasonably believes that any part of the Services does not meet the requirements and/or standards of the Contract or differs in any way from those requirements, and this is other than as a result of a Default by the Authority, the Contractor shall at its own expense re-schedule and carry out the Services in accordance with the requirements of the Contract within such reasonable time as may be specified by the Authority.
- 1.9. The Contractor shall notify the Authority as soon as it becomes aware of:
 - 1.9.1. any breach, or potential breach, of the Anti-slavery Policy and if Key Provision 18 applies, any breach, or potential breach, of the Authority's Anti-slavery Policy; or

- 1.9.2. any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract.

2. KEY PERSONNEL

- 2.1. The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Services to the Authority.
- 2.2. The Contractor shall not remove or replace any Key Personnel unless:
 - 2.2.1. requested to do so by the Authority;
 - 2.2.2. the person concerned resigns, retires or dies or is on maternity or long-term sick leave;
 - 2.2.3. the person's employment or contractual arrangement with the Contractor or a Sub-contractor is terminated for material breach of contract by the employee; or
 - 2.2.4. the Contractor obtains the Authority's prior written consent.
- 2.3. The Authority shall not unreasonably withhold its consent under Clause 2.2.4 of this Schedule 2. Such consent shall be conditional on appropriate arrangements being made by the Contractor to minimise any adverse impact on the Contract which could be caused by a change in Key Personnel.

3. CONTRACTOR PERSONNEL

- 3.1. At all times, the Contractor shall ensure that:
 - 3.1.1. each of the Contractor Personnel responsible for providing the Services is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
 - 3.1.2. there is an adequate number of Contractor Personnel to provide the Services properly and in accordance with the Contract;
 - 3.1.3. only those people who are authorised by the Contractor are involved in providing the Services; and
 - 3.1.4. all of the Contractor Personnel comply with all of the Authority's policies, rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for conduct when at or outside the Premises of the Authority.

- 3.2. The Authority may refuse to grant access to and remove any of the Contractor Personnel who do not comply with Clause 3.1 of this Schedule 2 or if they otherwise present a security threat or the Authority reasonably determines their presence to be undesirable.
- 3.3. The Contractor shall replace any of the Contractor Personnel who the Authority reasonably decides have failed to carry out their duties with reasonable skill and care. Following the removal of any of the Contractor Personnel for any reason, the Contractor shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services.
- 3.4. At the Authority's written request, the Contractor shall provide a list of the names and addresses of all persons who may require admission in connection with the Contract to the Premises, specifying the capacities in which they are concerned with the Contract and the Services and giving such other particulars as the Authority may reasonably request. The Contractor shall ensure at all times that it has the right to provide these records under Data Protection Legislation.
- 3.5. The Contractor shall comply with the Authority's procedures for the vetting of personnel and as advised to the Contractor by the Authority in respect of all persons employed or engaged in the provision of the Services. The Contractor confirms that all persons employed or engaged by the Contractor were vetted and recruited on a basis that is equivalent to and no less strict than the Authority's procedures for the vetting of personnel.
- 3.6. If the Contractor fails to comply with Clause 3.4 of this Schedule 2 within one (1) Month of the date of the request and, in the reasonable opinion of the Authority, such failure may be prejudicial to the interests of the Crown, then the Authority may terminate the Contract with immediate effect by giving written notice to the Contractor at any time after the end of that one (1) Month period, such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.
- 3.7. The decision of the Authority as to whether any person is to be refused access to the Premises and/or as to whether the Contractor has failed to comply with Clause 3.4 of this Schedule 2 shall be final and conclusive.

Income Tax and National Insurance Contributions

- 3.8. Where the Contractor or any Contractor Personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under the Contract, the Contractor shall:
 - 3.8.1. at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, in respect of that consideration; and

- 3.8.2. indemnify the Authority against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made (whether before or after the making of a demand pursuant to the indemnity hereunder) in connection with the provision of the Services by the Contractor or any Contractor Personnel.
- 3.9. In the event that any one of the Contractor Personnel is a Worker as defined in Clause 1 of Schedule 3 (Definitions and Interpretation) who receives consideration relating to the Services, then the Contractor shall ensure that its contract with the Worker contains the following requirements:
- 3.9.1. that the Authority may, at any time during the Term, request that the Worker provides information which demonstrates how the Worker complies with the requirements of Clause 3.8 of this Schedule 2, or why those requirements do not apply to it. In such case, the Authority may specify the information which the Worker must provide and the period within which that information must be provided;
- 3.9.2. that the Worker's contract may be terminated at the Authority's request if:
- (a) the Worker fails to provide the information requested by the Authority within the time specified by the Authority under Clause 3.9.1 of this Schedule 2; and/or
- (b) the Worker provides information which the Authority considers is inadequate to demonstrate how the Worker complies with Clause 3.8 of this Schedule 2 or confirms that the Worker is not complying with those requirements; and
- 3.9.3. that the Authority may supply any information it receives from the Worker to HMRC for the purpose of the collection and management of revenue for which they are responsible.

4. MANNER OF CARRYING OUT THE SERVICES

- 4.1. The Contractor shall begin performing the Services on the Commencement Date and continue to perform them for the Term. The Authority may, by written notice, require the Contractor to execute the Services in such order as the Authority may decide. In the absence of such notice the Contractor shall submit such detailed programmes of work and progress reports as the Authority may from time to time require.
- 4.2. The Contractor shall at all times comply with the Quality Standards and where applicable the Service Levels and Service Credits as specified in Schedule 16. In any event, the

Contractor shall perform its obligations under the Contract in accordance with the Law and Good Industry Practice.

- 4.3. The Contractor shall ensure that all Contractor Personnel supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services.
- 4.4. The Contractor will be responsible for providing and delivering the Services in each and every respect with all relevant provisions of the Contract at all times and will ensure continuity of supply (at no extra cost to the Authority) in accordance with Schedule 4 (Specification).

5. USE OF AUTHORITY EQUIPMENT

- 5.1. Where the Authority issues Property free of charge to the Contractor such Property shall be and remain the property of the Authority. The Contractor irrevocably licences the Authority and its agents to enter upon any premises of the Contractor during normal business hours on reasonable notice to recover any such Property. The Contractor shall take all reasonable steps to ensure that the title of the Authority to the Property and the exclusion of any such lien or other interest are brought to the notice of all Sub-contractors and other appropriate persons and shall, at the Authority's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Authority.
- 5.2. The Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless the Contractor notifies the Authority otherwise within five (5) Working Days of receipt.
- 5.3. Upon receipt of the Property the Contractor shall subject it to:
 - 5.3.1. a reasonable visual inspection; and
 - 5.3.2. such additional inspection and testing as may be necessary and practicable in order to check that the Property is not defective or deficient for the purpose for which it has been provided.
- 5.4. The Authority shall replace or re-issue issued Property agreed by the Parties to be defective within a reasonable period.
- 5.5. The Contractor shall ensure the security of all the Property whilst in its possession.
- 5.6. The Contractor shall be liable for all loss of, or damage to, the Property (excluding fair wear and tear), unless such loss or damage was caused by the Default of the Authority. The Contractor shall inform the Authority within two (2) Working Days of any loss of, or damage to, the Property occurring.

6. TERM

- 6.1. This Contract shall commence on the Commencement Date and, unless terminated earlier in accordance with the terms of this Contract or the general law, shall continue until the end of the Term.
- 6.2. The Authority shall be entitled to extend the Term on one or more occasions by giving the Contractor written notice not less than one (1) Month prior to the date on which this Contract would otherwise have expired, provided that the duration of this Contract shall be no longer than the total term specified in the Order Form. The provisions of the Contract will apply and take effect mutatis mutandis (subject to any Variation or adjustment to the Contract Price pursuant to Clause 8 (Price Adjustment on Extension of Term) of the Key Provisions, if applicable) throughout any such extended period.

7. CONTRACT MANAGEMENT AND MONITORING OF CONTRACTOR'S PERFORMANCE

- 7.1. The Parties shall each appoint a contract manager to be known respectively as the Authority Representative and the Contractor Representative. The Authority Representative and the Contractor Representative shall meet at least Monthly (unless otherwise notified by the Authority) to discuss the Contractor's performance and other matters connected to the delivery of the Contract.
- 7.2. The Contractor shall comply, as the Authority shall require, with the monitoring arrangements set out in Schedule 7 (Contract Monitoring) including, but not limited to, providing such data and information as the Contractor may be required to produce under the Contract.
- 7.3. The Contractor shall comply with any and all of the monitoring arrangements that the Authority shall reasonably require from time to time. This shall include, but shall not be limited to, providing such information as the Authority may require the Contractor to produce under the Contract.
- 7.4. At the Authority's request, within five (5) Working Days of such request, the Contractor shall supply such management information to the Authority as the Authority may reasonably request from time to time (including without limit any information about the Contractor's supply chain and its compliance in relation to sustainability requirements).
- 7.5. The Contractor shall provide the Authority with such supporting documentation as the Authority may require to establish and verify the Contractor's levels of performance.
- 7.6. The Contractor shall meet with the Authority following the completion of the provision of the Services to discuss:
 - 7.6.1. whether the Contractor believes the objectives of the Contract were achieved;

7.6.2. how far the intended benefits sought in the Authority's Specification and that had been forecast in the Tender were achieved; and

7.6.3. to identify any lessons learnt for future projects.

7.7. The Authority shall be able to share and use any information arising from such meetings referred to in Clause 7.6 of this Schedule 2 as it sees fit.

8. PRICE AND PAYMENT

Contract Price

8.1. In consideration of the Contractor carrying out its obligations under the Contract, including the provision of the Services, the Authority shall pay the Contractor the Contract Price in accordance with this Clause 8 (Price and Payment) of this Schedule 2 subject to any applicable Delay Payments as agreed in the Implementation Plan and any Service Credits applicable under Schedule 16 (Service Levels). The Contract Price shall remain fixed for the Term.

8.2. The Contractor shall not suspend the supply of the Services unless the Contractor is entitled to terminate the Contract under Clause 16.5 (Termination) of this Schedule 2 for failure to pay undisputed sums of money. Interest shall be payable by the Authority on the late payment of any undisputed sums of money properly invoiced in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

8.3. The Authority may set-off any amount owed by the Contractor to the Crown or any part of the Crown (including the Authority) against any amount due to the Contractor under this Contract or under any agreement between the Contractor and the Authority.

VAT

8.4. The Contract Price is stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice.

8.5. The Contractor shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, that is levied, demanded or assessed on the Authority at any time in respect of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under this Contract. Any amounts due under this Clause 8.5 shall be paid in cleared funds by the Contractor to the Authority not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Authority.

Invoicing

8.6. The Contractor shall submit an invoice to the Authority Monthly in arrears. The Contractor shall ensure that each invoice contains all appropriate references and a detailed

breakdown of the Services supplied and that it is supported by any other documentation as may be reasonably required by the Authority to substantiate such invoice. Where travel and subsistence is claimed, all claims must comply with the provisions set out in the Schedule 6 (Pricing) and must be accompanied by appropriate receipts to cover the total amount claimed.

- 8.7. The Authority shall verify and pay each valid and undisputed invoice received in accordance with Clause 8.6 of this Schedule 2 within thirty (30) days of receipt of such invoice at the latest. If there is undue delay in verifying the invoice in accordance with this Clause 8.7 of this Schedule 2, the invoice shall be regarded as valid and undisputed for the purposes this Clause 8.7 after a reasonable time has passed.

Recovery of Sums Due

- 8.8. The Authority shall be entitled to withhold payment due under this Clause 8 (Price and Payment) of this Schedule 2 for so long as the Contractor, in the Authority's reasonable opinion, has failed to comply with its obligations to pay any Sub-contractors promptly in accordance with Clause 25.11 (Assignment, Novation and Sub-contracting) of this Schedule 2. For the avoidance of doubt the Authority shall not be liable to pay any interest or penalty in withholding such payment.

Electronic Invoicing

- 8.9. The Authority shall accept and process for payment an electronic invoice submitted for payment by the Contractor where the invoice is undisputed and where it complies with the standard on electronic invoicing.
- 8.10. For the purposes of clause 8.9 of this Schedule 2, an electronic invoice complies with the standard on electronic invoicing where it complies with the European standard and any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870.
- 8.11. The Authority's right to request paper form invoicing shall be subject to procurement policy note 11/15
(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/437471/PN_e-invoicing.pdf) in respect of the Authority's obligation to accept unstructured electronic invoices from the Contractor where and as required under that procurement policy note (as amended from time to time).

9. WARRANTIES

- 9.1. The Contractor represents and warrants that:
- 9.1.1. it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;

- 9.1.2. it has full capacity and authority (including, where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Contract;
- 9.1.3. this Contract is executed by a duly authorised representative of the Contractor;
- 9.1.4. it has all necessary consents and regulatory approvals to enter into this Contract;
- 9.1.5. in entering the Contract it has not committed any Fraud;
- 9.1.6. all written statements and representations in any written submissions made by the Contractor as part of the procurement process, including without limitation its response to the selection questionnaire and invitation to tender (if applicable), its tender and any other documents submitted remain true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract;
- 9.1.7. it has notified the Authority in writing of any actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge any threatened against it or any of its Affiliates that might affect its ability to perform its obligations under the Contract;
- 9.1.8. its execution, delivery and performance of its obligations under this Contract will not constitute a breach of any Law or obligation applicable to it and will not cause or result in a default under any agreement by which it is bound;
- 9.1.9. its obligations under this Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law);
- 9.1.10. it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- 9.1.11. no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue;

- 9.1.12. it owns, has obtained, valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract and/or the receipt of the Services by the Authority;
- 9.1.13. in the three (3) years prior to the Commencement Date:
 - (a) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - (b) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - (c) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern, ability to fulfil its obligations under the Contract or provide the Services; and
- 9.2. The Contractor warrants and undertakes to the Authority that as at the Commencement Date, it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance. If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Contractor shall:
 - 9.2.1. notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and
 - 9.2.2. promptly provide to the Authority:
 - (a) details of the steps which the Contractor is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
 - (b) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.
- 9.3. The Contractor warrants and undertakes to the Authority that:
 - 9.3.1. its responses to the Authority's slavery and human trafficking due diligence questionnaire, if any, are complete and accurate;
 - 9.3.2. neither the Contractor nor any of its Contractor Personnel:
 - (a) has been convicted of any offence involving slavery and human trafficking; and

- (b) 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 of or in connection with slavery and human trafficking; and
- 9.3.3. it shall at all times conduct its business in a manner that is consistent with any Authority Anti-slavery Policy that is notified to the Contractor and shall provide to the Authority any reports or other information that the Authority may request as evidence of the Contractor's compliance with this Clause 9.3.3 and/or as may be requested or otherwise required by the Authority in accordance with the Authority's Anti-slavery policy.
- 9.4. The Contractor shall implement due diligence procedures for its own Contractors, Sub-contractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.
- 9.5. The representations and warranties set out in this Clause 9 (Warranties) of this Schedule 2 shall be deemed to be repeated by the Contractor on the Commencement Date (if later than the date of signature of this Contract) by reference to the facts then existing.
- 9.6. Each of the representations and warranties set out in this Clause 9 (Warranties) of this Schedule 2 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any other undertaking in this Contract.
- 9.7. If at any time the Contractor becomes aware that a representation or warranty given by it under this Clause 9 (Warranties) has been breached, is untrue or is misleading, it shall immediately notify the Authority of the relevant occurrence in sufficient detail to enable the Authority to make an accurate assessment of the situation.
- 9.8. For the avoidance of doubt, the fact that any provision within this Contract is expressed as a warranty shall not preclude any right of termination which the Authority may have in respect of breach of that provision by the Contractor.
- 9.9. Except as expressly stated in this Contract, all warranties and conditions whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by Law.
- 10. INTELLECTUAL PROPERTY**
- 10.1. Each Party keeps ownership of its own Existing IPRs. The Contractor gives the Authority (including its agencies and with a right to provide access to any other government body and or any body directly engaged in providing health or social care in the United Kingdom),

a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Contractor's Existing IPR to enable it to both:

- 10.1.1. receive and use the Services and Deliverables; and
- 10.1.2. make use of the services provided by a Replacement Contractor.
- 10.2. Any New IPR created under the Contract and any and all Research Data is owned by the Authority. The Authority gives the Contractor a licence to use any of its own Existing IPRs and New IPRs for the purpose of fulfilling the Contractor's obligations during the Term.
- 10.3. The Contractor shall be free to use the Better Health name and logo but only as reasonably required in relation to its performance of its obligations under this Agreement and only as anticipated by the [Specification] and further directed in writing by the Authority. This permission shall continue until the earlier of expiry of the Term or following 30 days' written notice by the Authority that this permission will terminate. The Contractor's use of the name and logo must follow the applicable identity guidelines (which are subject to amendment from time to time). The Contractor acknowledges that any goodwill arising as a result of such use shall accrue to the Authority as the owner of trade mark rights in the name and Logo.
- 10.4. Where a Party acquires ownership of Intellectual Property Rights which is inconsistent with the allocation specified under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 10.5. Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in this Clause 10 (Intellectual Property) of this Schedule 2 or otherwise agreed in writing.
- 10.6. The Contractor will identify, protect and maintain Intellectual Property Rights relating to the Services and Deliverables in accordance with its standard institutional policy ("**Contractor IP Policy**"). The Contractor will make available a copy of the Contractor IP Policy on the request of the Authority.
- 10.7. The Contractor shall and shall ensure that any Sub-contractor(s) shall keep detailed records including where relevant scientific notebooks of all of its activities and upon request shall make available copies to the Authority.
- 10.8. The Contractor shall make available to the Authority the Contractor's Existing IPR that is necessary and/or useful for undertaking the Services and the protection, dissemination or exploitation of the New IP and Research Data.
- 10.9. The Contractor shall not infringe any Intellectual Property Rights of any third party in supplying the Services and the Contractor shall, during and after the Term, indemnify and

keep indemnified and hold the Authority and the Crown harmless from and against all Losses which the Authority or the Crown may suffer or incur as a result of or in connection with any breach of this Clause, except where any such claim arises from:

- 10.9.1. items or materials based upon designs supplied by the Authority; or
 - 10.9.2. the use of data supplied by the Authority which is not required to be verified by the Contractor under any provision of the Contract.
- 10.10. The Authority shall notify the Contractor in writing of any claim or demand brought against the Authority for infringement or alleged infringement of any Intellectual Property Right in materials supplied or licensed by the Contractor.
- 10.11. The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim for breach of Intellectual Property Rights in materials supplied or licensed by the Contractor, provided always that the Contractor:
- 10.11.1. shall consult the Authority on all substantive issues which arise during the conduct of such litigation and negotiations;
 - 10.11.2. shall take due and proper account of the interests of the Authority; and
 - 10.11.3. shall not settle or compromise any claim without the Authority's prior written consent (not to be unreasonably withheld or delayed).
- 10.12. The Authority shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the Authority or the Contractor by a third party for infringement or alleged infringement of any third party Intellectual Property Rights in connection with the performance of the Contractor's obligations under the Contract and the Contractor shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Contractor shall not, however, be required to indemnify the Authority in relation to any costs and expenses incurred in relation to or arising out of a claim, demand or action which relates to the matters in Clause 10.9.1 or 10.9.2 of this Schedule 2.
- 10.13. The Authority shall not make any admissions which may be prejudicial to the defence or settlement of any claim, demand or action for infringement or alleged infringement of any Intellectual Property Right by the Authority or the Contractor in connection with the performance of its obligations under the Contract.
- 10.14. If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Rights is made in connection with the Contract or, in the reasonable opinion of the Contractor, is likely to be made, the Contractor shall notify the Authority and, at its own

expense and subject to the consent of the Authority (not to be unreasonably withheld or delayed), use its best endeavours to:

- 10.14.1. modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative Services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that the provisions herein shall apply mutates mutandis to such modified Services or to the substitute Services;
- 10.14.2. procure a licence to use and supply the Services, which are the subject of the alleged infringement, on terms which are acceptable to the Authority; or
- 10.14.3. in the event that the Contractor is unable to comply with Clauses 10.14.1 or 10.14.2 above within twenty (20) Working Days of receipt of the Contractor's notification the Authority may terminate the Contract with immediate effect by written notice.

11. AUTHORITY DATA

- 11.1. The Contractor shall not delete or remove any proprietary notices contained within or relating to the Authority Data.
- 11.2. The Contractor shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Contractor of its obligations under the Contract or as otherwise expressly authorised in writing by the Authority.
- 11.3. The Contractor shall ensure that (except where instructed otherwise by the Authority in writing) all Research Data is Pseudonymised where reasonably practicable to do so and that the key to personal identities of all persons to whom the Research Data relates is kept in a separate and secure place. As a minimum, the Contractor shall ensure that such Pseudonymisation satisfies the appropriate standard recommended by the Information Commissioner's Office from time to time.
- 11.4. The Contractor shall, at the request of the Authority, deposit both qualitative and quantitative Research Data in a relevant secure data archive.
- 11.5. To the extent that Authority Data is held and/or processed by the Contractor, the Contractor shall supply that Authority Data to the Authority as requested by the Authority in the format the Authority specifies.
- 11.6. Upon receipt or creation by the Contractor of any Authority Data and during any collection, Processing, storage and transmission by the Contractor of any Authority Data, the Contractor shall take all precautions necessary to preserve the integrity of the Authority Data and to prevent any corruption or loss of the Authority Data.

- 11.7. The Contractor shall perform secure back-ups of all Authority Data. The Contractor shall ensure that such back-ups are available to the Authority at all times upon request.
- 11.8. The Contractor shall ensure that any system on which the Contractor holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy.
- 11.9. If the Authority Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Authority may:
- 11.9.1. require the Contractor (at the Contractor's expense) to restore or procure the restoration of the Authority Data and the Contractor shall do so as soon as practicable; and/or
 - 11.9.2. itself restore or procure the restoration of the Authority Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so.
- 11.10. If at any time the Contractor suspects or has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.

12. PROTECTION OF PERSONAL DATA

Status of the Parties

- 12.1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under this Contract will determine the status of each Party under the Data Protection Legislation.
- 12.2. Notwithstanding Clause 12.4 below, the Parties acknowledge that the Contractor, in its provision of the Services, shall Process Personal Data (including but not limited to Personal Data contained within the Authority Data) on behalf of the Authority as a Processor.
- 12.3. The Contractor acknowledges and agrees that Schedule 13 (Processing, Personal Data and Data Subjects) is an accurate description of the Processing the Contractor carries out on behalf of the Authority as its Processor and Clauses 12.6 to 12.19 shall apply. For the avoidance of doubt, any reference to “**the Controller**” in Clauses 12.6 to 12.19 shall refer to the Authority and any reference to “**the Processor**” shall refer to the Contractor.
- 12.4. The Parties agree that in respect of any Personal Data which the Contractor held prior to its selection by the Authority for the provision of the Services under this Contract (“**Pre-existing Data**”), the Contractor shall be a Controller of such Pre-existing Data and Clauses 12.20 to 12.25 shall apply.

- 12.5. In the event that the Parties consider the above data protection designations to have changed or to no longer accurately reflect the nature of each Party's activities, they shall work together to vary these data protection terms and incorporate the appropriate data protection obligations using the Authority's standard wording from time to time as the basis for such discussions to reflect the nature of the activity carried out by each of them in relation to their respective obligations under this Contract.
- 12.6. Where a Party is a Processor, the only Processing that it is authorised to do is listed in Schedule 13 (Processing, Personal Data and Data Subjects) by the Controller. For the avoidance of doubt, any reference to **"the Controller"** in these Clauses 12.6 to 12.19 shall refer to the Authority and any reference to **"the Processor"** shall refer to the Contractor.
- 12.7. The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 12.8. The Processor shall provide all assistance to the Controller in: (i) the preparation of any Data Protection Impact Assessment and (ii) ensuring compliance with the obligations set out in Data Protection Legislation relating to Data Protection Impact Assessments. Such assistance may, at the discretion of the Controller, include, but not be limited to:
- 12.8.1. a systematic description of the envisaged Processing operations and the purpose of the Processing;
 - 12.8.2. an assessment of the necessity and proportionality of the Processing operations in relation to the Services;
 - 12.8.3. an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 12.8.4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 12.9. The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
- 12.9.1. process that Personal Data only in accordance with Schedule 13 (Processing, Personal Data and Data Subjects), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall immediately notify the Authority before Processing the Personal Data unless prohibited by Law;
 - 12.9.2. ensure that it has in place Protective Measures, including in the case of the Controller the measures set out in Clause 11 (Authority Data) of this Schedule 2, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:

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

12.9.3. ensure that:

- (a) the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular Schedule 13 (Processing, Personal Data and Data Subjects));
- (b) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - i. are aware of and comply with the Processor's duties under this Clause 12 (Protection of Personal Data), Clause 11 (Authority Data) and Clause 27 (Confidential Information) of this Schedule 2;
 - ii. are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
 - iii. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and
 - iv. have undergone adequate training in the use, care, protection and handling of Personal Data;
- (c) not transfer Personal Data outside of the UK, other than to the Controller, unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - i. the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or Section 75 of the DPA 2018) as determined and/or instructed by the Controller;
 - ii. the Data Subject has enforceable rights and effective legal remedies;
 - iii. the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any

Personal Data that is transferred (or, if it is not so bound, assists the Controller in meeting its obligations in respect of data transfers outside the UK); and

- iv. the Processor complies with any instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data outside of the UK; and

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

12.10. Subject to Clause 12.11 of this Schedule 2, the Processor shall notify the Controller immediately if it:

- 12.10.1. receives a Data Subject Request (or purported Data Subject Request);
- 12.10.2. receives a request to rectify, block or erase any Personal Data;
- 12.10.3. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- 12.10.4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
- 12.10.5. 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
- 12.10.6. becomes aware of an actual or suspected Data Loss Event. Such notification shall be made immediately and in any event within four (4) hours of becoming aware of an actual or suspected Data Loss Event.

12.11. The Processor's obligation to notify under Clause 12.10 of this Schedule 2 shall include the provision of further information to the Controller in phases, as details become available.

12.12. Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to (i) the Controller's obligation to respond to requests for the exercise of Data Subject rights and (ii) any complaint, communication or request made under Clause 12.10 of this Schedule 2 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:

- 12.12.1. the Controller with full details and copies of the complaint, communication or request;
 - 12.12.2. such assistance as is requested by the Controller to enable it to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - 12.12.3. the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 12.12.4. assistance as requested by the Controller following any Data Loss Event; and/or
 - 12.12.5. assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 12.13. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause.
- 12.14. The Processor shall allow for audits of its Processing activity, including inspections, by the Controller or the Controller's designated auditor and shall make available to the Controller all information necessary to demonstrate compliance with the obligations set out in Clauses 12.6 to 12.19 .
- 12.15. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 12.16. Before allowing any Sub-processor to process any Personal Data related to this Contract, the Processor must:
- 12.16.1. notify the Controller in writing of the intended Sub-processor and Processing;
 - 12.16.2. obtain the prior written consent of the Controller;
 - 12.16.3. enter into a written agreement with the Sub-processor which give effect to the same terms set out in Clauses 12.6 to 12.19 (Protection of Personal Data) such that they apply to the Sub-processor; and
 - 12.16.4. provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 12.17. The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.

- 12.18. The Authority may, at any time on not less than thirty (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 Contract).
- 12.19. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Authority may on not less than thirty (30) Working Days' notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 12.20. The Parties agree that the following Clauses 12.20 to 12.25 shall apply to the Processing by the Contractor of the Pre-existing Data under or in connection with this Contract.
- 12.21. The Contractor shall process the Pre-existing Data in compliance with its obligations under the Data Protection Legislation and in Processing the Pre-existing Data in connection with the Contract shall not do anything to the Authority to be in breach of the Data Protection Legislation.
- 12.22. It is envisaged by the Parties that Pre-existing Data may be provided by the Contractor to the Authority in connection with the Contract. In the event such provision is required the Contractor shall ensure that the Pre-existing Data is only provided to the Authority:
- 12.22.1. to the extent necessary to perform the respective obligations under this Contract; and
- 12.22.2. in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects.
- 12.23. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the Contractor shall, with respect to its Processing of the Pre-existing Data as an independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
- 12.24. The Contractor shall maintain a record of its Processing activities in accordance with Article 30 of the UK GDPR in respect of its Processing of the Pre-existing Data and shall make the record available to the Authority upon reasonable request.
- 12.25. The Contractor shall promptly notify the Authority upon it becoming aware of any Personal Data Breach relating to the Pre-existing Data pursuant to this Contract and shall promptly

provide all such information as may be reasonably requested by the Authority in respect of such Personal Data Breach.

13. RECORDS RETENTION AND RIGHT OF AUDIT

- 13.1. The Contractor shall keep secure and maintain until six (6) years after the final payment of all sums due under the Contract, or such longer period as may be agreed between the Parties, full and accurate records of the Services, all expenditure reimbursed by the Authority and all payments made by the Authority.
- 13.2. The Contractor shall grant to the Authority, or its authorised agents, such access to those records as they may reasonably require in order to check the Contractor's compliance with the Contract.
- 13.3. For the purpose of:
 - 13.3.1. the examination and certification of the Authority's accounts; or
 - 13.3.2. any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources

the Comptroller and Auditor General may examine such documents as he may reasonably require which are owned, held or otherwise within the control of the Contractor and may require the Contractor to provide such oral and/or written explanations as he considers necessary. This Clause does not constitute a requirement or agreement for the examination, certification or inspection of the accounts of the Contractor under Section 6(3)(d) and (5) of the National Audit Act 1983.

14. INDEMNITY AND LIMITATION OF LIABILITY

- 14.1. Subject to the limitations of liability set out in this Clause 14 (Indemnity and Limitation of Liability) of Schedule 2 and without prejudice to any rights and remedies of the Authority, the Contractor shall indemnify the Authority, and keep it indemnified, from and against any and all Losses whatsoever and howsoever to the extent arising directly (but not indirectly or consequentially) out of the act, default, negligence, breach of contract, breach of statutory or statutory duty by the Contractor or any of its employees or agents acting within the course of their employment or any of its Sub-contractors and their employees or agents.

Unlimited liability

- 14.2. Neither Party excludes or limits liability to the other Party for:

- 14.2.1. death or personal injury caused by its negligence, or that of its employees, agents or Sub-contractors (as applicable);
 - 14.2.2. bribery or Fraud or fraudulent misrepresentation by it or its employees;
 - 14.2.3. breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
 - 14.2.4. any liability to the extent it cannot be limited or excluded by Law.
- 14.3. The Contractor's liability in respect of the indemnities in Clauses 3.8 (Income Tax and National Insurance Contributions) of Schedule 2, Clause 8.4 (VAT) of Schedule 2, Clause 10.6 (Intellectual Property) of Schedule 2, Schedule 10 (Staff Transfer) and the Annexes to Schedule 10 (Staff Transfer) shall be unlimited.
- 14.4. The Authority's liability in respect of the indemnities in Schedule 10 (Staff Transfer) and the Annexes to Schedule 10 (Staff Transfer) shall be unlimited.

Financials and other limits

- 14.5. Subject to Clauses 14.2, 14.3, 14.4 (Unlimited liability) and Clause 14.7 (Consequential Losses) of this Schedule 2:
- 14.5.1. the Contractor's aggregate liability in respect of loss of or damage to the Authority Premises or other property or assets of the Authority (including technical infrastructure, assets or equipment but excluding any loss or damage to the Authority Data or any other data) that is caused by Defaults of the Contractor occurring in each and any Contract Year shall in no event exceed five million pounds (£5,000,000);
 - 14.5.2. the Contractor's aggregate liability in respect of:
 - (a) loss or damage to Authority Data; and
 - (b) breach of the Data Protection Legislation;
 - (c) that is caused by Default of the Contractor occurring in each and any Contract Year shall in no event exceed ten million pounds (£10,000,000);
 - 14.5.3. in respect of all other Losses, the aggregate liability of each Party to the other under or in connection with this Contract whether arising in contract, tort, negligence, breach of statutory duty or otherwise shall in no event exceed the greater of:
 - (a) five million pounds (£5,000,000); or

(b) one hundred and twenty five per cent (125%) of the total Contract Price paid or payable by the Authority to the Contractor for the Services.

- 14.6. If the total Contract Price paid or payable by the Authority to the Contractor over the Term:
- 14.6.1. is less than or equal to **£1,000,000** then the figure of **£5,000,000** at Clause 14.5.3 of this Schedule 2 shall be replaced with **£1,000,000**;
 - 14.6.2. is less than or equal to **£3,000,000** but greater than **£1,000,000**, then the figure of **£5,000,000** at Clause 14.5.3 of this Schedule 2 shall be replaced with **£3,000,000**
 - 14.6.3. is equal to, exceeds or will exceed **£10,000,000** then the figure of **£5,000,000** at Clause 14.5.3 of this Schedule 2 shall be replaced with **£10,000,000** and the figure of one hundred and twenty five percent (125%) at Clause 14.5.3 of this Schedule 2 shall be deemed to have been deleted and replaced with one hundred and fifteen percent (115%).

Consequential loss

- 14.7. Subject always to Clauses 14.2, 14.3, 14.4 (Unlimited liability) and this Clause 14.7 of this Schedule 2 neither Party shall be liable to the other Party for:
- 14.7.1. any indirect, special or consequential loss;
 - 14.7.2. loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 14.8. Notwithstanding Clause 14.7 above but subject to Clause 14.5 (Financials and other limits) the Contractor acknowledges that the Authority may, amongst other things, recover from the Contractor the following losses incurred by the Authority to the extent that they arise as a result of a Default by the Contractor:
- 14.8.1. any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
 - 14.8.2. any wasted expenditure or charges;
 - 14.8.3. the additional costs of procuring Replacement Services for the remainder of the Term, which shall include any incremental costs associated with such Replacement Services above those which would have been payable under the Contract;
 - 14.8.4. any compensation or interest paid to a third party by the Authority; and

- 14.8.5. any fine, penalty or costs incurred by the Authority pursuant to Law any costs incurred by the Authority in defending any proceedings which result in such fine or penalty.
- 14.9. Each Party shall use its respective reasonable endeavours to mitigate any loss or damage suffered arising out of or connection with the Contract.
- 14.10. Where the Contractor is a consortium, for the avoidance of doubt, the organisations comprising the Contractor shall be jointly and severally liable with regard to the performance by the Contractor of any and all of its obligations under the Contract and in respect of any Losses incurred by the Authority under or in connection with this Contract as a result of Defaults by the Contractor.

15. INSURANCE

- 15.1. The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such insurance shall be maintained for the duration of the Term and for a minimum of six (6) years following the expiration or earlier termination of the Contract.
- 15.2. The Contractor shall hold employer's liability insurance in respect of Contractor Personnel in accordance with any legal requirement from time to time in force.
- 15.3. Without limitation to any insurance arrangements as required by Law, the Contractor shall put in place and/or maintain the different types and/or levels of indemnity arrangements explicitly required by the Authority, if specified in the Key Provisions.
- 15.4. The Contractor shall from time to time and in any event within five (5) Working Days of written demand provide documentary evidence to the Authority that insurance arrangements taken out by the Contractor pursuant to this Clause 15 (Insurance) of this Schedule 2 and the Key Provisions are fully maintained and that any premiums on them and/or contributions in respect of them (if any) are fully paid.
- 15.5. If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required by the provisions of the Contract the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.
- 15.6. The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract. It shall be the responsibility of the Contractor to determine the amount of insurance cover that will be adequate to enable the Contractor

to satisfy any liability referred to in Clause 14 (Indemnity and Limitation of Liability) of this Schedule 2.

16. TERMINATION

- 16.1. In the case of a breach of any of the terms of this Contract by the Contractor that is capable of remedy (including, without limitation any failure to pay any sums due under this Contract), the Authority may, without prejudice to its other rights and remedies under this Contract, issue a breach notice and shall allow the Contractor the opportunity to remedy such breach in the first instance via a remedial proposal put forward by the Contractor ("**Remedial Proposal**") before exercising any right to terminate this Contract. Such Remedial Proposal must be agreed with the Authority (such agreement not to be unreasonably withheld or delayed) and must be implemented by the Contractor in accordance with the timescales referred to in the agreed Remedial Proposal. Once agreed, any changes to a Remedial Proposal must be approved by the Parties in writing. Any failure by the Contractor to:

- 16.1.1. put forward and agree a Remedial Proposal with the Authority in relation to the relevant Default or breach within a period of ten (10) Working Days (or such other period as the Authority may agree in writing) from the deemed date of receipt of the Breach Notice;
- 16.1.2. comply with such Remedial Proposal (including, without limitation, as to its timescales for implementation, which shall be ten (10) days unless otherwise agreed between the Parties); and/or
- 16.1.3. remedy the Default or breach notwithstanding the implementation of such Remedial Proposal in accordance with the agreed timescales for implementation,

shall be deemed, for the purposes of Clause 16.2.1(b) (Termination) of this Schedule 2, a material breach of this Contract by the Contractor not remedied in accordance with an agreed Remedial Proposal.

- 16.2. The Authority may terminate the Contract, or terminate the provision of any part of the Services, with immediate effect by serving a Termination Notice to the Contractor:

- 16.2.1. if the Contractor commits a material breach of any of the terms of this Contract which is:
 - (a) not capable of remedy; or
 - (b) in the case of a breach capable of remedy, which is not remedied in accordance with a Remedial Proposal; or

- 16.2.2. if the Contractor has been served with a valid Breach Notice having already been served with at least two (2) previous valid Breach Notices within the last twelve (12) Month rolling period as a result of any previous material breaches of this Contract which are capable of remedy (whether or not the Contractor has remedied the breach in accordance with a Remedial Proposal). The twelve (12) Months rolling period is the twelve (12) Months immediately preceding the date of the third Breach Notice.
- 16.2.3. if the Contractor does not commence delivery of the Services by the Commencement Date;
- 16.2.4. if the Contractor, or any third party guaranteeing the obligations of the Contractor under this Contract, ceases or threatens to cease carrying on its business; suspends making payments on any of its debts or announces an intention to do so; is, or is deemed for the purposes of any Law to be, unable to pay its debts as they fall due or insolvent; enters into or proposes any composition, assignment or arrangement with its creditors generally; takes any step or suffers any step to be taken in relation to its winding-up, dissolution, administration (whether out of court or otherwise) or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) otherwise than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation; has a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed (in each case, whether out of court or otherwise) in respect of it or any of its assets; has any security over any of its assets enforced; or any analogous procedure or step is taken in any jurisdiction;
- 16.2.5. if the Contractor purports to assign, Sub-contract, novate, create a trust in or otherwise transfer or dispose of this Contract in breach of Clause 25 (Assignment, Novation and Sub-contracting) of this Schedule 2;
- 16.2.6. if the Contractor undergoes a change of Control within the meaning of sections 450 and 451 of the Corporation Tax Act 2010 (other than for an intra-group change of Control) without the prior written consent of the Authority and the Authority shall be entitled to withhold such consent if, in the reasonable opinion of the Authority, the proposed change of Control will have a material impact on the performance of this Contract or the reputation of the Authority; or
- 16.2.7. pursuant to and in accordance with Clause 20.6.3(a) (Carbon Footprint / Net Zero Obligations) of Schedule 1 (Key Provisions), Clause 3.6 (Contractor Personnel) of this Schedule 2, Clause 10.14.3 (Intellectual Property Rights) of this Schedule 2, Clause 20.5 (Conflict of Interest) of this Schedule 2, Clause 22.7 (Force Majeure) of this Schedule 2, Clause 27.10 (Confidential Information) of this Schedule 2, Clause 0 (Official Secrets Acts and Finance

Act) of this Schedule 2, Clause 32.4 (Disruption) of this Schedule 2 and Clause 33.5 (Complaints) of this Schedule 2;

- 16.2.8. where the warranty given by the Contractor pursuant to Clause 9 (Warranties) of this Schedule 2 is materially untrue;
 - 16.2.9. where
 - (a) the warranty given by the Contractor pursuant to Clause 9.2 of this Schedule 2 is materially untrue; or
 - (b) the Contractor commits a material breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance as required by Clause 9.2.1 of this Schedule 2; or
 - (c) the Contractor fails to provide details of proposed mitigating factors required by Clause 9.2.2 of this Schedule 2 which in the reasonable opinion of the Authority, are acceptable; or
 - 16.2.10. on the occurrence of any of the statutory provisions contained in Regulation 73(1)(a) to (c) of the Regulations; or
 - 16.2.11. if the Contractor commits a breach of the Anti-slavery Policy or the Authority's Anti-slavery Policy.
- 16.3. If the Authority, acting reasonably, has good cause to believe that there has been a material deterioration in the financial circumstances of the Contractor and/or any third party guaranteeing the obligations of the Contractor under this Contract and/or any material Sub-contractor of the Contractor when compared to any information provided to and/or assessed by the Authority as part of any procurement process or other due diligence leading to the award of this Contract to the Contractor or the entering into a Sub-contract by the Contractor, the following process shall apply:
- 16.3.1. the Authority may (but shall not be obliged to) give notice to the Contractor requesting adequate financial or other security and/or assurances for due performance of its material obligations under this Contract on such reasonable and proportionate terms as the Authority may require within a reasonable time period as specified in such notice; and
 - 16.3.2. a failure or refusal by the Contractor to provide the financial or other security and/or assurances requested in accordance with Clause 16.3 of this Schedule 2 in accordance with any reasonable timescales specified in any such notice issued by the Authority shall be deemed a breach of this Contract by the

Contractor and shall be referred to and resolved in accordance with the Dispute Resolution Procedure.

- 16.4. Notwithstanding any other provision in the Contract, the Authority shall be entitled to terminate this Contract with immediate notice should any information supplied by the Contractor, contained in this Contract or obtained by the Authority (including but not limited to financial or other due diligence information provided by the Contractor or obtained by the Authority) be inaccurate, misleading and/or otherwise give rise to reasonable suspicion by the Authority of fraud.
- 16.5. The Contractor may, by issuing a Termination Notice to the Authority, terminate this Contract if the Authority fails to pay an undisputed sum due to the Contractor under this Contract which in aggregate exceeds £110,000 and such amount remains outstanding forty (40) Working Days after the receipt by the Authority of a notice of non-payment from the Contractor, save that such right of termination shall not apply where the failure to pay is due to the Authority exercising its rights under Clause 8.8 (Recovery of Sums Due) of this Schedule 2.

17. CONSEQUENCES OF EXPIRY OR EARLY TERMINATION OF THE CONTRACT

- 17.1. Where the Authority terminates the Contract under Clause 16 (Termination) of this Schedule 2 and then makes other arrangements for the supply of Services, the Authority may recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Term. The Authority shall take all reasonable steps to mitigate such additional expenditure. Where the Contract is terminated under Clause 16 (Termination) of this Schedule 2 no further payments shall be made by the Authority to the Contractor (for Services supplied by the Contractor prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of arranging an alternative Contractor of the Services.
- 17.2. Save as otherwise expressly provided in the Contract:
 - 17.2.1. termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
 - 17.2.2. termination of the Contract shall not affect the continuing rights, remedies or obligations of the Authority or the Contractor under Clause 8 (Price and Payment) of Schedule 2, Clause 10 (Intellectual Property) of Schedule 2, Clause 12 (Protection of Personal Data) of Schedule 2, Clause 13 (Records Retention and Right of Audit) of Schedule 2, Clause 14 (Indemnity and Limitation of Liability) of Schedule 2, Clause 15 (Insurance) of Schedule 2,

Clause 17 (Consequences of Expiry or Early Termination of the Contract) of Schedule 2, Clause 18 (Recovery upon Expiry or Early Termination of the Contract) of Schedule 2, Clause 26 (Prevention of Fraud and Bribery) of Schedule 2, Clause 27 (Confidential Information) of Schedule 2, Clause 28 (Freedom of Information Act) of Schedule 2, Clause 31 (Official Secrets Acts and Finance Act) of Schedule 2, Clauses 38.2 to 38.4 (Waiver) of Schedule 2, Clause 38.5 (Cumulative Remedies) of Schedule 2 and Clauses 38.10 to 38.11 (Law and Jurisdiction) of Schedule 2.

18. RECOVERY UPON EXPIRY OR EARLIER TERMINATION OF THE CONTRACT

18.1. Upon expiry or earlier termination (for any reason) of this Contract, the Contractor shall at the request of the Authority and at the Contractor's cost:

- 18.1.1. immediately return to the Authority all Deliverables, Research Data, Confidential Information, Personal Data, Authority Existing IPR and any New IPR in its possession or in the possession or under the control of any permitted Contractors or Sub-contractors, which was obtained or produced in the course of providing the Services (but excluding copies of such Confidential Information, Personal Data or other information that the Contractor is required to retain pursuant to the Law or for regulatory purposes);
- 18.1.2. except where the retention of Personal Data is required by Law or regulatory purposes, promptly destroy all copies of the Personal Data and provide written confirmation to the Authority that the data has been destroyed;
- 18.1.3. immediately deliver to the Authority all Property (including materials, documents, information and access keys) provided to the Contractor under Clause 5 (Use of Authority Equipment) of this Schedule 2. Such property shall be handed back in good working order (allowance shall be made for reasonable wear and tear);
- 18.1.4. vacate and procure that the Contractor Personnel vacate any premises of the Authority occupied for the purposes of providing the Services;
- 18.1.5. return to the Authority any sums prepaid in respect of the Services not provided by the date of expiry or termination (howsoever arising);
- 18.1.6. comply with its obligations under any agreed Exit Plan; and
- 18.1.7. promptly provide all information concerning the provision of the Services which may reasonably be requested by the Authority for the purposes of adequately understanding the manner in which the Services have been provided or for the

purpose of allowing the Authority or any Replacement Contractor to conduct due diligence.

- 18.2. If the Contractor fails to comply with Clause 18.1.1 and 18.1.2 of this Schedule 2, the Authority may recover possession of the items mentioned in those Clauses. The Contractor shall grant, and shall procure that any Sub-contractor shall grant, a licence to the Authority for its appointed agents to enter (for the purposes of such recovery) any premises of the Contractor or its Sub-contractors where any such items may be held.

19. DISPUTE RESOLUTION

- 19.1. The Authority and the Contractor shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within twenty (20) Working Days of either notifying the other Party of the dispute and such efforts shall involve the escalation of the dispute to senior management of each Party.
- 19.2. Nothing in this dispute resolution procedure shall prevent the Authority or the Contractor from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 19.3. If the dispute cannot be resolved by the Authority and the Contractor pursuant to Clause 19.1 of this Schedule 2, the Authority and the Contractor shall refer it to mediation pursuant to the procedure set out in Clause 19.5 of this Schedule 2 unless:
- 19.3.1. the Authority considers that the dispute is not suitable for resolution by mediation; or
- 19.3.2. the Contractor does not agree to mediation.
- 19.4. The obligations of the Authority and the Contractor under the Contract shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Contractor and the Contractor Personnel shall comply fully with the requirements of the Contract at all times.
- 19.5. The procedure for mediation is as follows:
- 19.5.1. a neutral adviser or mediator (the “**Contract Mediator**”) shall be chosen by agreement between the Authority and the Contractor or, if they are unable to agree upon a Contract Mediator within ten (10) Working Days after a request by one Party to the other or if the Contract Mediator agreed upon is unable or unwilling to act, either Party shall within ten (10) Working Days from the date of the proposal to appoint a Contract Mediator or within ten (10) Working Days of notice to either Party that he is unable or unwilling to act, apply to the CEDR to appoint a Contract Mediator;

- 19.5.2. the Authority and the Contractor shall within ten (10) Working Days of the appointment of the Contract Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Authority and the Contractor may at any stage seek assistance from the CEDR to provide guidance on a suitable procedure;
- 19.5.3. unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
- 19.5.4. if the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
- 19.5.5. failing agreement, either of the Parties may invite the Contract Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties; and
- 19.5.6. if the Parties fail to reach agreement in the structured negotiations within sixty (60) Working Days of the Contract Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the courts.

20. CONFLICT OF INTEREST

- 20.1. The Contractor recognises that the Authority is subject to PPN 01/19: Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing: (<https://www.gov.uk/government/publications/procurement-policy-note-0119-applying-exclusions-in-public-procurement-managing-conflicts-of-interest-and-whistleblowing>). The Contractor shall comply with the provision of this Clause 20 (Conflict of Interest) in order to assist the Authority with its compliance with its obligations under PPN01/19: Applying Exclusions in Public Procurement, Managing Conflicts of Interest and Whistleblowing above.
- 20.2. The Contractor shall take appropriate steps to ensure that neither the Contractor nor the Contractor Personnel are placed in a position where (in the reasonable opinion of the Authority) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interest of the Contractor or the Contractor Personnel and the duties owed to the Authority and other Contracting Authorities under the provisions of the Contract.

- 20.3. The Contractor shall promptly notify and provide full particulars to the Authority or the relevant other Contracting Authority if such conflict arises or may reasonably be foreseen as arising.
- 20.4. Without prejudice to the foregoing, the Contractor shall not knowingly act at any time during the Term of the Contract in any capacity for any person, firm or company in circumstances where a conflict of interest between such person, firm or company and the Authority shall thereby exist in relation to the Services. The Contractor shall immediately report to the Authority Representative any matters which involve or could potentially involve a conflict of interest as referred to in this Clause 20 (Conflict of Interest).
- 20.5. The Authority reserves the right to terminate the Contract with immediate effect by giving written notice to the Contractor and/or take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Authority under the provisions of the Contract. The action of the Authority pursuant to this Clause 20 (Conflict of Interest) of this Schedule 2 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

21. CHANGE MANAGEMENT

- 21.1. The Contractor acknowledges to the Authority that the Authority's requirements for the Services may change during the Term and the Contractor shall not unreasonably withhold or delay its consent to any reasonable Variation or addition to the Specification and Tender, as may be requested by the Authority from time to time.
- 21.2. Any change to the Services or other Variation to this Contract shall only be binding once it has been agreed either:
- 21.2.1. in accordance with the Change Control Process if the Key Provisions specify that changes are subject to a formal change control process; or
 - 21.2.2. if the Key Provisions make no such reference, in writing and signed by an authorised representative of both Parties.

Change in Law

- 21.3. The Contractor shall neither be relieved of its obligations to supply the Services in accordance with the terms and conditions of this Contract nor be entitled to an increase in the Contract Price as the result of:
- 21.3.1. a General Change in Law; or

- 21.3.2. a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Commencement Date.
- 21.4. If a Specific Change in Law occurs or will occur during the Term (other than as referred to in Clause 21.3.2 of this Schedule 2), the Contractor shall:
- 21.4.1. notify the Authority as soon as reasonably practicable of the likely effects of that change, including:
- (a) whether any Variation is required to the Services, the Contract Price or this Contract; and
 - (b) whether any relief from compliance with the Contractor's obligations is required; and
- 21.4.2. provide the Authority with evidence:
- (a) that the Contractor has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-contractors;
 - (b) as to how the Specific Change in Law has affected the cost of providing the Services; and
 - (c) demonstrating that any expenditure that has been avoided has been taken into account in amending the Contract Price.
- 21.5. Any Variation in the Contract Price or relief from the Contractor's obligations resulting from a Specific Change in Law (other than as referred to in Clause 21.3.2 of this Schedule 2) shall be implemented in accordance with the Clause 21.2 of this Schedule 2.

22. FORCE MAJEURE

- 22.1. Subject to the remaining provisions of this Clause 22 (Force Majeure) (and, in relation to the Contractor, subject to its compliance with its obligations in Clause 19 (Business Continuity and Disaster Recovery) of Schedule 1 (Key Provisions) and Schedule 14 (Business Continuity and Disaster Recovery Plan), if applicable), a Party may claim relief under this Clause 22 (Force Majeure) from liability for failure to meet its obligations under this Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Contractor in performing its obligations under this Contract which results from a failure or delay by an agent, Sub-contractor or Contractor shall be regarded as due to a Force Majeure Event only if that agent, Sub-contractor or Contractor is itself impeded by a Force Majeure Event from complying with an obligation to the Contractor.

- 22.2. The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- 22.3. If the Contractor is the Affected Party, it shall not be entitled to claim relief under this Clause 22 (Force Majeure) to the extent that consequences of the relevant Force Majeure Event:
- 22.3.1. are capable of being mitigated, but the Contractor has failed to do so;
 - 22.3.2. should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by this Contract; or
 - 22.3.3. are the result of the Contractor's failure to comply with its BCDR Plan (except to the extent that such failure is also due to a Force Majeure Event that affects the execution of the BCDR Plan).
- 22.4. Subject to Clause 22.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- 22.5. The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Contractor is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- 22.6. Where, as a result of a Force Majeure Event:
- 22.6.1. an Affected Party fails to perform its obligations in accordance with this Contract, then during the continuance of the Force Majeure Event:
 - (a) the other Party shall not be entitled to exercise any rights to terminate this Contract in whole or in part as a result of such failure other than pursuant to Clause 22.7 of this Schedule 2; and
 - (b) neither Party shall be liable for any Default arising as a result of such failure;
 - 22.6.2. the Contractor fails to perform its obligations in accordance with this Contract:
 - (a) the Authority shall not be entitled during the continuance of the Force Majeure Event to exercise its rights under Clause 15 (Authority Step-In

Rights) of Schedule 1 (Key Provisions) (if applicable) as a result of such failure; and

- (b) the Contractor shall be entitled to receive payment of the Contract Price (or a proportional payment of them) only to the extent that the Services (or part of the Services) continue to be performed in accordance with the terms of this Contract during the occurrence of the Force Majeure Event.

- 22.7. Either Party may terminate this Contract by issuing a Termination Notice to the other Party if a Force Majeure Event endures for a continuous period of ninety (90) days and this Contract shall terminate on the date specified in the Termination Notice.
- 22.8. The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Contract.
- 22.9. Relief from liability for the Affected Party under this Clause 22 (Force Majeure) shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Contract and shall not be dependent on the serving of notice under Clause 22.8.

23. EQUALITY AND DIVERSITY

- 23.1. The Contractor shall:

- 23.1.1. ensure that (a) it does not, whether as employer or as Contractor of the Services, engage in any act or omission that would contravene the Equality Legislation, and (b) it complies with all its obligations as an employer or Contractor of the Services as set out in the Equality Legislation and take reasonable endeavours to ensure the Contractor Personnel do not unlawfully discriminate within the meaning of the Equality Legislation;
- 23.1.2. in the management of its affairs and the development of its equality and diversity policies, cooperate with the Authority in light of the Authority's obligations to comply with its statutory equality duties whether under the Equality Act 2010 or otherwise. The Contractor shall take such reasonable and proportionate steps as the Authority considers appropriate to promote equality and diversity, including race equality, equality of opportunity for disabled people, gender equality, and equality relating to religion and belief, sexual orientation and age;
- 23.1.3. impose on all its Sub-contractors and Contractors, obligations substantially similar to those imposed on the Contractor by this Clause 23 (Equality and Diversity) of this Schedule 2; and

- 23.1.4. The Contractor shall meet reasonable requests by the Authority for information evidencing the Contractor's compliance with the provisions of this Clause 23 (Equality and Diversity).

24. NOTICE

- 24.1. Any notice required to be given by either Party under this Contract shall be in writing quoting the date of the Contract and shall be delivered by hand or sent by prepaid first class recorded delivery or by email to the person referred to in the Order Form or such other person as one Party may inform the other Party in writing from time to time.
- 24.2. A notice shall be treated as having been received:
- 24.2.1. if delivered by hand within normal business hours when so delivered or, if delivered by hand outside normal business hours, at the next start of normal business hours; or
 - 24.2.2. if sent by first class recorded delivery mail on a normal Working Day, at 9.00 am on the second Working Day subsequent to the day of posting, or, if the notice was not posted on a Working Day, at 9.00 am on the third Working Day subsequent to the day of posting; or
 - 24.2.3. if sent by email, if sent within normal business hours when so sent or, if sent outside normal business hours, at the next start of normal business hours provided the sender has either received an electronic confirmation of delivery or has telephoned the recipient to inform the recipient that the email has been sent.

25. ASSIGNMENT, NOVATION AND SUB-CONTRACTING

- 25.1. The Contractor shall not assign, novate, sub-contract or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under the Contract or any part of it without the prior written consent of the Authority.
- 25.2. The Authority may assign, novate or otherwise dispose of any or all of its rights, liabilities and obligations under the Contract or any part thereof to:
- 25.2.1. any other body established by the Crown; or
 - 25.2.2. under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
 - 25.2.3. any private sector body which substantially performs the functions of the Authority,

and the Contractor shall, at the Authority's request, enter into a novation agreement in such form as the Authority shall reasonably specify in order to enable the Authority to exercise its rights pursuant to this Clause 25 (Assignment, Novation and Sub-contracting).

- 25.3. A change in the legal status of the Authority shall not, subject to Clause 25.2 of this Schedule 2 affect the validity of the Contract and the Contract shall be binding on any successor body to the Authority.
- 25.4. If the Authority assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under the Contract to a private sector body in accordance with Clause 25.2 of this Schedule 2 (the "**Transferee**" in the rest of this Clause) the right of termination of the Authority in Clause 16.2.4 (Termination) of this Schedule 2 shall be available to the Contractor in the event of insolvency of the Transferee (as if the references to Contractor in Clause 16.2.4 (Termination) of this Schedule 2 were references to the Transferee).
- 25.5. The Contractor shall exercise due skill and care in the selection of any Sub-contractors to ensure that the Contractor is able to:
 - 25.5.1. manage any Sub-contractors in accordance with Good Industry Practice;
 - 25.5.2. comply with its obligations under the Contract in the provision of the Services; and
 - 25.5.3. assign, novate or otherwise transfer to the Authority or any Replacement Contractor any of its rights and/or obligations under each Sub-contract that relates exclusively to the Contract.
- 25.6. Prior to sub-contracting any of its obligations under the Contract, the Contractor shall notify the Authority and provide the Authority with:
 - 25.6.1. the proposed Sub-contractor's name, registered office and company registration number; and
 - 25.6.2. the scope of any Services to be provided by the proposed Sub-contractor.
- 25.7. If requested by the Authority within ten (10) Working Days of receipt of the Contractor's notice issued pursuant to Clause 25.6 of this Schedule 2, the Contractor shall also provide:
 - 25.7.1. a copy of the proposed Sub-contract; and
 - 25.7.2. any further information reasonably requested by the Authority.
- 25.8. The Authority may, within ten (10) Working Days of receipt of the Contractor's notice issued pursuant to Clause 25.6 of this Schedule 2 (or, if later, receipt of any further

information requested pursuant to Clause 25.7 of this Schedule 2), object to the appointment of the relevant Sub-contractor if they consider that:

- 25.8.1. the appointment of a proposed Sub-contractor may prejudice the provision of the Services or may be contrary to the interests respectively of the Authority under the Contract;
- 25.8.2. the proposed Sub-contractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers;
- 25.8.3. the proposed Sub-contractor employs unfit persons; and/or
- 25.8.4. the proposed Sub-contractor should be excluded in accordance with Clause 25.14 of this Schedule 2,

in which case, the Contractor shall not proceed with the proposed appointment.

- 25.9. If the Authority has not notified the Contractor that it objects to the proposed Sub-contractor's appointment by ten (10) Working Days following the the later of receipt of:

- 25.9.1. the Contractor's notice issued pursuant to Clause 25.6 of this Schedule 2; and
- 25.9.2. any further information requested by the Authority pursuant to Clause 25.7 of this Schedule 2,

the Contractor may proceed with the proposed appointment.

- 25.10. The Contractor shall ensure that all Sub-contracts (which in this sub-clause includes any contract in the Contractor's supply chain made wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract) contain provisions:

- 25.10.1. requiring the Contractor or other party receiving goods or services under the contract to consider and verify invoices under that contract in a timely fashion;
- 25.10.2. that if the Contractor or other party fails to consider and verify an invoice in accordance with Clause 25.10.1 of this Schedule 2, the invoice shall be regarded as valid and undisputed for the purpose of Clause 25.10.3 of this Schedule 2 after a reasonable time has passed;
- 25.10.3. requiring the Contractor or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding thirty (30) days of verifying that the invoice is valid and undisputed; and

- 25.10.4. giving the Authority a right to publish the Contractor's compliance with its obligation to pay undisputed invoices within the specified payment period; and
 - 25.10.5. requiring the Sub-contractor to include a clause to the same effect as this Clause 25.10 in any contracts it enters into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract.
- 25.11. The Contractor shall pay any undisputed sums which are due from it to a Sub-contractor within thirty (30) days of verifying that the invoice is valid and undisputed.
- 25.12. Notwithstanding any provision of Clause 27 (Confidential Information) of this Schedule 2 and Clause 36 (Publicity) of this Schedule 2, if the Contractor notifies the Authority that the Contractor has failed to pay an undisputed Sub-contractor's invoice within thirty (30) days of receipt, or, where Clauses 17.8 to 17.12 (Supply Chain Visibility) of Schedule 1 (Key Provisions) apply, that it has failed to pay ninety five (95%) or above of its Sub-Contractors or Unconnected Sub-contractors within sixty (60) days after the day on which the Contractor receives an invoice or otherwise has notice of an amount for payment, or the Authority otherwise discovers the same, the Authority shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).
- 25.13. Notwithstanding the Contractor's right to sub-contract pursuant to this Clause 25 (Assignment, Novation and Sub-contracting), the Contractor shall remain responsible for all acts and omissions of its Sub-contractors and the acts and omissions of those employed or engaged by the Sub-contractors as if they were its own.
- 25.14. The Authority may require the Contractor to terminate a Sub-contract where:
- 25.14.1. the acts or omissions of the relevant Sub-contractor have caused or materially contributed to the Authority's right of termination pursuant to Clause 16 (Termination) of this Schedule 2;
 - 25.14.2. the relevant Sub-contractor or any of its Affiliates have embarrassed the Authority or otherwise brought the Authority into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Sub-contractor's obligations in relation to the Services or otherwise;
 - 25.14.3. the relevant Sub-contractor has failed to comply in the performance of its Sub-contract with legal obligations in the fields of environmental, social or labour law; and/or

- 25.14.4. the Authority has found grounds for exclusion of the Sub-contractor in accordance with Clause 25.15 of this Schedule 2.
- 25.15. Where the Authority considers whether there are grounds for exclusion of a Sub-contractor under Regulation 57 of the Regulations, then:
 - 25.15.1. if the Authority finds there are compulsory grounds for exclusion, the Contractor shall replace or shall not appoint the Sub-contractor;
 - 25.15.2. if the Authority finds there are non-compulsory grounds for exclusion, the Authority may require the Contractor to replace or not appoint the Sub-contractor and the Contractor shall comply with such a requirement.

26. PREVENTION OF FRAUD AND BRIBERY

- 26.1. The Contractor warrants and represents to the Authority that neither it, nor to the best of its knowledge any Contractor Personnel, have at any time prior to the Commencement Date:
 - 26.1.1. committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
 - 26.1.2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 26.2. The Contractor shall not during the Term:
 - 26.2.1. commit a Prohibited Act; and/or
 - 26.2.2. do or suffer anything to be done which would cause the Authority or any of the Authority's employees, consultants, contractors, Sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 26.3. The Contractor shall during the Term:
 - 26.3.1. establish, maintain and enforce, and require that its Sub-contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;

- 26.3.2. keep appropriate records of its compliance with its obligations under Clause 26.3.1 (Prevention of Fraud and Bribery) of this Schedule 2 and make such records available to the Authority on request;
 - 26.3.3. if so required by the Authority, within twenty (20) Working Days of the Commencement Date, and annually thereafter, certify in writing to the Authority, the compliance with this Clause of all persons associated with the Contractor or its Sub-contractors who are responsible for supplying the Services in connection with the Contract. The Contractor shall provide such supporting evidence as the Authority may reasonably request; and
 - 26.3.4. have, maintain and, where appropriate, enforce an anti-bribery policy (which shall be disclosed to the Authority on request) to prevent it and any Contractor Personnel or any person acting on the Contractor's behalf from committing a Prohibited Act.
- 26.4. The Contractor shall immediately notify the Authority in writing if it becomes aware of any breach of Clause 26.1 (Prevention of Fraud and Bribery) of this Schedule 2, or has reason to believe that it has or any of the Contractor Personnel has:
- 26.4.1. been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - 26.4.2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
 - 26.4.3. received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the Contract or otherwise suspects that any person or party directly or indirectly connected with the Contract has committed or attempted to commit a Prohibited Act.
- 26.5. If the Contractor makes a notification to the Authority pursuant to Clause 26.4 (Prevention of Fraud and Bribery) of this Schedule 2, the Contractor shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with Clause 13 (Records Retention and Right of Audit) of this Schedule 2.
- 26.6. If the Contractor breaches Clause 26.1 (Prevention of Fraud and Bribery) of this Schedule 2, the Authority may by notice:

- 26.6.1. require the Contractor to remove from the performance of the Contract any Contractor Personnel whose acts or omissions have caused the Contractor's breach; or
 - 26.6.2. immediately terminate the Contract pursuant to Clause 16.2.1(a) (Termination) of this Schedule 2.
- 26.7. Any notice served by the Authority under Clause 26.6 of this Schedule 2 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has elected to take (including, where relevant, the date on which the Contract shall terminate).

27. CONFIDENTIAL INFORMATION

- 27.1. For the purposes of this Clause 27 (Confidential Information), the term:
- 27.1.1. **"Disclosing Party"** shall mean a Party which discloses or makes available directly or indirectly its Confidential Information; and
 - 27.1.2. **"Recipient"** shall mean the Party which receives or obtains directly Confidential Information.
- 27.2. Except to the extent set out in this Clause 27 (Confidential Information) or where disclosure is expressly permitted elsewhere in the Contract, the Recipient shall:
- 27.2.1. treat the Disclosing Party's Confidential Information as confidential and safeguard it accordingly (which is appropriate depending on the form in which such materials are stored and the nature of the Confidential Information contained in those materials);
 - 27.2.2. not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in the Contract or without the Disclosing Party's prior written consent;
 - 27.2.3. not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under the Contract; and
 - 27.2.4. immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.
- 27.3. Clause 27.1 of this Schedule 2 shall not apply to the extent that:

- 27.3.1. Law requires such disclosure by the Party making the disclosure, including any requirements for disclosure under FOIA, the Regulations or the Environmental Information Regulations;
 - 27.3.2. such information is required in relation to the examination and certification of the Authority's accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority is making use of its resources;
 - 27.3.3. the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office;
 - 27.3.4. such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or
 - 27.3.5. it is independently developed without access to the other Party's Confidential Information.
- 27.4. If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall, as soon as reasonably practicable and to the extent permitted by Law, notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or Regulatory Body requiring such disclosure and the Confidential Information to which such disclosure would apply.
- 27.5. The Contractor may only disclose the Confidential Information of the Authority to the Contractor Personnel directly involved in the provision of the Services and who need to know the information, and shall ensure that such Contractor Personnel are aware of and shall comply with these obligations as to confidentiality.
- 27.6. The Contractor shall not, and shall procure that the Contractor Personnel do not, use any of the Confidential Information of the Authority received otherwise than for the purposes of the Contract and the provision of the Services.
- 27.7. At the written request of the Authority, the Contractor shall procure that Contractor Personnel identified in the Authority's request shall sign a confidentiality undertaking (in a form acceptable to the Authority) prior to commencing any work in accordance with the Contract.
- 27.8. The Authority may disclose the Confidential Information of the Contractor:
- 27.8.1. on a confidential basis to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body;

- 27.8.2. to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- 27.8.3. to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- 27.8.4. on a confidential basis to a professional adviser, consultant, Contractor or other person engaged by any of the entities described in Clause 27.8.1 of this Schedule 2 including any benchmarking organisation for any purpose relating to or connected with the Contract;
- 27.8.5. on a confidential basis for the purpose of the exercise of its rights under the Contract; or
- 27.8.6. on a confidential basis to a proposed successor body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Contract,

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this Clause 27 (Confidential Information).

- 27.9. Nothing in this Clause 27 (Confidential Information) shall prevent either Party from using any techniques, ideas or Know-How gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of Intellectual Property Rights.
- 27.10. Failure by the Contractor to comply with any of its obligations under this Clause 27 (Confidential Information) shall be an irremediable material breach of this Contract and the Authority shall be entitled to terminate the Contract pursuant to Clause 16.2.1(a) (Termination) of this Schedule 2.

28. FREEDOM OF INFORMATION ACT

- 28.1. The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations and shall:
 - 28.1.1. provide all necessary assistance and cooperation as reasonably requested by the Authority, at the Contractor's expense, to enable the Authority to comply with its obligations under the FOIA and the Environmental Information Regulations;

- 28.1.2. transfer to the Authority all requests for information that it receives under the FOIA and the Environmental Information Regulations (“**Requests for Information**”) relating to the Contract that it receives as soon as practicable and in any event within two (2) Working Days of receipt;
 - 28.1.3. provide the Authority with a copy of all Information belonging to the Authority requested in the Request for Information which is in the Contractor’s possession or control in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may reasonably specify) of the Authority’s request for such Information; and
 - 28.1.4. not respond directly to a Request for Information unless authorised in writing to do so by the Authority.
- 28.2. The Contractor acknowledges that the Authority may be required under the FOIA and the Environmental Information Regulations to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Contractor. The Authority shall take reasonable steps to notify the Contractor of a Request For Information (in accordance with the Secretary of State’s section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Contract) the Authority shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations.
- 28.3. The Contractor shall ensure that all Information is retained for disclosure in accordance with Clause 13 (Records Retention and Right of Audit) of this Schedule 2 and shall permit the Authority to inspect such records as the Authority requests from time to time.
- 28.4. The Contractor acknowledges that the Commercially Sensitive Information is of indicative value only and that such information may be disclosed pursuant to Clause 13 (Records Retention and Right of Audit) of this Schedule 2.

29. TRANSPARENCY

- 29.1. The Contractor recognises that the Authority is subject to PPN 01/17: Update to Transparency Principles (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>). The Contractor shall comply with the provision of this Clause **Error! Reference source not found.** (Transparency) in order to assist the Authority with its compliance with its obligations under PPN 01/17: Update to Transparency Principles above.

29.2. The Parties agree and acknowledge that the content of this Contract is not Confidential Information, except for:

29.2.1. any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Authority; and

29.2.2. Commercially Sensitive Information.

29.3. Notwithstanding any other provision of this Contract, the Contractor hereby gives consent for the Authority to publish to the general public this Contract in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including any changes to this Contract agreed from time to time. The Authority may consult with the Contractor to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.

29.4. The Contractor shall assist and cooperate with the Authority to enable the Authority to publish this Contract.

30. CORPORATE SOCIAL RESPONSIBILITY

30.1. The HM Government published a Contractor Code of Conduct setting out the standards and behaviours expected of Contractors who work with government shall apply for the purposes of this Contract (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf) (the “Code”). In addition to the obligations under the Contract, the Authority expects the Contractor and any Sub-contractors to meet the standards set out in that Code.

30.2. The Contractor acknowledges that the Authority may have additional requirements in relation to corporate social responsibility. The Authority expects that the Contractor and its Sub-contractors will comply with such corporate social responsibility requirements as the Authority may notify to the Contractor from time to time.

30.3. The Contractor shall comply with reasonable requests by the Authority for information evidencing compliance with the provisions of this Clause 30 (Corporate Social Responsibility) within fourteen (14) days of such request, provided that such requests are limited to two (2) per Contract Year.

Equality and Accessibility

30.4. The Contractor shall support the Authority in fulfilling its Public Sector Equality duty under section 149 of the Equality Act 2010 by ensuring that it fulfils its obligations under the Contract in a way that seeks to:

30.4.1. eliminate discrimination, harassment or victimisation of any kind; and

- 30.4.2. advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

Modern Slavery, Child Labour and Inhumane Treatment

30.5. The Contractor:

- 30.5.1. shall, and shall procure that each of its Sub-contractors shall, comply with the Modern Slavery Act 2015;
- 30.5.2. shall not use, nor allow its Sub-contractors to use forced, bonded or involuntary prison labour or any practice that is considered to be an indicator of forced labour as defined by the International Labour Organisation;
- 30.5.3. shall not require any Contractor Personnel or Sub-contractor staff to lodge deposits or identify papers with the employer and shall be free to leave their employer after reasonable notice;
- 30.5.4. warrants and represents that it has not been convicted of any slavery or human tracking offenses anywhere around the world;
- 30.5.5. warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human tracking offenses anywhere around the world;
- 30.5.6. shall make reasonable enquires to ensure that its officers, employees and Sub-contractors have not been convicted of slavery or human tracking offenses anywhere around the world;
- 30.5.7. shall have and maintain throughout the term of each Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act and include in its contracts with its Sub-contractors anti-slavery and human trafficking provisions;
- 30.5.8. shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under a Contract;
- 30.5.9. shall prepare and deliver to the Authority an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business;

- 30.5.10. shall not use, nor allow its employees or Sub-contractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Sub-contractors;
 - 30.5.11. shall not use or allow child or slave labour to be used by its Sub-contractors; and
 - 30.5.12. shall report the discovery or suspicion of any slavery or trafficking by it or its Sub-contractors to the Authority and notify the Authority of its proposals to address the discovery or investigate the suspicion. The Contractor shall provide any addition information reasonably required by the Authority and take any further reasonable and proportionate action required by the Authority.
- 30.6. The Contractor shall indemnify the Authority against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by, or awarded against, the Authority as a result of any breach of the Anti-slavery Policy and if Key Provision 18 applies, as a result of any breach of the Authority's Anti-slavery Policy.

Income Security

- 30.7. The Contractor shall:
- 30.7.1. ensure that that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
 - 30.7.2. ensure that all Contractor Personnel are provided with written and understandable Information about their employment conditions in respect to wages before they enter;
 - 30.7.3. All workers shall be provided with written and understandable Information about their employment conditions in respect to wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid;
 - 30.7.4. not make deductions from wages:
 - (a) as a disciplinary measure;
 - (b) except where permitted by Law; or
 - (c) without expressed permission of the worker concerned;
 - 30.7.5. record all disciplinary measures taken against Contractor Personnel; and
 - 30.7.6. ensure that Contractor Personnel are engaged under a recognised employment relationship established through national Law and practice.

Working Hours

30.8. The Contractor shall:

- 30.8.1. ensure that the working hours of Contractor Personnel comply with national laws, and any collective agreements;
- 30.8.2. ensure that the working hours of Contractor Personnel, excluding overtime, shall be defined by contract, and shall not exceed forty eight (48) hours per week unless the individual has agreed in writing;
- 30.8.3. ensure that use of overtime used responsibly, taking into account:
 - (a) the extent;
 - (b) frequency; and
 - (c) hours worked,by individuals and by the Contractor Personnel as a whole.

30.9. The total hours worked in any seven (7) day period shall not exceed sixty (60) hours, except where covered by clause 30.10 below.

30.10. Working hours may exceed sixty (60) hours in any seven (7) day period only in exceptional circumstances where all of the following are met:

- 30.10.1. this is allowed by national Law;
- 30.10.2. this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;
- 30.10.3. appropriate safeguards are taken to protect the workers' health and safety; and
- 30.10.4. the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.

30.11. All Contractor Personnel shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national Law, two (2) days off in every fourteen (14) day period.

Environmental Requirements

30.12. The Contractor shall comply in all material respects with all applicable environmental laws, permits and regulations in force in relation to the Contract.

- 30.13. The Contractor warrants that it has obtained ISO 14001 certification from an accredited body and shall comply with and maintain certification requirements throughout the Term.
- 30.14. The Contractor shall meet the applicable Government Buying Standards applicable to services which can be found online at: <https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>

Sustainability

- 30.15. The Contractor shall:

- 30.15.1. comply with all applicable Government Buying Standards which can be found online at: <https://www.gov.uk/government/collections/sustainable-procurement-thegovernment-buying-standards-gbs>;
- 30.15.2. perform its obligations under the Contract in a way that:
- (a) conserves energy, water, wood, paper and other resources;
 - (b) reduces waste and avoids the use of ozone depleting substances; and
 - (c) minimises the release of Greenhouse Gases, volatile organic compounds and other substances damaging to health and the environment; and
- 30.15.3. use reasonable endeavours to avoid the use of paper and card in carrying out its obligations under this Contract. Where unavoidable under reasonable endeavours, the Contractor shall ensure that any paper or card deployed in the performance of the Services consists of one hundred percent (100%) recycled content and used on both sides where feasible to do so.

- 30.16. The Contractor must demonstrate its progress on climate change adaptation, mitigation and sustainable development, including performance against carbon reduction management plans, and must provide an annual summary of that progress to the Authority.

31. FINANCE ACT

The Contractor shall comply with, and shall ensure the Contractor Personnel comply with, the provisions of Section 182 of the Finance Act 1989.

The Authority may terminate the Contract with immediate effect by giving written notice to the Contractor if the Contractor or any of the Contractor Personnel do not comply with this Clause 0 (Finance Act).

32. DISRUPTION

- 32.1. The Contractor shall take reasonable care to ensure that, in the performance of its obligations under the Contract, it does not disrupt the operations of the Authority, its employees or any other contractor employed or engaged by the Authority.
- 32.2. The Contractor shall immediately inform the Authority of any actual or potential industrial action, whether such action be by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- 32.3. In the event of industrial action by the Contractor Personnel, the Contractor shall prepare proposals for the continuation of its obligations under the Contract for the Authority to approve.
- 32.4. If the Contractor's proposals referred to in Clause 32.3 (Disruption) of this Schedule 2 are considered insufficient or unacceptable by the Authority, acting reasonably, then the Contract may be terminated with immediate effect by the Authority by written notice.
- 32.5. If the Contractor is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business of the Authority, the Contractor may request a reasonable allowance of time and in addition, the Authority will reimburse any additional expense reasonably incurred by the Contractor as a direct result of such disruption.

33. COMPLAINTS

- 33.1. Where a complaint is received about the standard of Services or about the manner in which any Services have been supplied or work has been performed or about the materials or procedures used or about any other matter connected with the performance of the Contractor's obligations under the Contract, then the Authority shall notify the Contractor, and where considered appropriate by the Authority, investigate the complaint. The Authority may, in its sole discretion, uphold the complaint and take further action in accordance with Clause 16 (Termination) of this Schedule 2.
- 33.2. Should the Authority be of the view, acting reasonably, that the Contractor can no longer provide the Services, then without prejudice to the Authority's rights and remedies under this Contract, the Authority shall be entitled to exercise its Step-In Rights if the Key Provisions refer to the Authority having such rights under this Contract.
- 33.3. Without prejudice to its right under Clause 8.8 (Recovery of Sums Due) of this Schedule 2, the Authority may charge the Contractor for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Authority or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Contractor for such part of the Services and provided

that the Authority uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Services.

33.4. If the Contractor fails to supply any of the Services in accordance with the provisions of the Contract and such failure is capable of remedy, then the Authority shall instruct the Contractor to remedy the failure and the Contractor shall, at its own cost and expense, remedy such failure (and any damage resulting from such failure) within five (5) Working Days or such other period of time as the Authority may direct.

33.5. In the event that:

33.5.1. the Contractor fails to comply with Clause 33.4 (Complaints) of this Schedule 2 and the failure is materially adverse to the interests of the Authority or prevents the Authority from discharging a statutory duty; or

33.5.2. the Contractor persistently fails to comply with Clause 33.4 (Complaints) of this Schedule 2;

the Authority may terminate the Contract with immediate effect by giving written notice.

34. NON-SOLICITATION

34.1. Except in respect of any transfer of staff pursuant to Schedule 10 (Staff Transfer), neither Party shall (except with the prior written consent of the other Party) directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of the other Party any person employed or engaged by such other Party in the provision of the Services or (in the case of the Authority) in the receipt of the Services at any time during the Term or for a further period of twelve (12) Months after the termination of the Contract other than by means of a national advertising campaign open to all comers and not specifically targeted at any of the employees of the other Party.

34.2. If either the Contractor or the Authority commits any breach of Clause 34.1 (Non-Solicitation) of this Schedule 2 the breaching Party shall, on demand, pay to the claiming Party a sum equal to one year's basic salary or the annual fee that was payable by the claiming Party to that employee, worker or independent contractor plus the recruitment costs incurred by the claiming Party in replacing such person.

35. HEALTH AND SAFETY

35.1. The Contractor shall take all measures necessary to comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other Laws and codes of practice relating to health and safety, which may apply to Contractor Personnel in the performance of the Services.

- 35.2. The Contractor shall promptly notify the Authority of any health and safety hazards which may arise in connection with the performance of the Services.
- 35.3. The Authority shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Premises of the Authority and which may affect the Contractor in the performance of the Services.
- 35.4. The Contractor shall inform all Contractor Personnel engaged in the provision of Services at the Premises of the Authority of all known health and safety hazards and shall instruct those Contractor Personnel in connection with any necessary safety measures.
- 35.5. Whilst on the Premises of the Authority, the Contractor shall comply, and shall procure that the Contractor Personnel comply, with any health and safety measures implemented by the Authority in respect of persons working on those Premises.
- 35.6. The Contractor shall notify the Authority Representative immediately in the event of any incident occurring in the performance of the Services on the Premises of the Authority where that incident causes any personal injury or any damage to property which could give rise to personal injury.
- 35.7. The Contractor shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Authority on request.

36. PUBLICITY

- 36.1. The Contractor shall not and shall procure that its Sub-contractors shall not:
 - 36.1.1. make any press announcements or publicise the Contract in any way or publicise any Deliverable; or
 - 36.1.2. use the Authority's name or brand in any promotion or marketing or announcement,without the prior written consent of the Authority.
- 36.2. Pursuant to 36.1 (Publicity) of this Schedule 2 the Contractor may from time to time be permitted to publicise agreed details of the Services and Deliverables in which case it shall (and shall procure that each member of staff engaged on the Research shall) use all reasonable endeavours to comply with the Authority's policy and guidance on the publication of research outputs which may be issued by the Authority from time to time.
- 36.3. The Authority shall be entitled to publicise the Contract in accordance with any legal obligation upon the Authority, including any examination of the Contract, by the National Audit Office pursuant to the National Audit Act 1983 or otherwise.

- 36.4. The provisions of this Clause 36 (Publicity) shall apply during the Term and indefinitely after its expiry or the earlier termination of the Contract.

37. SAFEGUARDING PROVISIONS

The Contractor shall and shall procure that each Sub-contractor shall take all reasonable steps to comply with the Clinical Risk Management Provisions as published from time to time but not limited to:

- 37.1.1. taking all reasonable steps to prevent actual, attempted or threatened Serious Misconduct by its employees or any other persons engaged and controlled by it to perform any activities under this Contract; and
 - 37.1.2. adopting robust safeguarding and whistleblowing policies and procedures to promote and support the reporting and investigation of suspected bullying, harassment, misconduct, illegal acts, Serious Misconduct, or failures to investigate any such matter; and
 - 37.1.3. providing regular training as appropriate to Key Staff, Collaborators and any other persons engaged and controlled by it to perform any activities under this Contract; and
 - 37.1.4. taking any other Good Industry Practice measures (including for example the “NIHR Policy on Preventing Harm in Research” and “NIHR Safeguarding Guidance” and any innovative solutions).
- 37.2. The Contractor shall:
- 37.2.1. maintain detailed records of any allegation of Serious Misconduct relating to the performance of any activities under this Contract; and
 - 37.2.2. report any complaints or concerns promptly regarding possible Serious Misconduct relating to the performance of any activities under this Contract to the relevant authorities (including law enforcement or other agencies) and the Authority’s Representative; and
 - 37.2.3. take all reasonable steps to ensure that individuals are enabled to report concerns and complaints of any Serious Misconduct through supportive, confidential and accountable mechanisms.
- 37.3. The Contractor shall take all reasonable steps to investigate allegations or suspicions of Serious Misconduct and take appropriate corrective action, including disciplinary action, against individuals, and will keep the Authority and relevant authorities informed of the progress of the investigations as appropriate, such investigations and actions to be reported to the Authority as soon as is reasonably practicable.

- 37.4. The Contractor shall, and shall use reasonable efforts to ensure that each Collaborator, sub-contractor or any other person involved in the performance of any activities under this Contract shall comply with all applicable Laws relating to safeguarding and the protection of children and vulnerable adults including but not limited to the vetting of personnel working closely with children and vulnerable adults in accordance with the UK Safeguarding Vulnerable Groups Act 2006 (as amended).
- 37.5. In the event that the Contractor fails to comply with any of this Clause 37 (Safeguarding Provisions) of this Schedule 2, the Authority reserves the right to:
- 37.5.1. deem this to be a material breach and terminate this Contract in accordance with Clause 16.2.1 herein; and/or;
 - 37.5.2. suspend or reduce its payment of amounts due under the Schedule 6 (Pricing) of this Contract; and/or require repayment of all or part of the funding provided under this Contract.

38. GENERAL

Relationship of the Parties

- 38.1. Except as expressly provided otherwise in the Contract, nothing in the Contract, nor any actions taken by the Parties pursuant to the Contract shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise either Party to make representations or enter into any commitments for or on behalf of any other Party.

Waiver

- 38.2. The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.
- 38.3. No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Clause 24 (Notice) of this Schedule 2.
- 38.4. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.

Cumulative Remedies

- 38.5. Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

Severability

- 38.6. If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Contract shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Contract, the Parties shall immediately commence negotiations in good faith to remedy the invalidity.

Entire agreement

- 38.7. The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with herein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this Clause 38.7 (Entire Agreement) shall not exclude liability in respect of any Fraud or fraudulent misrepresentation.

Further assurances

- 38.8. Each Party undertakes at the request of the other, and at the cost of the requesting Party, to do all acts and execute all documents which may be necessary to give effect to the meaning of the Contract.

The Contracts (Rights of Third Parties) Act 1999

- 38.9. A person who is not a Party to the Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both Parties. This Clause 38.9 (The Contracts (Rights of Third Parties) Act 1999) does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

Law and Jurisdiction

- 38.10. This Contract, and any dispute or claim arising out of or in connection with it or its subject matter (including any non-contractual claims), shall be governed by, and construed in accordance with, the laws of England and Wales.
- 38.11. Subject to Clause 19 (Dispute Resolution) of this Schedule 2, the Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Contract or its subject matter.

SCHEDULE 3

DEFINITIONS AND INTERPRETATION

1. DEFINITIONS

- 1.1. In the Contract unless the context requires otherwise the following definitions shall be used for the purposes of interpreting the Contract. Other definitions that are not of general application are stated in the Clause where the definition first appears and shall apply only to that Clause unless otherwise shown below:

“Affected Party”	the Party seeking to claim relief in respect of a Force Majeure Event;
“Affiliate”	means in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
“Anti-slavery Policy”	means the Contractor’s slavery and human trafficking policy, if any, as amended by notification to the Authority from time to time;
“Authority”	means the Secretary of State for Health acting as part of the Crown;
“Authority’s Anti-slavery Policy”	means the Authority’s slavery and human trafficking policy, if any, as amended by notification to the Contractor from time to time;
“Authority Data”	<p>means the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <ul style="list-style-type: none">a. supplied to the Contractor by or on behalf of the Authority; orb. which the Contractor is required to generate, process, store or transmit pursuant to the Contract; orc. any Personal Data for which the Authority is the Controller; <p>and shall include any Research Data.</p>

"Authority Representative"	means the person authorised to act for the Authority for the purposes of the Contract, being the person specified in the Key Provisions;
"BCDR Plan"	means the Contractor's business continuity and disaster recovery plan prepared in accordance with Schedule 14 (Business continuity and disaster recovery plan) as amended from time to time;
"Biometric Data"	means Personal Data resulting from specific technical Processing relating to the physical, physiological or behavioral characteristics of a natural person, which allow or confirm the unique identification of that natural person, such as facial images or dactyloscopic data;
"Breach Notice"	means a written notice of breach given by one Party to the other, notifying the Party receiving the notice of its breach of this Contract;
"Business Continuity Event"	means any event or issue that could impact on the operations of the Contractor and its ability to supply the Services;
"Carbon Footprint"	means the amount of carbon dioxide equivalent emissions that will be released into the atmosphere as a result of the supply of the Services determined in accordance with international carbon reporting practice, being the accepted practice from time to time in relation to reporting for the purposes of the protocols to the United Nations Framework Convention on Climate Change;
"Carbon Reporting"	means reporting of an organisation's Greenhouse Gas emissions and extraction to a standard not less than that required by the UK government's Streamlined Energy and Carbon Reporting (SECR);
"Care Services"	means in: England – NHS and adult Social Care; Wales – NHS and Social Care; Scotland – NHS and adult Social Care; Northern Ireland – Health and Social Care.

Central Government Body”

means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:

- a. Government Department;
- b. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);
- c. Non-Ministerial Department; or
- d. Executive Agency;

“Change Control Process”

means the change control process, if any, referred to in the Key Provisions;

“Change in Law”

means any change in Law which impacts on the performance of the Services which comes into force after the Commencement Date;

“Clinical Risk Management Provisions”

means the information standards found at <https://digital.nhs.uk/data-and-information/information-standards/information-standards-and-data-collections-including-extractions/publications-and-notifications/standards-and-collections/dcb0129-clinical-risk-management-its-application-in-the-manufacture-of-health-it-systems>;

“Commencement Date”

means the date of this Contract;

“Commercially Sensitive Information”

means the information listed in Schedule 8 (Commercially Sensitive Information) comprising the information of a commercially sensitive nature relating to the Contractor, its business or which the Contractor has indicated to the Authority that, if disclosed by the Authority, would cause the Contractor significant commercial disadvantage or material financial loss;

“Comparable Supply”

means the supply of services to another customer of the Contractor that are the same or similar to any of the Services;

“Confidential Information”

means any information which has been designated as confidential by either Party in writing or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and Know-How of either Party and all Personal Data and sensitive Personal Data within the meaning of the UK GDPR. Confidential Information shall not include information which:

- a. was public knowledge at the time of disclosure (otherwise than by breach of Clause 27 (Confidential Information) of Schedule 2);
- b. was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- c. is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- d. is independently developed without access to the Confidential Information;

“Contract”

means the form of contract at the front of this document and all Schedules attached to the form of contract;

“Contract Price”

means the price (exclusive of any applicable VAT), payable to the Contractor by the Authority under the Contract, as set out in the Order Form or Schedule 6 (Pricing) (as applicable) for the full and proper performance by the Contractor of its obligations under the Contract but before taking into account the effect of any adjustment of price in accordance with Clause 8 (Price Adjustment on Extension of Term) of Schedule 1 (Key Provisions), if applicable;

“Contract Target”

the proportion of the Authority’s Net Zero Target which will be achieved under this Contract.

“Contract Year”

means:

- a. a period of 12 Months commencing on the Services Commencement Date; or
- b. thereafter a period of 12 Months commencing on each anniversary of the Services Commencement Date,

provided that the final Contract Year shall end on the expiry or termination of the Term;

“Contracting Authority”	means any contracting authority as defined in Regulation 2 of the Regulations;
“Contractor”	means the contractor named on the form of Contract on the third page;
“Contractor Personnel”	means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor engaged in the performance of the Contractor’s obligations under the Contract from time to time;
“Contractor Representative”	means the individual authorised to act for the Contractor for the purposes of the Contract, being the person specified in the Key Provisions;
“Contracts Finder”	means the facility provided by the Cabinet Office to advertise contract opportunities available at https://www.gov.uk/contracts-finder and any successor facility or website;
"Control"	means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and "Controls" and "Controlled" shall be interpreted accordingly;
“Controller”, “Processor”, “Data Subject”, “Personal Data”, “Personal Data Breach”, “Data Protection Officer”	take the meaning given in the UK GDPR;
“Crown”	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

“Data Concerning Health”	means Personal Data related to the physical or mental health of a natural person, including the provision of health care services, which reveal information about his or her health status;
“Data Loss Event”	any event that results, or may result, in an unauthorised access to Personal Data held by the Contractor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
“Data Protection Impact Assessment”	means an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
“Data Protection Legislation”	means (i) Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as incorporated into domestic UK law by the European Union (Withdrawal Agreement) Act 2018 (as amended) and amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (as amended) (together the “UK GDPR”); (ii) the Data Protection Act 2018; (iii) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426); and (iv) all applicable Law about the processing of Personal Data and privacy, in each case as amended, updated or replaced from time to time;
“Data Subject Request”	means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to their Personal Data;
“Default”	<p>means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement:</p> <ul style="list-style-type: none">a. in the case of the Authority, of its employees, servants or agents; orb. in the case of the Contractor, of its Sub-contractors or any Contractor Personnel; orc. in connection with or in relation to the subject matter of the Contract and in respect of which such Party is liable to the other;

“Delay Payments”	the amounts payable by the Contractor to the Authority in respect of a Delay as specified in Clause 6.10 and Schedules 5 and 6;
“Deliverables”	means an item or feature delivered or to be delivered by the Contractor at or before a Milestone Date or at any other stage during the performance of this Agreement and including for the avoidance of doubt the Final Report;
“DOTAS”	if applicable means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to national insurance contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992;
“Employment Regulations”	Means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) and any legislation amending, modifying, extending, varying, superseding, replacing, substituting or consolidating it from time to time;
“Environmental Information Regulations”	means the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;
“Equality Legislation”	means any and all legislation, applicable guidance and statutory codes of practice relating to equality, diversity, non-discrimination and human rights as may be in force in England and Wales from time to time including, but not limited to, the Equality Act 2010, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 (SI 2002/2034) and the Human Rights Act 1998;
“Existing IPRs”	means any and all Intellectual Property Rights that are owned by or licensed to either Party and which are or

have been developed independently of the Contract (whether prior to the Commencement Date or otherwise);

“Exit Day”	shall have the meaning in the European Union (Withdrawal) Act 2018;
“Exit Plan”	means the plan for the provisions of the Transitional Assistance Services in the event of the expiry or termination of the Contract, which is to be developed by the Parties pursuant to Clause 16 (Exit and Service Transfer) of Schedule 1 (Key Provisions);
“Expiry Date”	means the date upon which the Contract shall end as specified in the Key Provisions;
“FOIA”	means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation;
“Force Majeure Event”	any event outside the reasonable control of either Party affecting its performance of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or Regulatory Bodies, pandemic, epidemic, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Contractor or the Contractor Personnel or any other failure in the Contractor’s or a Sub-contractor’s supply chain or, for the avoidance of doubt, the withdrawal of the United Kingdom from the European Union and any related circumstances, events, changes or requirements;
“Force Majeure Notice”	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
“Fraud”	means any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts including acts of forgery;

“General Anti-Abuse Rule”	if applicable, means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
“General Change in Law”	means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Contractor) or which affects or relates to a Comparable Supply;
“Good Industry Practice”	means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances;
“Greenhouse Gas”	means gases that contribute to or accelerate the greenhouse effect by absorbing infrared radiation, including but not limited to: carbon dioxide, methane, nitrous oxide, sulphur hexafluoride, hydrofluorocarbons, perfluorocarbons and chlorofluorocarbons;
“Halifax Abuse Principle”	if applicable, means the principle explained in the CJEU Case C-255/02 Halifax and others;

- “Impact Assessment”** an assessment of the impact of a Variation request, compelled in good faith, including:
- a. details of the impact of the proposed Variation on the Services and the Contractor’s ability to meet its other obligations under the Contract;
 - b. details of the cost of implementing the proposed Variation;
 - c. details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Contract Price, any alteration in the resources and/or expenditure required by either Party, and any alteration to the working practices of either Party;
 - d. a timetable for the implementation, together with any proposals for the testing of the Variation; and
 - e. such other information as the Authority may reasonably request in (or in response to) the Variation request.
- “Implementation Plan”** means the implementation plan, if any, referred to in the Key Provisions;
- “Information”** means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form);
- “Intellectual Property Rights”** includes:
- a. copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other right;
 - b. applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and

- c. all other rights having equivalent or similar effect in any country or jurisdiction;

“Joint Controllers”	means where two or more Controllers jointly determine the purposes and means of Processing;
“Key Personnel”	means those persons named in Schedule 11 as being key personnel or such persons as shall be agreed in writing by the Authority from time to time;
“Key Provisions”	means the Key Provisions and Optional Key Provisions (as applicable) set out in Schedule 1 (Key Provisions);
“Know-How”	means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Services but excluding know-how already in the other Party’s possession before the applicable Commencement Date;
“Law”	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply including but not limited to the Modern Slavery Act 2015;
“Losses”	losses, liabilities, damages, costs and expenses (including legal fees on a solicitor/client basis) and disbursements and costs of investigation, litigation, settlement, judgment interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty or otherwise;
“Month”	means calendar month;
“Native Trees”	those species of trees that are native to the United Kingdom since the last ice age and listed as such on the Forestry Commission Website;
“Net Zero Target”	a net reduction of Greenhouse Gas emissions from all operations including value and supply chains to zero by a specified date so there is a balance between sources and sinks of Greenhouse Gases in a calendar year and for each subsequent year thereafter;

“New IPR”

means:

- a. Intellectual Property Rights in items created by the Contractor (or by a third party on behalf of the Contractor) specifically for the purposes of the Contract and updates and amendments of these items including (but not limited to) database schema; and/or
- b. Intellectual Property Rights in or arising as a result of the performance of the Contractor's obligations under the Contract and all updates and amendments to the same;

But shall not include the Contractor's Existing IPR;

“Occasion of Tax Non-Compliance”

means:

- a. any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:
 - i) a Relevant Tax Authority successfully challenging the Contractor under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
 - ii) the failure of an avoidance scheme which the Contractor was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
- b. any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a civil penalty for fraud or evasion;

"Party"

means a party to the Contract;

“Premises”	means, where applicable, the location where the Services are to be supplied, as set out in the Schedule 4 (Specification);
“Processing”	means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, 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;
“Processor Personnel”	means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Contract;
“Protective Measures”	means appropriate technical and organisational measures to ensure a level of security appropriate to the risk 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 the such measures adopted by it;
“Profiling”	means any form of automated Processing of Personal Data consisting of the use of Personal Data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person’s performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements;
“Prohibited Act”	means: <ul style="list-style-type: none">a. to directly or indirectly offer, promise or give any person working or engaged by a Contracting Authority and/or the Authority a financial or other advantage to:i) induce that person to perform a relevant function or activity improperly; orii) reward that person for improper performance of a relevant function or activity;

- b. committing any offence:
 - i) under the Bribery Act 2010;
 - ii) under legislation creating offences concerning Fraud;
or
 - iii) at common level concerning Fraud; or
- c. committing (or attempting or conspiring to commit) Fraud;

“Property”	means the property, other than real property, issued or made available to the Contractor by the Authority in connection with the Contract;
“Pseudonymising”	means the Processing of Personal Data in such a manner that the Personal Data can no longer be attributed to a specific Data Subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the Personal Data are not attributed to an identified or identifiable natural person;
“Purchase Order”	means the purchase order required by the Authority's financial systems, if a purchase order is referred to in the Key Provisions;
“Quality Standards”	means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body, (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with, and as may be further detailed in the Schedule 4 (Specification) and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body;
“Regulations”	means the Public Contracts Regulations 2015 as amended from time to time;
“Regulatory Bodies”	means government departments and regulatory, statutory and other entities, committees, ombudsman and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate or

	influence the matters dealt with in the Contract and “Regulatory Body” shall be construed accordingly;
“Relevant Requirements”	means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
“Relevant Tax Authority”	if applicable, means HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the Contractor is established;
“Relevant Transfer”	shall have the meaning ascribed in Schedule 10 (Staff Transfer);
“Replacement Contractor”	means any third party contractor of Replacement Services appointed by the Authority from time to time and in accordance with the terms of the Contract;
“Replacement Services”	means any services which are identical or substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the termination or expiry of the Contract, whether those services are provided by the Authority itself or by any Replacement Contractor;
“Research”	means the scope of work provided under this Contract;
“Research Data”	means “information or data that is collected or generated in the performance of the Services and includes (but is not limited to) information that is collated or stored in searchable form.”
“Security Policy”	means the HMG Security Policy Framework (April 2014) available at https://www.gov.uk/government/publications/security-policy-framework , as amended by notification to the Contractor from time to time;
“Services”	means the services to be supplied as specified in Schedule 4 (Specification);
“Services Commencement Date”	means the services commencement date, if any, referred to in the Clause 7 (Services Commencement Date) of Schedule 1 (Key Provisions). If Clause 7 (Services Commencement Date) of Schedule 1 (Key Provisions) is not applicable, references in the Contract to the Services

Commencement Date shall refer to the Commencement Date;

“SME”	means an enterprise falling within the category of micro, small and medium-sized enterprises (http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en) defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises;
“Specific Change in Law”	a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply;
“Specification”	means the Specification set out in the Order Form or Schedule 5(Specification), as applicable.
“Step-In Rights”	means the step-in rights, if any, referred to in the Key Provisions;
“Sub-contract”	means the Contractor’s contract with a Sub-contractor whereby that Sub-contractor agrees to provide to the Contractor the Services (or any part thereof) or facilities or services necessary for the provision of the Services (or any part thereof) or necessary for the management, direction or control of the Services;
“Sub-contractor”	means any person appointed by the Contractor to carry out any and/or all of the Contractor’s obligations under the Contract;
“Sub-processor”	means any third party appointed to process Personal Data on behalf of the Contractor related to this Contract;
“Tender”	means the tender submitted by the Contractor to the Authority and annexed to Schedule 5 (Tender);
“Term”	means the term as set out in the Key Provisions;
“Termination Notice”	means any notice to terminate this Contract which is given by either Party in accordance with the provisions of the Contract;
“Termination Period”	means the period specified in the Termination Notice during which period the Authority may require the Contractor to

	continue to provide the Services after a Termination Notice has been given provided always that such period may not extend the Term (as extended by Clause 6.2 (Term) of Schedule 2) by more than six (6) Months;
“Transferring Authority Employees”	shall have the meaning ascribed in Schedule 10 (Staff Transfer);
“Transferring Former Contractor Employees”	shall have the meaning ascribed in Schedule 10 (Staff Transfer);
“Transitional Assistance Service Charges”	means the charges, if any, payable by the Authority to the Contractor for the provision of the Transitional Assistance Services, which shall be calculated in accordance with Schedule 6 (Pricing);
“Transitional Assistance Services”	means the services to be provided by the Contractor to the Authority pursuant to Clause 16 (Exit and Service Transfer) of Schedule 1 (Key Provisions) in order to facilitate the transfer of the Services to the Authority or a Replacement Contractor;
“UK GDPR”	means the UK GDPR as defined in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018;
“Unconnected Sub-contract”	means any contract or agreement which is not a Sub-contract and is between the Contractor and a third party (which is not an Affiliate of the Contractor) and is a qualifying contract under regulation 6 of the Reporting on Payment Practices and Performance Regulations 2017;
“Unconnected Sub-contractor”	means any third party with whom the Contractor enters into an Unconnected Sub-contract;
"Variation"	means any variation to this Contract;
“Variation Form”	means the form set out in Schedule 9 (Variation Form);
“VAT”	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
“Voluntary, Community and Social Enterprise” or “VCSE”	means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;

“Worker” means any one of the Contractor Personnel which the Authority, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) applies in respect of the Services;

“Working Day” means any day other than a Saturday or Sunday or public holiday in England and Wales.

- 1.2. The interpretation and construction of the Contract shall be subject to the following provisions:
- 1.2.1. words importing the singular meaning include, where the context so admits, the plural meaning and vice versa;
 - 1.2.2. words importing the masculine include the feminine and the neuter;
 - 1.2.3. reference to a Clause is a reference to the whole of that Clause unless stated otherwise;
 - 1.2.4. reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
 - 1.2.5. reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
 - 1.2.6. the words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”; and
 - 1.2.7. headings are included in the Contract for ease of reference only and shall not affect the interpretation or construction of this Contract.
- 1.3. Where a standard, policy or document is referred to in this Contract by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant standard, policy or document, the Contractor shall notify the Authority and the Parties shall update this Contract with a reference to the replacement hyperlink.
- 1.4. Any Breach Notice issued by a Party in connection with this Contract shall not be invalid due to it containing insufficient information. A Party receiving a Breach Notice (**“Receiving Party”**) may ask the Party that issued the Breach Notice (**“Issuing Party”**) to provide any further information in relation to the subject matter of the Breach Notice that it may

reasonably require to enable it to understand the Breach Notice and/or to remedy the breach. The Issuing Party shall not unreasonably withhold or delay the provision of such further information as referred to above as may be requested by the Receiving Party but no such withholding or delay shall invalidate the Breach Notice.

- 1.5. In entering into this Contract the Authority is acting as part of the Crown.
- 1.6. Any reference in this Contract which immediately before Exit Day was a reference to (as it has effect from time to time):
 - 1.6.1. any EU regulation, EU decision, EU tertiary legislation or provision of the European Economic Area (“**EEA**”) agreement (“**EU References**”) which is to form part of domestic Law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic Law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic Law from time to time; and
 - 1.6.2. any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred.

SCHEDULE 4 SPECIFICATION

Definition of terms

In this schedule the following definitions shall apply:

“Authority” means the Department of Health and Social Care

“API” means Application Programme Interface

“BMI” means Body Mass Index

“CMO” means Chief Medical Officer

“DHSC” means Department of Health and Social Care

“DTAC” means the Digital Technology Assessment Criteria for Health and Social Care

“IPR” means Intellectual Property Rights

“ITT” means Invitation to Tender

“KPI” means Key Performance Indicator

“NIHR” means the National Institute for Health Research

“PHE” means Public Health England or any successor body

“PRU” means Policy Research Unit

“SES” means Social Economic Status

‘Incentives’ refers to anything which has an economic value to the recipient. This includes, but is not limited to, gift cards/vouchers, merchandise, coupons, discounts, goods, and/or services.

1. CONTEXT

Health Policy Background/Context

As set out in the Government’s 2020 Tackling Obesity strategy, obesity is one of the biggest health crises the country faces today. Obesity is associated with reduced life expectancy and a number of serious health conditions, including type 2 diabetes,

certain types of cancer, and heart disease¹. Almost two-thirds² (63%) of adults in England are currently overweight or living with obesity, and it is not evenly distributed across the population, with prevalence highest amongst the most deprived groups in society. Conditions related to excess weight and obesity are costly for society, with a cost to the NHS of £6.1 billion each year³. This could rise to £9.7 billion by 2050 if no action is taken⁴. The COVID-19 pandemic has shone an additional light on these problems, as those living with excess weight are at greater risk of serious illness or death from COVID-19, with risk growing substantially as body mass index (BMI) increases above a healthy weight⁵. This is why it is imperative we act now to support the nation in living healthier lives and making behaviour changes to eat better and move more, to prevent or delay the onset of serious diseases.

Key to addressing obesity and wider health concerns of the population is supporting people with better healthy eating and physical activity behaviours. Regular physical activity, reduced sedentary time and healthier dietary choices are related to increased life expectancy and reduced incidence of many chronic conditions. Adopting healthier dietary behaviours, including reducing consumption of food and drinks high in calories, fat, sugar and salt and increasing levels of physical activity can lead to weight loss, which contributes to a wide range of health benefits and can improve health outcomes. However, being physically active and eating healthier can also improve health outcomes, which are independent of weight loss. Despite the benefits, a large proportion of the population struggles to be physically active or eat well. For example, nearly 40% of adults do not reach the CMO's recommended 150 minutes of physical activity per week⁶, the vast majority (72%) of adults do not eat the recommended five portions of fruit and vegetables per day⁷, and on average adults consume twice as much sugar as a percentage of total energy intake per day than the government's recommendation⁸. This illustrates again why it is imperative that we act now to support individuals in eating better and moving more.

The Health Incentives Programme

On 4 March 2021, the Department of Health and Social Care (DHSC) announced an ambitious £100m package of measures to improve the health of the nation by empowering people to make healthier choices and to support those living with obesity to move towards and maintain a healthier weight. As part of this funding, and

¹ Guh et al. (2009) The incidence of co-morbidities related to obesity and overweight: A systematic review and meta-analysis, BMC Public Health.

² NHS Digital (2020) Statistics on Obesity, Physical Activity and Diet, England, 2020

³ Estimates for UK in 2014/15 are based on: Scarborough, P. (2011) The economic burden of ill health due to diet, physical inactivity, smoking, alcohol and obesity in the UK: an update to 2006–07 NHS costs. Journal of Public Health. May 2011, 1-9. Uplifted to take into account inflation

⁴ McPherson, K., Marsh, T. and Brown, M. 2007. Modelling Future Trends in Obesity and the Impact on Health. Foresight Tackling Obesities: Future Choices (<http://www.foresight.gov.uk>)

⁵ Public Health England. (2020) Excess weight and COVID-19: insights from new evidence

⁶ Sport England Active Lives Adult Survey November 2019/20 Report ([link](#))

⁷ Health Survey for England 2018 ([link](#))

⁸ National Diet and Nutrition Survey 2014/15 to 2015/16 ([link](#))

given the health policy context set out above, we are looking to develop and test an incentives-based approach to positive health behaviour change. Our ambition is that this would support healthier lives and Government's ambitious commitment to tackle obesity and obesity-related illnesses, reducing pressure on the NHS as we emerge from the pandemic and enabling us to 'build back' better as a more resilient, healthier, fairer society.

We are looking to pilot a digital incentive scheme to evidence and help understand, in practice, what works and what does not in the adult population (18+) in England. We expect the supplier to gather user data on behaviour change as a core part of the pilot. We will ask the supplier to identify the target population in an area (though are open to non-geographic approaches) based on the demographics of the target groups as set out below, using publicly available data. We are considering the role that DHSC, PHE and/or an evaluation partner might play in supporting the provider to identify their target audience.

This work supports a wider and emerging approach to public health and prevention that is more personalised, data-driven and digital in nature. Government views this programme as an opportunity to harness the very best innovation and thinking from across the public, private and third sectors.

The Authority wishes to leverage the best innovation in the public and private sector to test the role that incentives can play in encouraging healthier behaviours. While there is existing evidence showing that financial incentives can lead to positive short-term outcomes in the areas of physical activity, weight loss and healthy eating, there are also gaps in the evidence (e.g. around incentive scheme design, digital-based solutions for dietary behaviours) which we aim to use the pilot to help to address.

We are looking to commission a 'pilot' digital programme to test an incentives-based approach to positive health behaviour change for our health behaviours of interest (physical activity and diet). We are interested in a pilot that can reach the general adult population in England, with a focus on those who do not currently meet the Government's guidelines on physical activity and diet, and underserved groups. Our vision is for this pilot to be an exciting and attractive proposition within the area(s) in which it is tested – with participants being able to access a variety of incentives for performing the health behaviours of interest, to maximise the chance of success. Our ambition is for the outcomes and evaluation of the pilot to demonstrate that a digital approach to incentivising healthy behaviours, which puts joint working between local partners, Government and commercial organisations at the heart, can engage participants and deliver behavioural change, and could be expanded after the pilot stage, subject to funding.

The maximum value of the contract for the pilot programme is £2 million. Up to £3 million will also be available for the provision of incentives. The £3 million for incentives will be separate from the funding to deliver this contract and treated as a 'through-put' that the successful organisation should distribute to incentivise the behavioural changes of increased physical activity and improved diet.

2. Objectives and Target Audience

The objectives of this contract are to evidence that, via a digital approach, incentives can be used to:

1) Improve the physical activity levels of participants, with a particular interest in improving the activity levels of those who do not currently achieve CMO recommendations / Government policy (where this does not go against clinical advice);

and

2) Improve the diet of participants, with a particular interest in improving the diet of those who are currently not achieving the Government recommendations on food / drink consumption (i.e. through making healthier food and drink choices, in line with Government recommendations / policy) (where this does not go against clinical advice)

The expectation is that by encouraging these behaviour changes, participants on the pilot could be supported to move towards and/or sustain a healthier weight. However, due to the limited time frames of this pilot, targeting, and focussing on, sustaining a healthier weight is not a requirement of organisations and will be considered supplementary to the required evidence for changes in physical activity levels and dietary behaviour.

‘Incentives’ refers to anything which has an economic value to the recipient. This includes, but is not limited to, gift cards/vouchers, merchandise, coupons, discounts, goods, and/or services.

The target audience for the pilot is the general adult (18+) population with a focus on:

those who do not already engage in the healthy behaviours in line with Government recommendations incentivised by the pilot scheme, i.e. those who are not physically active and have poor diets.

‘underserved’ groups, i.e. those from a disadvantaged sociodemographic background (low SES, ethnic minority background, area of high deprivation).

The expectation is that the pilot scheme will predominantly focus on participants who do not already meet the Government recommendations on physical activity and diet, as this would have the potential to have the most significant impact for health (for context around the barriers and enablers in achieving healthy levels of physical activity and healthy diets, see Annex A) . However, it is important to understand how an incentives scheme could impact those already meeting these behaviours in order to understand how a scheme could work on a wider scale and to have this group included in the scheme. The pilot should be open and accessible to the adult population and non-stigmatising, while attempting to reduce the barriers faced by these two groups of focus.

Aims:

The principal aim of the pilot is to understand whether a Government-supported scheme can incentivise people to positively change their health behaviours (physical activity and diet) for the adult England population. It is a requirement of the contract that evaluation of the pilot answers this question.

The secondary aim of the pilot is to understand the optimum level/value of incentive that can achieve behaviour change during the pilot period. It is a requirement that evaluation of the pilot answers this question. In order to answer this question, bidders must set out how they will test different levels/values of maximum per-person incentive over the pilot period. This will be the maximum total value of incentive that an individual participant could achieve over the course of the pilot period. Bidders should propose at least 3 groups (e.g. a 'high' value incentive group, 'medium' value incentive group, and 'low' value incentive group) that they will test in their pilot.

The additional aim of the pilot is to understand the optimum features of incentive scheme design, outside of the level/value of incentive, to achieve behaviour change. Bidders must provide evidence to justify the features of their chosen scheme design (e.g. type, frequency, timing and delivery mechanism of the incentive) and may optionally choose to test different features as part of the pilot. If bidders choose to test different features of scheme design, they must set out their full plans.

We recognise that incentivising participants to increase physical activity and improve diet may support people living with overweight or obesity to move towards or sustain a healthier weight and support healthy weight individuals to sustain a healthy weight. Whilst we would be interested to understand if this is achieved in the pilot phase, we anticipate that this may be a longer-term outcome of a shift to healthier behaviours, and as such it is not a core focus for this pilot.

3. Supplier Requirements – Overview

The Authority is seeking to commission an organisation to deliver a digital approach that tests the use of incentives to increase both the physical activity levels and improve the diet of participants in line with UK Chief Medical Officer guidelines, and Government recommendations and policy.

The Authority requires a Provider as an integrator to supply and manage an integrated Health Incentive Pilot in England to be made up of the services listed below:

- **Service requirement 1-** Pilot management including service integration and compliance
- **Service requirement 2-** Pilot design, participant sampling, recruitment, marketing and engagement, and result analysis and evaluation
- **Service requirement 3-** Provision of a digital infrastructure to engage participants, track diet and physical activity behaviours, and link incentive provision

- **Service requirement 4- Provision of incentives**

The Provider will be required to mobilise a health incentives pilot within a 1- to 4-month period from contract award date, so that the pilot launches on 01/01/2022. During the mobilisation period the successful organisation must complete all the necessary preparation to launch the pilot in full, from January 2022. This preparation should include but is not limited to:

- Refining and finalising the mobilisation plan;
- Agreeing achievable key performance indicators and milestones, including but not limited to the contents of section 10 below;
- Obtaining research and ethics approvals, as necessary;
- Undergoing an evaluation by the Authority to ensure the digital service meets the Digital Technology Assessment Criteria for health and social care (DTAC);
- Refining and finalising the design of the pilot and pilot delivery plan;
- Refining and finalising the incentives offer for users (this may include finalising partnerships with organisations who can provide incentives), onboarding incentives partners and embedding the incentives offer within the digital service;
- Testing the user journey including refining the approach based on user research (this should build on existing user research underpinning the Better Health brand/service and any existing user research underpinning any existing elements of the service), as necessary;
- Testing and finalising the functionality and operability of the digital service;
- Undergoing an assessment by the Authority to ensure the digital service meets the Government Service Standard and Technology Code of Practice;
- Refining and finalising marketing and communication plan;
- Preparing marketing materials ahead of the full launch and incorporating Government Better Health branding;
- Relationship building and management with local partners to embed the pilot in the local area; and,
- Working with the Authority and academic partners from the National Institute for Health Research (NIHR) Policy Research Units (PRUs) to refine and finalise the approach to the evaluation of their pilot's results, establishing baselines where possible and ensuring the methods for data collection are robust.

Organisations would be expected to present a mobilisation plan, their scheme design and an evaluation plan as part of their bid which will be reviewed and assessed by the Authority and four NIHR PRUs who will provide advice on how feasible and effective the plans are. The Authority will seek to work with the supplier to refine these plans ahead of launch, as required, to ensure they are robust.

The procurement timetable and corresponding contract period is detailed below in Table 1 and is expected to be from the week commencing 20/09/2021 – 22/09/2022, with a possible extension of up to 12 months in increments of 3 months. Note, the delivery of the pilot is expected to complete on 30/06/2022, however the programme is expected to end on 22/09/2022 to allow for the Provider to deliver the final evaluation report.

In the event that the contract is extended, it is expected that the Authority will still require the Provider to submit the interim evaluation report by the date below, however the Authority will agree with the Provider an appropriate date for any further interim reports and the final report.

The successful organisation must have the ability to deliver the requirements of this contract, which is for the contract period only.

The Procurement timetable is indicative only, and the Authority reserves the right to alter the dates at any time during the Procurement. The decision to alter any dates shall be made by the Authority alone. Unless and until advised otherwise, Tenderers are requested to progress their tendering activities in strict accordance with the dates contained in the procurement timetable.

This contract does not guarantee any larger delivery of a health incentives scheme following the pilot period; this, subject to funding, will be competed through a separate, fair and open process.

Table 1: Procurement, Mobilisation and Pilot Timetable

Activity	Date
Issue of Procurement Pack	07/07/2021
Tender return Deadline	12pm 09/08/2021
Notification of Award Stage Decision	w/c 30/08/2021 (provisional date)
Award Date & Mobilisation initiation	w/c 20/09/2021 (provisional date)
Mobilisation period end (provisional implementation milestones are outlined under the General Service Requirements section)	31/12/2021
Pilot Launch Date	01/01/2022
Pilot End Date (digital service/test)	30/06/2022
Pilot Interim Evaluation Report Due	11/08/2022
Pilot Final Evaluation Report Due	22/09/2022

The Provider may wish to deliver the service requirements as a single organisation or in a partnership, joint-venture or consortium.

In the instance of a partnership, joint venture or consortium approach, bidders will need to clearly outline:

- any split of service provision across other organisations (both diagrammatically and verbally) including thorough explanation of the scope of any sub-contracted elements;
- explanation of what arrangements the Provider will implement to manage sub-contractor default;
- notification of any changes in the identity of the proposed members of the partnership from those identified in any part of the Tenderer's response, in writing, as soon as reasonably practicable. The Authority reserves the right to reject or require modification of any proposed change. If any change is proposed, evidence must be provided to demonstrate that the change does not negatively affect any part of any Tender.

The Supplier shall take sole legal responsibility for the performance of the Services under the Contract.

4. SERVICE REQUIREMENT 1 – PILOT MANAGEMENT INCLUDING SERVICE INTEGRATION AND COMPLIANCE

The Authority has a requirement for the design and delivery of all operational aspects of a health incentive pilot between 1st January 2022 to 30th June 2022. This service requirement will include overall responsibility for the project management of the pilot, integration of all downstream services, marketing and communications, user support services.

Programme Management & Service Integration:

The Provider will provide a programme management and delivery role to ensure the pilot is delivered within the timeline, to budget and meets key milestones and performance indicators. The Provider will manage, and proactively drive delivery of the pilot programme and this will include but is not limited to delivery oversight of service requirements 2, 3 and 4, securing core service partnerships and subcontractors, as necessary, coordination and management of partner relationships and prompting the Authority and other stakeholders as necessary to take action when necessary.

The Provider will be responsible managing relationships and integrating service functionality/operability between any partners/consortium necessary to deliver the services outlined in this service description and in line with the proposed pilot scheme design.

The Provider will be responsible for ensuring staff across all partners/consortiums comply with the terms of the agreement and applicable standards.

The Provider will be responsible for ensuring that digital service meets the Digital Technology Assessment Criteria for health and social care (DTAC) from the beginning of the mobilisation period and provide all necessary documentation to the Authority. The Provider must document any refinements of the digital service during the mobilisation and pilot period and ensure that the digital service continues to be DTAC compliant and complete any reassessments, as necessary. To note, the provision of funding will be dependent on completion of the DTAC assessment and ongoing compliance.

The Provider will be responsible for ensuring that the digital service meets the Government Service Standard and Technology Code of Practice and provide all necessary documentation to and attend an assessment with the Authority during the mobilisation period, ahead of the pilot launch.

The Provider will be responsible for ensuring that refinement of services during the mobilisation period is carried out as necessary to optimise the service in line with user testing/research ahead of the pilot launch.

The Provider will be responsible for ensuring participants are recruited and engaged in the programme in line with the pilot scheme design and ensuring the digital service offer and incentives offer aligns with the pilot scheme design.

The Provider will be responsible for ensuring participants have access to the digital software. This will include communicating any essential information regarding data collection and sharing and seeking user consent, as appropriate.

The Provider will be the sole point of contact for participants during the pilot and responsible for incident and complaints resolution, in line with the relevant schedule of the draft contract. This will include coordinating and ensuring that changes to the service are made, as necessary, to ensure smooth operability and optimise participant experience.

The Provider will be responsible for ensuring that once participants have carried out positive health behaviours – as logged in the app/software – they are rewarded with the corresponding incentive in line with the pilot design, and in a timely fashion.

The Provider is responsible for ensuring there is a robust underlying data infrastructure and data flows for the pilot programme.

The Provider will be responsible for ensuring that the interim and final evaluation reports Service Requirement 2 are submitted to the authority within the specified timeframes.

Programme Reporting and Monitoring

The Provider will be required to submit management information and monitoring reports to the Authority on an ongoing basis throughout the duration of the mobilisation and pilot period. It is anticipated that the Provider will be required to provide weekly updates and formal monitoring reports at a minimum of monthly intervals. The frequency and format of these reports will be confirmed during the pilot mobilisation phase.

The Provider will be required to meet the agreed milestones and KPIs throughout the mobilisation and pilot period. The provisional mobilisation milestones are outlined in Annex B and will be finalised and agreed by the Authority at the beginning of the mobilisation period. The Provider has a duty to notify the Authority as soon as it becomes aware of any potential delay on delivery. Note further details outlined in the Commercial Management section below.

If it is determined that the pilot is not on track to meet its objectives the Authority may request changes to the Provider's approach to deliver on the requirements. Any changes would be requested in line with the change control notice procedure detailed in the draft contract in line with relevant schedule of the draft contract.

Fraud mitigation

The Provider must put in place appropriate fraud mitigation controls in relation to participants' activity and access to incentives including robust measures to monitor and verify participants behaviour change activity/progress. The Provider is required to outline how they will mitigate against fraud - for instance, how they will prevent participants fraudulently claiming incentives without performing the behaviours of interest. The Provider will be liable for any losses (specifically incentives paid) accrued due to fraud.

The supplier must share data from the pilot programme with the Authority for the purposes of fraud monitoring and mitigation. The Authority may share information provided in relation to this project/scheme/process/policy with the DHSC Anti-Fraud Unit (DHSC AFU), NHSBSA, NHSE&I, NHS Test and Trace, and NHS Counter Fraud Authority (NHSCFA) for the purposes of the prevention, detection, investigation and prosecution of fraud or any other unlawful activity affecting the healthcare system.

Clinical Safety, Safeguarding, Research and Ethics

The Provider must ensure the pilot programme meets the clinical safety standard DCB0129 (part of the DTAC assessment) during the mobilisation period. The Provider must maintain the DCB0129 clinical safety standard throughout the programme. The Provider must provide to the Authority completed DCB0129 documentation during the mobilisation period and provide updates to the Authority as and when any changes are made.

The Provider must have processes and safeguards in place to ensure the safety of groups who the scheme would not be appropriate for or for whom the health behaviours may go against clinical advice for their own personal circumstances. This would include, but may not be limited to, those under the age of 18 and those who should seek medical advice before participating.

The Provider must also have processes in place to recognise and protect participants who are engaging in unhealthy behaviours, or are engaging in the health behaviours of interest to an extent where the behaviours actually become unhealthy (for instance, restrictive eating or excessive exercise), as a result of the approach, and be able to provide monitoring reports.

The Provider will be required to obtain all regulatory research approvals, including ethical approvals, required for their pilot design and monitor and report on this on an ongoing basis, as necessary. Further information can be found in Annex A to help Providers determine whether such approvals and monitoring will be required for their proposed pilot and if so, what requirements they will need to meet.

Data Protection, Security and Privacy:

Data must be collected, stored, shared and used in compliance with all applicable law regarding the processing of personal data, privacy and security standards, including but not limited to UK GDPR and the Data Protection Act 2018.

The Provider is expected to act as a Data Processor, to process data for the purposes of the pilot programme on behalf of the Authority, the Data Controller. The Provider must process data collected during the pilot, for the purposes, and in line with the requirements, set out by the Authority which will be finalised post contract award in line with the Provider's proposed approach.

If the Provider intends to utilise any pre-existing data, for which they are the data Controller/Processor/Joint-Controller, they will need to make this clear in their bid and will need to consider whether there are any additional measures that they need to put in place.

The Provider will be required to work with the Authority to put in place any data sharing agreements with partners, as necessary, and to work with the Authority, who, as Data Controller will complete a Data Protection Impact Assessment and a Privacy Notice during the pilot mobilisation period.

In line with the relevant schedule of the draft contract, if it is considered by both the Authority and the Provider that the above data protection designations do not accurately reflect the nature of data processing activities outlined in the proposed pilot approach, these terms may be varied.

Effective security management and ensuring personal information and assessment data are kept secure, will be essential.

5. SERVICE REQUIREMENT 2 - PILOT DESIGN, PARTICIPANT SAMPLING, RECRUITMENT, MARKETING AND ENGAGEMENT AND RESULT ANALYSIS AND EVALUATION

The Provider will be required to design and evaluate the pilot programme and work with the Authority and the NIHR PRUs to refine their plans, as required. The Provider is required to submit an interim and final evaluation report in line with the timeframes set out in this specification and in line with the approach to the evaluation agreed with the Authority and the NIHR PRUs.

Pilot design- Evidence and Theory of Change:

This shall include the design of a health incentives pilot that fulfils the primary, secondary and additional objectives outlined above in section 4, The pilot must target the following health behaviours:

- 1) Improve the physical activity levels of participants, with a particular interest in improving the activity levels of those who do not currently achieve CMO recommendations / Government policy (where this does not go against clinical advice); and
- 2) Improve the diet of participants, with a particular interest in improving the diet of those who are currently not achieving the Government recommendations / policy on food / drink consumption (i.e. through making healthier food and drink choices, in line with PHE recommendations / Government policy) (where this does not go against clinical advice).

The Provider must demonstrate that they have the expertise and/or partner with a research organisation to design the pilot programme.

The Provider must consider the available evidence in this space and present an evidence-based approach and a corresponding theory of change for how their approach to incentives will lead to improvements in the health behaviours of interest. The Provider should consider:

- ‘physical activity’ in the broader sense as set out in the CMO guidelines. Elements of physical activity behaviour may include (but not limited to) number of minutes of moderate intensity physical activity, and strength training. For the full guidance and examples, see the [CMO PA Guidelines](#).
- ‘diet’ in the broader sense as set out the Eatwell guide. Elements of diet behaviour may include (but not be limited to) total energy intake, free sugar intake, fat intake, salt intake, fibre intake, and fruit and vegetable consumption. For guidance and examples, see the [Eatwell guide](#) and summary set out in the NHS ‘[8 tips for healthy eating](#)’ article.
- Please refer to Annex A for links to relevant Government guidelines on physical activity and diet.

The Provider must provide detail on which individual elements of physical activity and diet behaviour they seek to change through their proposed programme of incentives, and how this corresponds to users moving towards, meeting, and/or maintaining the CMO/Government recommendations for healthy eating and physical activity behaviours, in a way that is appropriate, safe, sustainable, equitable and affordable.

The Provider must include detail on the overall behaviour changes they expect participants to achieve by the end of the pilot period, as well as the individual behaviours over the course of the pilot for which they intend to provide incentives.

The Provider must also set out how their approach takes participant’s existing behaviours into account and specifically, how they will collect information on

participant's baseline behaviour/activity to inform this. The Provider should demonstrate how they will ensure the behaviour and approach accounts for the needs of the individuals on the scheme (e.g. age, sex).

Pilot design- Structure:

The secondary aim of the pilot is to understand the optimum level/value of incentive that can achieve behaviour change. The pilot should therefore be designed with at least three participant groups of different maximum per-person incentive (for the course of the pilot) and demonstrate sufficient statistical power to detect differences in health behaviours between groups. The maximum value of incentive per participant over the course of the pilot should not exceed £200 or fall below £10.

The additional aim of the pilot is to understand the optimum features of incentive scheme design, outside of the level/value of incentive, to achieve behaviour change. Bidders must provide evidence to justify the features of their chosen scheme design and may optionally choose to test different features as part of the pilot. If bidders choose to test different features of scheme design, they must set out their full plans. Features of scheme design that bidders may test include:

- type of incentive;
- frequency of incentive;
- timing of incentive;
- delivery mechanism of incentive.

In considering the design of the incentive scheme, the Provider should consider the available evidence on what works in this space, including but not limited to:

There is some evidence to show particular incentive scheme mechanisms are more effective than others. Contingent incentives have been shown to be more effective than those that are unconditional at changing behaviour, and incentives that are 'certain' are more motivating than entry into a lottery, for example. (Mitchell et al, 2013, Barte et al, 2017).

Evidence suggests that clear communication and immediate offering of incentives are effective design choices. Evidence is mixed about varying incentive amounts and is limited in terms of direct comparisons between design choices. (Thirumurthy 2019, Vlaev et al, 2019, Bachireddy et al, 2019).

Some design elements are deemed more acceptable to the public than others. Vouchers and gift cards were perceived as more acceptable than cash and can mitigate the risk of incentives being used to purchase unhealthy goods. Reward points have successfully been used before and can allow for selectiveness in what they can be spent on. Penalty mechanisms were perceived as less acceptable and may price out poorer groups. (Giles et al, 2015)

While the financial incentive should be the primary incentive element of the design, other non-financial incentives elements of design (e.g. positive message incentives) may supplement the financial incentive. These should also be based in evidence and set out as part of pilot design plans.

As part of the pilot design, bidders must consider the number of participants needed to provide the statistical power required to evaluate impact, ensure this aligns with the proposed levels of financial incentives, and ensure that this can be delivered within the £3m incentives budget for participants. Bidders must outline the total number of participants, the pilot groups, how participants will be assigned to groups (we anticipate that participants will be assigned randomly, but if bidders do not intend to assign participants to groups in this way they should set out their rationale and justify their approach) and any relevant ethical considerations.

The successful organisation must be willing to work with the Authority before the launch of the pilot, to confirm the final approach.

The Provider is required to design and implement the pilot design in line with any applicable requirements regarding regulatory research approvals, including ethics approvals, monitoring and reporting (see Annex A).

Pilot design- Sampling, Location & Target Audience:

The Authority's expectation is that the pilot will run in at least one defined geographical location within England (but we will not discount alternative approaches, for example where the whole scheme is digitally based). The Authority's ambition is for the pilot to be widespread in the area(s) it is operating in to maximise engagement from the adult population.

The pilot should run in area(s) of the country where the health behaviours of interest are of concern and on average are well below the CMO and Government recommendations, and where sociodemographic data suggest there may be a higher proportion of the groups of interest (those not currently meeting the healthy behaviours guidelines and 'underserved' communities), with the rationale that running pilots in these areas would benefit the most people in these areas, and assist in ensuring that enough people from the groups of focus participate in the pilot.

For geographically targeted approaches, the Provider should propose a ranked shortlist of five geographical locations for the pilot that meet the requirements set out below. Upon award of the successful Provider, the Authority will support the Provider to engage with the local ranked shortlist of five geographical locations for the pilot that meet the requirements below and that they are willing to work with authority and public health system leaders (e.g. Chief Executives and/or Directors of Public Health) in the Provider's preferred location(s) to provide more information on the final pilot approach, level of local authority input required and request support for hosting this novel pilot programme. The Authority reserves the right to suggest alternative local areas if the Provider's proposed areas do not meet the Authority's requirements set out below.

The Provider must demonstrate how their proposed area(s) meets the Authority's requirement of targeting adults who do not already engage in the health behaviours of interest, and underserved groups. Bidders should demonstrate their rationale for their proposed area and must consider (though are not limited to) the following factors:

- Health behaviours:
 - Diet (e.g. fruit and vegetable consumption)
 - Physical activity (% physically active adults)
- Health outcomes:
 - Overweight and obesity rate
 - Other health outcomes (e.g. self-reported wellbeing, hypertension, diabetes, Coronary Heart Disease, mental health, musculoskeletal conditions)
- Sociodemographic characteristics:
 - Index of multiple deprivation
 - Socioeconomic factors (employment, income)
 - Ethnicity
- Support from the local authority and other local partners

Bidders may consider examining these factors at local authority level using PHE's Public Health Outcomes Framework data ([link](#)).

Bidders may also choose to consider what, if any, other action is taking place within a defined locality with regard to the health behaviours of interest to identify how this may factor into the success of the pilot. Bidders should consider how this may impact the pilot scheme's potential for transferability to other areas.

If a bidder does not propose for the pilots to have a geographical focus or be restricted to geographical area(s), they should provide the rationale for this and outline how they will ensure engagement from the two groups of focus (those not currently meeting the guidelines for physical activity and diet, and underserved groups).

Marketing and Engagement

The successful organisation must market the scheme effectively, as part of the Better Health campaign, to identify and engage the target audience within the localities in which the pilot is operating. Bidders should consider utilising a range of marketing techniques – including but not limited to social media, local campaigns, point of sale promotion and advertising. The supplier must ensure that marketing content and messaging: is inclusive and culturally appropriate; is focused on encouraging positive health behaviours; avoids stigmatising the programme or its participants; and is not focussed on weight loss or body image.

As part of their bid, bidders must submit a marketing plan as part of their mobilisation plan and outline how many participants they plan to engage in the pilot, and how they will ensure that the Authority's target population is accounted for. This must align with the pilot design and account for both the number of participants needed to provide the statistical power required to evaluate impact and the level of financial

incentives required to stimulate a change in behaviour when stating how many participants they expect to engage. The marketing plan should reflect any relevant user research, including existing research underpinning the Better Health campaign, any existing user research underpinning the digital service and that carried out as part of the user research and user journey testing as part of the pilot.

The Provider will be required to track the success (i.e. what did and didn't work) of its marketing and communications strategy in relation to: initial engagement and continued participation of the target audience; acceptability of the programme; and sustainability of the programme (i.e. whether a pilot can operate in a variety of locations and engage participants from a range of groups) and report on this to the Authority. This assessment will need to be submitted as part of the final evaluation report of the pilot (see below for more information on evaluation and success criteria).

Branding

The supplier will be required to operate under a subset of Public Health England's 'Better Health' brand to be finalised in the mobilisation period]. This will demonstrate that the pilot has full Government backing and reflects the partnership approach we intend to take with the successful organisation.

The supplier should propose a channel marketing plan, including a co-branding approach [that is in line with partnership branding guidelines included in Annex B]. 'Better Health' must be the lead brand.

The 'Better Health' marketing department will require sign off on the wider channel marketing plan, including content and all applications of the brand assets (name, logo, typefaces, imagery) post contract-award. The Provider must be willing to work with the Marketing Team to agree a mutually agreeable pilot marketing plan during the early stages of the mobilisation period.

PHE will retain full ownership of the Better Health brand. Any license of Government assets will be supplied on a time-bound basis (not for any duration beyond the expiry of the pilot) and under strict guidelines for use which the successful organisation will be required to comply with.

The Provider must ensure the Better Health logo is used appropriately and not presented on products or promotional material relating to high fat, salt, sugar foods; tobacco products; alcoholic beverages; gambling products and sites; and any other activity, product or institution that could be reasonably deemed a public health risk.

Incentive and/or reward provision should, where possible, further improve healthy behaviours in line with Government policy and must not be redeemable against any activities, products or institutions that could be reasonably considered a public health risk and/or directly encourage unhealthy behaviours such as smoking, alcohol consumption, harmful gambling, or behaviours which would otherwise not be suitable for a Government scheme.

A full escalation plan and associated conditions covering any misuse of Better Health brand asset or misrepresentation of the brand can be found within the contract.

Data collection, analysis and evaluation:

The Provider will be required to provide baseline data, report on progress on an ongoing basis while the pilot is running and provide an interim evaluation report within 6 weeks of the pilot end date, and a full evaluation report within 12 weeks of the pilot end date, assessing the extent to which their scheme fulfilled programme objectives as set out in their logic model/theory of change.

The Provider must secure independent specialist research expertise and experience to develop and conduct the pilot evaluation. The Provider will also be required to cooperate with any review of the pilot scheme undertaken by the Authority.

The Provider must submit plans for how they intend to monitor and evaluate success of the pilot programme, along with any historical evaluation data for the proposed scheme (if relevant). In their evaluation plans, bidders must provide the specific metrics they intend to use to assess each of the criteria in Annex C and set out an analysis protocol to show how they will analyse their data and judge success. The Authority will work with the Provider on refining and agreeing the evaluation structure during the mobilisation period.

The Provider must ensure that their evaluation includes assessment of all success criteria included in Annex C. This list is not exhaustive, and bidders should consider whether there are other indicators it is necessary to collect and report on for their proposed approach. Where bidders test and compare optimum features of incentive scheme design, including at least three levels of incentive as per the 'secondary aim' and 'additional aim' of the pilot, they will need to ensure this is captured as part of their evaluation. The Provider must outline how the data will be collected which must reflect the capabilities of the digital service and outline any supplementary data collection methods.

Wherever possible, the Provider should collect objective measurements, while recognising that certain success criteria will need to be measured using self-reported data. Bidders should consider utilising validated tools for data collection, and set out what tools they intend to utilise for data collection (including baseline data) e.g. the short-form IPAQ (for physical activity ([link](#))) and the PHE standard evaluation framework for weight management interventions (for diet ([link](#))). Bidders are reminded to consider CMO guidance on physical activity ([link](#)), and the Government's Eatwell Guide for diet ([link](#)). Bidders must provide assurances that the data they collect will lead to reliable analysis.

In addition to the criteria set out in Annex C, the successful organisation may choose to assess the effectiveness of the pilot on improving participants' health outcomes. The Authority considers this useful information, but this is not a requirement and the inclusion of this in a bidder's evaluation plan will not affect the scoring of the plan at the bid assessment stage. We encourage bidders to ensure that their evaluation is participatory with the community they engage for their pilot. Bidders should consider use of a behaviour science framework as part of their plans to evaluate the success of their pilot.

For support with creating their evaluation plans, bidders should refer to the Magenta Book ([link](#)) for Government guidance on evaluation approaches, and should consider NICE guidance on digital behaviour change interventions ([link](#)).

The Provider's evaluation must contain an impact evaluation. Bidders should compare their programme to a comparator measure or counterfactual as part of this

impact evaluation. Bidders would ideally provide a comparison to a 'standard of care' i.e. no intervention. Bidders may consider using the PICOT format (population, intervention, comparison, outcome, timing).

In order to provide additional assurance to the evaluation process, academics from the NIHR PRUs will provide an enhanced peer review role in which they will assess the evaluation plans and set out feedback to support development where required. They will also carry out a peer review role at the end of the pilot and assess the published evaluation reports against the analysis plan set out and agreed at contracting.

If it is determined that the pilot is not on track to meet its objectives the Authority may request changes to the Provider's approach to deliver on the requirements. Any changes would be requested in line with the change control notice procedure detailed in the relevant schedule of the draft contract. This could include changes to the levels of incentive provision, the Provider should therefore factor this possibility into their bid.

The Authority reserves the right to commission an additional evaluation conducted by a third-party external provider. The successful organisation will be required to cooperate with this evaluation, including sharing original datasets if these are requested by the evaluation provider.

The Authority also reserves the right to undertake modelling on health outcomes and cost effectiveness. The successful organisation will be required to share cost and behaviour change data with the Authority in order to facilitate this.

In their evaluation plans, bidders must set out the mechanisms they propose to use for ensuring that data collection processes are robust and able to produce reliable analysis. Bidders must provide for the regular sharing of raw data with the Authority and with third party experts working alongside the Authority.

Data must be collected, stored, shared and used in compliance with all applicable law regarding the processing of personal data, privacy and security standards, including but not limited to UK GDPR and the Data Protection Act 2018. The successful organisation will be required to work with DHSC to complete a Data Protection Impact Assessment and a Privacy Notice during the pilot mobilisation period and to put in place any data sharing agreements with partners, as necessary.

The Provider is required to carry out the evaluation in line with any applicable requirements regarding regulatory research approvals, including ethics approvals, monitoring and reporting (see Annex A).

6. SERVICE REQUIREMENT 3 - PROVISION OF A DIGITAL APPROACH TO TRACK DIET AND PHYSICAL ACTIVITY BEHAVIOURS AND LINK TO INCENTIVES:

The Provider must be able to implement, within the mobilisation period defined by this contract, a digital approach, such as a mobile application, to pilot incentivising participants to increase the health behaviours of interest, in line with the proposed pilot design. The digital approach should measure at least one dietary and at least

one physical activity metric (examples of acceptable metrics can be found in Annex C).

The Provider must provide a digital solution that delivers the following outputs and has the ability to link with any other platforms/services, as necessary, to do so:

A digital product that participants can interact with to participate in the pilot. The digital approach should enable communications with participants to encourage behaviour change and communicate outcomes of their activity.

The digital service must record, track and monitor participants' behaviour change. This may require linking to platforms and services of other organisations who are able to record, track and monitor individual participant's behaviour change.

The digital service must collect, store data and analyse individual participant's behaviour throughout the pilot to determine whether they are eligible for an incentive, in line with the design of the pilot.

The digital service must process the value of incentives achieved by participants and translate this into tangible incentive offers for participants.

The digital service must include an incentives redemption process for participants that links seamlessly with incentive providers. This may require linking to platforms and services of other organisations providing the incentives offer.

The Provider must ensure the digital service is accessible for participants. The Provider is required to meet level AA of the Web Content Accessibility Guideline and will be required to set up an accessibility page for participants with relevant content.

The Provider must submit a user journey for the proposed digital approach as part of their bid. The Provider is required to carry out user research and to test the user journey during the mobilisation period in order to refine and implement any changes to optimise the service, as necessary, ahead of the launch of the service. The user research should build on existing research underpinning the Better Health campaign, any existing user research underpinning the digital service.

The Provider must implement any necessary changes to the digital service whilst it is live to ensure optimum operability that meets participant and partner needs. This may require ongoing iteration, troubleshooting and adaptations in response to any functionality/operability issues and participant feedback and/or complaints, as necessary.

The Provider must submit an overview of the digital service demonstrating data flow and links between any other organisations to deliver the outputs outlined above, including data collection and storage points

The digital offer should be rooted in digital best practice and must meet the Government Service Standard and Technology Code of Practice. The offer must also meet the requirements of the Equalities Act and should not have any in-built unnecessary barriers to access - for example, the solution should ensure

compatibility with assistive technology and the colour of the app should not inadvertently cause issues for certain groups.

The digital offer must meet the Digital Technology Assessment Criteria for health and social care (DTAC).

The digital solution must manage all data in compliance with all applicable law regarding the processing of personal data, privacy and security standards, including but not limited to UK GDPR and the Data Protection Act 2018. The Provider is required to demonstrate the service will meet these requirements and provide assurance that any data collected, processed and shared during the pilot will be for the purposes of the pilot programme only.

The Provider will not be required to publish the code or use open source for any of existing digital product(s) that they may utilise in the pilot programme however, the Provider will be required to publish the code and /or use open source for any additional digital capability that is developed for the purpose of the pilot, and funded by DHSC, [where this doesn't impact the supplier's IPR on their existing product(s)].

The digital approach must be free for participants to access and must not include commercial advertisements.

The Provider must outline whether they intend to supply hardware to participants, or for any other purposes during the pilot period, for example to aid tracking of physical activity behaviour. The provider must include plans to manage risk of hardware loss and the proposed plan for ownership/use of the hardware post pilot which will need to be agreed with the Authority.

7. SERVICE REQUIREMENT 4 - PROVISION OF INCENTIVES

The Provider must be able to provide an incentives offer to participants during the pilot period which, on successful demonstration of the health behaviours, participants can access and redeem via the digital service during the pilot period.

In order to deliver the incentives, the Provider must partner with a range of national or local organisations who can provide incentives in the form of, for example (but not limited to) gift cards/vouchers, merchandise, coupons, discounts, goods, or services to participants to incentivise them to engage in the health behaviours of interest. This could include but is not limited to national and local retailers, leisure centres, gyms and family attractions.

The incentives offered to participants must have economic value in line with the incentive levels outlined in the proposed pilot design. Note this must reflect the variable levels of incentives assigned to individuals within different pilot groups.

The types of incentives delivered through this pilot should, where possible, further improve their health behaviours (physical activity and diet) in line with Government policy, and should not directly encourage unhealthy behaviours – such as smoking,

alcohol consumption, harmful gambling, or behaviours which would otherwise not be suitable for a Government scheme. The incentives should not directly encourage less healthy diet/physical activity behaviours i.e. should not lead to a change in a participant's physical activity and/or diet behaviour that is further away from Government guidelines than their baseline behaviour. The Provider must demonstrate how their proposed range of incentives offered to participants will meet with this requirement and note that the Authority reserves the right to reject any element of the proposed incentive offer.

The Provider must offer a broad range of incentives for participants to choose from. This should include a high volume and wide variety of incentives from both national and local incentives partners. The types of incentives offered must be relevant and appealing to participants, considering cultural relevance, for example. The incentives offer for the pilot programme should have appeal and relevance that, if scaled up over time, would be suitable for a national roll out.

The Provider must, with agreement from the Authority, finalise agreements with all incentives partners and complete onboarding processes during the mobilisation period to ensure that the incentives offer is embedded within the digital service and fully operable from the beginning of the pilot period, unless otherwise agreed with the Authority. The Provider is required to set out their approach to achieving this within their bid.

The Provider must ensure that participants are able to view the range of incentives that will be available to them (upon successful demonstration of positive behaviour change) via the digital service.

The Provider is required to ensure that incentives are issued to, and redeemable for, participants in a timely manner in line with the pilot design. Note, the timing and frequency of the incentive provision are key factors of the pilot design, so to ensure the design of the pilot is not compromised, it is important that the Provider has the capability to deliver on this.

The Provider will be able to access up to £3 million for provision of incentives to support participants to engage in the health behaviours of interest, as measured via the aforementioned digital approach. Note - This funding will be separate from the funding to deliver this contract and treated as a 'through-put' that the successful organisation should distribute to incentivise the behavioural changes of increased physical activity and improved diet. In the distribution of incentives, the successful organisation must not generate income from third party organisations or take a cut of the funding available for incentives. If bidders require funding to administer the incentives, they should price this within their bid for the contract to run the pilot scheme.

The Provider must demonstrate that they have established partnerships with organisations who can offer incentives, or at a minimum have started to build partnerships. As part of their bid, The Provider must state how many partnerships they have established/engaged with, if any, further organisations they plan to partner with during the mobilisation stage. Bidders who can demonstrate that they have

multiple partners in place and that they represent a variety of incentives, that are appropriate and appeal to participants, will score more highly.

The Provider may wish to onboard additional incentives partners during the mobilisation period to increase the range of incentives for participants. The Provider will be required to set out how they would onboard additional partners, for example whether they would be open to enquiries from potential incentives providers and how they would manage this, and whether they could provide assurance that any additional incentives partnerships would deliver on the requirements above.

SCHEDULE 5 TENDER

Award Questionnaire – Quality (70%)

Question	AQ1	Weight	N/A	Word Limit	500 words
Award Criterion	The Authority requires the Potential Provider to: Overview of pilot				
Question	Please provide a concise summary highlighting the key aspects of the proposal				
Response Guidance	This response is not evaluated and is used to contextualise the Potential Provider's response.				

Provider Response (500 words max.)
<div style="background-color: black; width: 100%; height: 100%;"></div>
<div style="background-color: black; width: 100%; height: 100%;"></div>
<div style="background-color: black; width: 100%; height: 100%;"></div>
<div style="background-color: black; width: 100%; height: 100%;"></div>



Question	AQ2	Weight	7%	Word Limit	1500 words (or 3 pages)
Award Criterion		<p>The Authority requires the Potential Provider to:</p> <p>Service Integration:</p> <p>Demonstrate the highest levels of Service Integration Capabilities, with a focus on implementing an effective cross-service provider organisation making sure that all service providers are contributing to the end to end service.</p>			
Question		<p>Please provide an overview of any split of service provision across organisations and describe your approach to effectively integrate the service requirements in order to oversee the delivery of the pilot programme. Provide details of how you will plan and manage risks and interdependencies during the mobilisation and pilot periods.</p>			
Response Guidance		<p>This must include:</p> <ul style="list-style-type: none"> • The split of service provision across other organisations (both in writing and diagrammatically) and a thorough explanation of the scope of any sub-contracted elements. • A detailed, integrated and resourced service integration mobilisation plan from Contract Award, with supporting narrative, showing all key activities including mobilisation, design, development, operational and close out periods. • Your proposed approach to delivering the integration including how you will ensure all service providers have a common understanding of scope, the inter-dependencies and business outcomes from the outset. • Details on how you will support the creation, management and control of service integration elements within specific delivery plans. 			

Attachment 3 – Service Specification

	<ul style="list-style-type: none"> • Critical path including the interdependencies and interface mechanisms across and between people and teams, including across different Service Providers. • Risks, assumptions, issues and dependencies for the onboarding of service providers and the dependency of deliverables between service providers (internal and external) throughout the lifecycle of the programme. • How your internal service integration governance and quality assurance will support / drive progress and engage with the Contracting Authority. • How you would respond and what action you would consider taking should the Contracting Authority raise issues regarding the integration of the Services or user journey. • What specific Terms and Conditions will you put into place and flow down to the supply chain to ensure this service is delivered in line with the requirements and Government standards and how this will be managed. This should include the <u>Digital Technology Assessment Criteria for health and social care (DTAC)</u>, the <u>Government Service Standard</u> and <u>Technology Code of Practice</u>. • How your approach aligns with supply chain management payment terms, service integration and how you will manage risk across the entire supply chain and potential risks to overall delivery. • How would you respond to an additional integration request should an additional partner request to join the programme mid-flight. • How your proposed approach demonstrates industry best practice and proven experience.
--	---

Provider Response (1500 words or 3 pages max.)

[REDACTED]

[REDACTED]

[illegible]

Attachment 3 – Service Specification

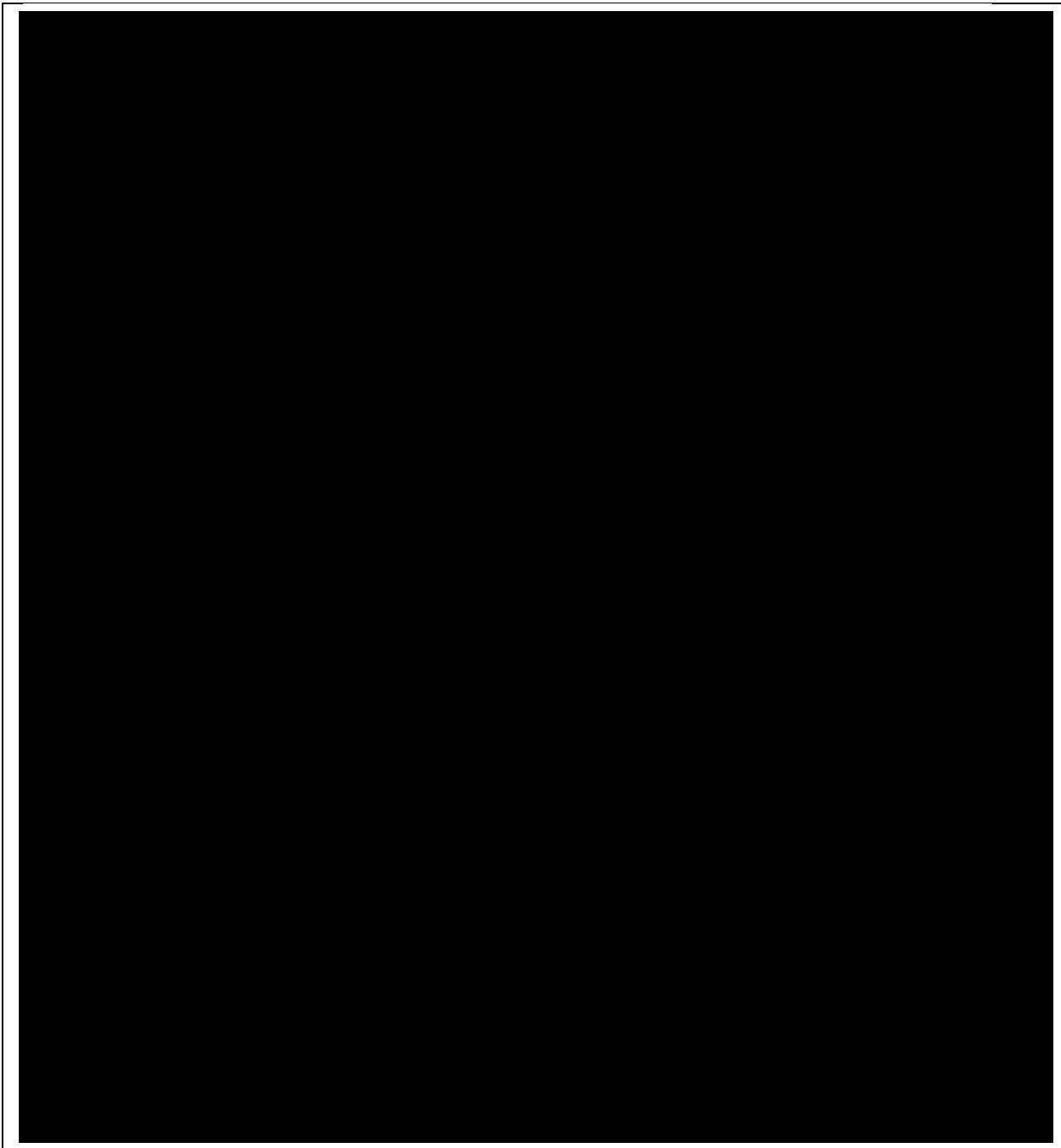
[REDACTED]	
[REDACTED]	
[REDACTED]	
	[REDACTED]
	[REDACTED]
[REDACTED]	
[REDACTED]	
[REDACTED]	
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
[REDACTED]	
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
[REDACTED]	
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



Page 139 of 332

[illegible]

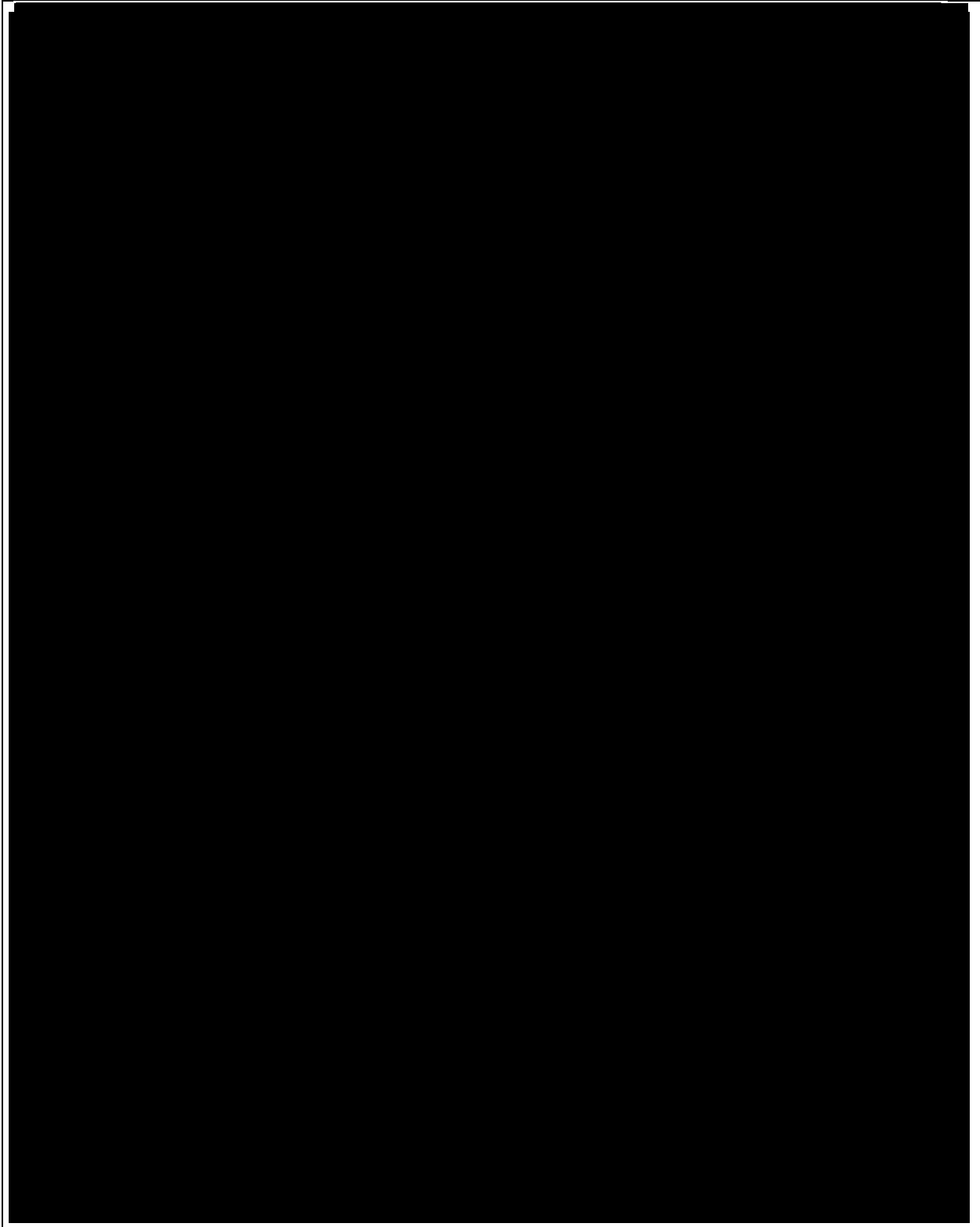
Question	AQ3	Weight	7%	Word Limit	1000 words (or 2 sides)
Award Criterion		<p>The Authority requires the Potential Provider to:</p> <p>Programme Management:</p> <p>Provide a clear, robust programme management plan to ensure delivery of all requirements and outputs listed in the specification requirements are delivered on time and within budget through a seamless solution and that addresses the</p>			

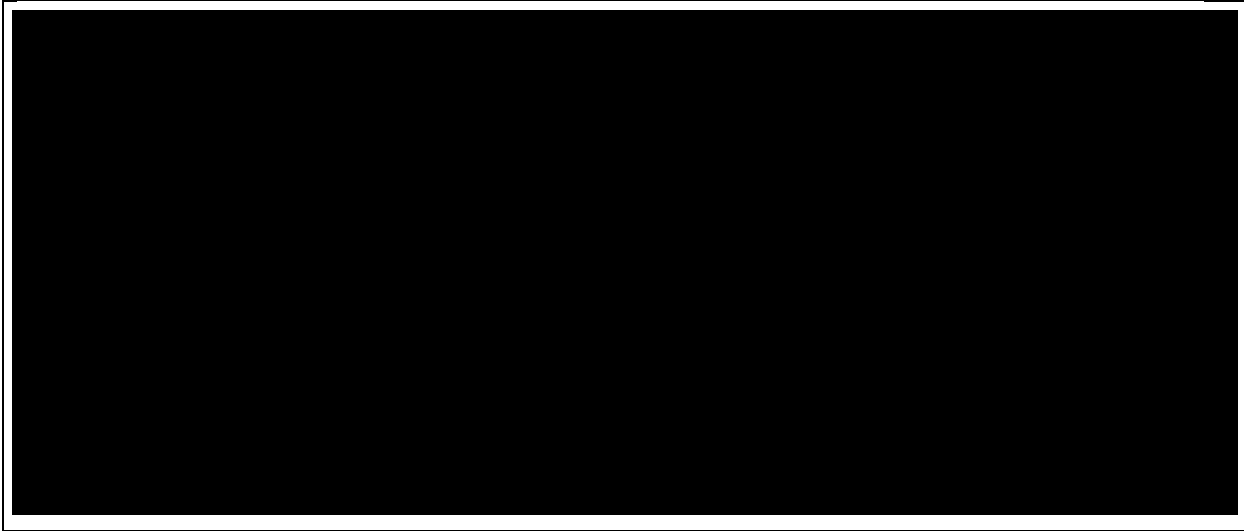
	<p>overarching objectives of the programme. A realistic overview of risks identified for the pilot and robust mitigation proposals.</p>
<p>Question</p>	<p>Provide your proposed programme management plan for the project, with associated supporting narrative:</p> <ul style="list-style-type: none"> • To ensure programme objectives can be met within agreed timescales and budget; • To ensure that appropriate resources are identified and coordinated to <p>You are required to align with and build on the high-level milestones for the mobilisation and pilot period included in the specification.</p>
<p>Response Guidance</p>	<p>This must include:</p> <ul style="list-style-type: none"> • A detailed project plan for the mobilisation and the pilot periods, including all scheduled milestones with dates. Note the milestones provided in the bid will inform the granular milestones for the mobilisation and pilot which will be finalised and agreed with the Authority at the beginning of the mobilisation period. • Any key assumptions made in your proposals. • The key risks associated with your programme management plan and how you plan to mitigate these. This must include the potential risk of further restrictions in response to the COVID-19 pandemic. • How you would coordinate and facilitate the collection of cross cutting performance data and produce timely, accessible and meaningful reports from complied data to support management decision in line with the frequency requested in the service specification. • An overview of your proposed Governance structure for the delivery of the mobilisation, pilot and evaluation, the lines of accountability between partners/subcontractors, and the Authority and key stakeholders, as necessary This must consider compliance with necessary standards and key deliverables. • How you would respond and what action you would consider taking should the Contracting Authority raise issues regarding any delivery, capability or approach in relation to the pilot Services.

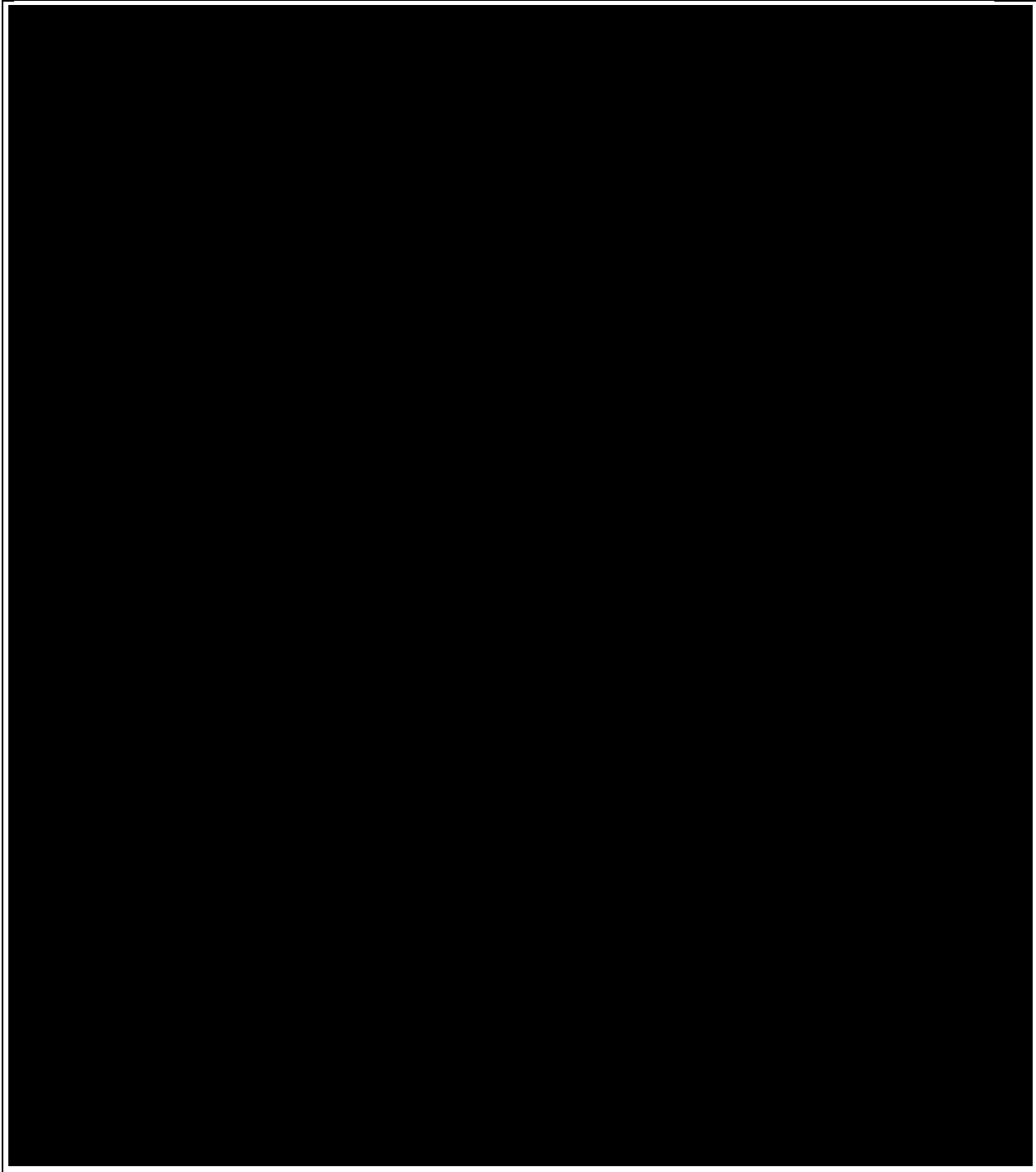
Attachment 3 – Service Specification

	<ul style="list-style-type: none">• How you will ensure there is adequate staff resource for programme management and all service delivery elements of the pilot programme from the beginning of the mobilisation period and throughout the pilot, including any contingency to reduce delivery risk and avoid single point failure.
--	--

Provider Response (1000 words or 2 sides max.)







[REDACTED]	
[REDACTED]	
■	[REDACTED]
■	[REDACTED]
■	[REDACTED]
[REDACTED]	
[REDACTED]	

[REDACTED]

[REDACTED]

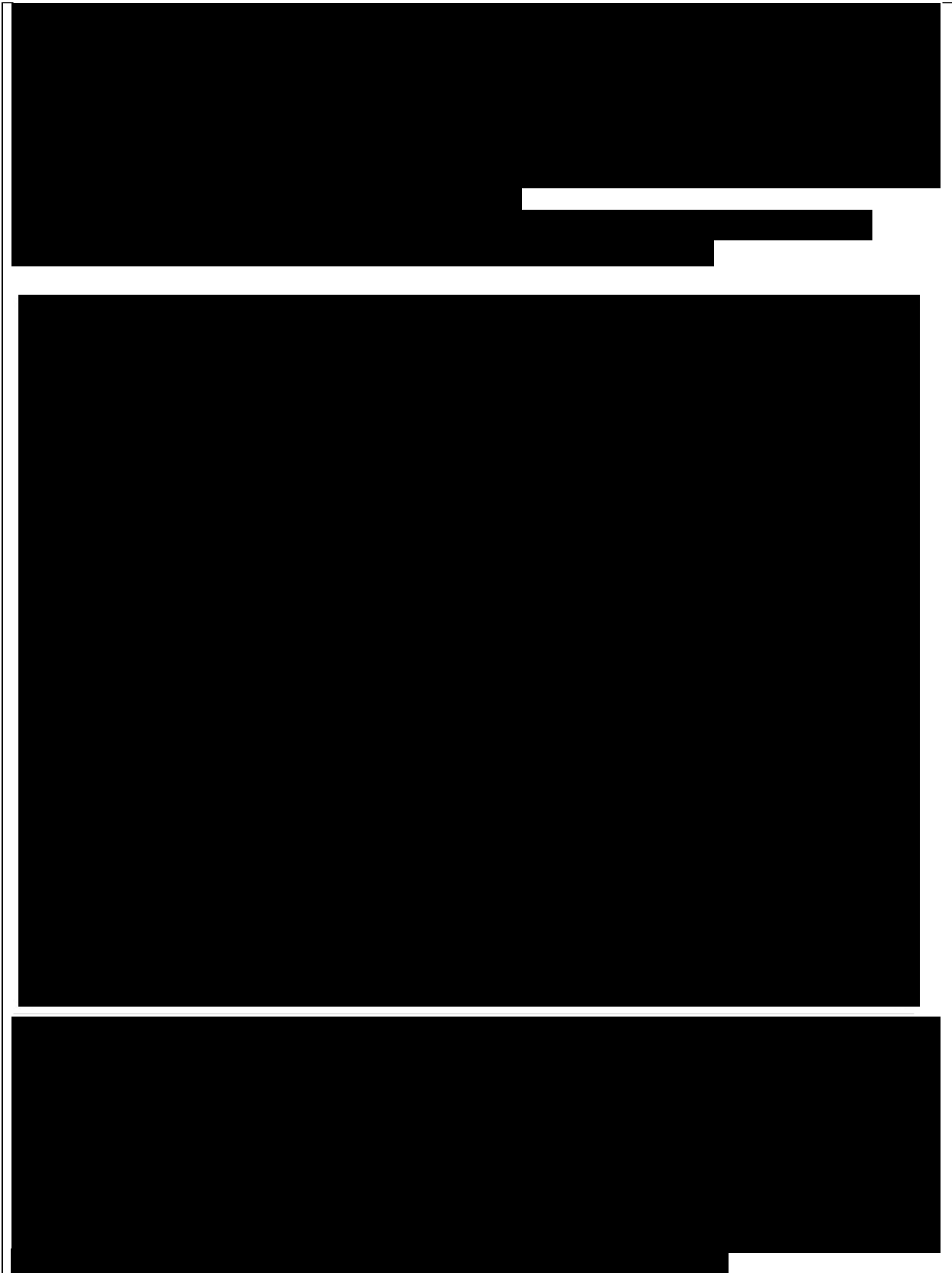
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



Question	AQ4	Weight	Pass/Fail	Word Limit	
Award Criterion	The Authority requires the Potential Provider to comply with: Mandatory Programme Management Provisions				
Question	Do you agree to the following programme management requirements?				
Response Guidance	You must provide confirmation that you: <ul style="list-style-type: none"> Will meet the commercial management requirements, including financial and programme reporting and monitoring at a frequency set by the Authority. 				

	Scoring a Fail in more than one mandatory pass/fail question will mean that the bidder's submission is deemed non-compliant and therefore excluded from the competition. If you receive a 'Fail' your bid will continue to be evaluated.
--	--

Provider Response (Pass/Fail)
PASS

Question	AQ5	Weight	1%	Word Limit	500 words
Award Criterion	<p>The Authority requires the Potential Provider to:</p> <p>Clinical Safety, Safeguarding, Research and Ethics:</p> <p>Have robust processes in place to recognise, prevent and protect participants who are engaging in unhealthy behaviours, or are engaging in the health behaviours of interest to an extent where the behaviours become unhealthy (for instance, restrictive eating or excessive exercise), as a result of the approach.</p>				
Question	<p>Please provide detail on your approach to ensure the safety of participants and groups for whom the scheme would not be appropriate and how you intend to implement safeguarding measures to identify, prevent and protect participants who may be at high risk of engaging in unhealthy behaviours through the use of the service.</p>				
Response Guidance	<p>This must include:</p> <ul style="list-style-type: none"> What safeguarding measures and processes will be put in place to ensure users meet the age requirement, are not pregnant and do not have any medical conditions which mean they should not participate in the programme, or other groups for whom the scheme may not be appropriate. What safeguarding measures will be put in place to ensure users who have pre-existing eating disorders, restricted eating and/or engage in excessive exercise are identified at sign up and communicated with. What safeguarding measures will be put in place to identify users whose behaviour change is at risk or has shifted towards unhealthy behaviours such as restricted eating and/or excessive exercise AND what actions will be taken to protect these individuals. 				

Attachment 3 – Service Specification

	<ul style="list-style-type: none">• What evidence and/or clinical advice has been considered to support the proposed approach.• What regulatory research and/or ethical approvals you believe are required for your proposed approach. <p>Note you will be required to show evidence of relevant assessments and approvals, as necessary, during the mobilisation period before any research activity can commence.</p>
--	--

Provider Response (500 words max.)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Question	AQ6	Weight	Pass/Fail	Word Limit	
Award Criterion		The Authority requires the Potential Provider to comply with: Mandatory Safety, Safeguarding, Research and Ethics provisions			
Question		Do you agree to the following safeguarding requirements?			
Response Guidance		You must provide confirmation that you: <ul style="list-style-type: none"> • Agree to complete the <u>clinical safety standard DCB0129</u> assessment as part of the <u>Digital Technology Assessment Criteria for health and social care (DTAC)</u> during the mobilisation period and provide a copy of the completed documentation to the Authority. • Agree to maintain the <u>clinical safety standard DCB0129</u> throughout the pilot, and provide updated documentation as and when changes are made. • Agree to monitor safeguarding during the pilot and promptly escalate any concerns or issues identified to the Authority 			

Attachment 3 – Service Specification

	<ul style="list-style-type: none"> Will obtain any ethical and/or regulatory research approvals, as necessary, during the mobilisation period. Will ensure that the pilot is delivered in line with any applicable requirements regarding regulatory research and/or ethics approvals, monitoring and reporting. <p>Scoring a Fail in more than one mandatory pass/fail question will mean that the bidder's submission is deemed non-compliant and therefore excluded from the competition. If you receive a 'Fail' your bid will continue to be evaluated.</p>
--	--

Provider Response
PASS

Question	AQ7	Weight	1%	Word Limit	500 words
Award Criterion		<p>The Authority requires the Potential Provider to:</p> <p>Data Security and Privacy:</p> <p>Have robust plans and mechanisms are in place to ensure that data is collected, stored and processed in a secure way and all service provision and activity is carried out in compliance with all applicable law regarding the processing of personal data, privacy and security standards, including but not limited to UK GDPR and the Data Protection Act 2018, and aligns with the principle of minimising data sharing.</p>			
Question		<p>Please outline your proposed approach for how you will collect, store and share all data with any necessary parties during the pilot, including the Authority, National Institute of Health Research Policy Research Units and Evaluation provider. Please provide detail on how you will communicate to users and any partners how their data will be used.</p>			
Response Guidance		<p>This must include:</p> <ul style="list-style-type: none"> What IT systems or other methods you propose to use to collect and/or retrieve data. How you propose to store data securely. Your proposed data security measures. How you propose to transfer data between partners/subcontractors 			

Attachment 3 – Service Specification

	<p>To note, this must only include partners/subcontractor who have a clear purpose for accessing and/or processing the data.</p> <ul style="list-style-type: none">• How you propose to communicate to participants and partners how their data will be collected, stored, and used securely.• Any commercial sensitivities you have identified with the data you will collect/store/use and the measures you will put in place to protect the data and mitigate risks.• Whether you will be using any pre-existing data, for which you are the data Controller/Processor/Joint-Controller and what measures you will put in place to ensure that the data can be repurposed for use in the pilot programme. <p>To note, all of the above must be compliant with all applicable law regarding the processing of personal data, privacy and security standards, including by not limited to UK GDPR and the Data Protection Act 2018</p>
--	---

Provider Response (500 words max.)

<div></div> <div></div> <div></div> <div></div> <div></div>

[illegible]



[REDACTED]			
1	[REDACTED]		
2	[REDACTED]		
3	[REDACTED]		
4	[REDACTED]		
5	[REDACTED]		
6	[REDACTED]		
7	[REDACTED]		
8	[REDACTED]		
9	[REDACTED]		
10	[REDACTED]		
11	[REDACTED]		
12	[REDACTED]		
13	[REDACTED]		
14	[REDACTED]		
15	[REDACTED]		
16	[REDACTED]		
17	[REDACTED]		
18	[REDACTED]		
19	[REDACTED]		
20	[REDACTED]		
21	[REDACTED]		
22	[REDACTED]		
23	[REDACTED]		
24	[REDACTED]		
25	[REDACTED]		
26	[REDACTED]		
27	[REDACTED]		
28	[REDACTED]		
29	[REDACTED]		
30	[REDACTED]		
31	[REDACTED]		
32	[REDACTED]		
33	[REDACTED]		
34	[REDACTED]		
35	[REDACTED]		
36	[REDACTED]		
37	[REDACTED]		
38	[REDACTED]		
39	[REDACTED]		
40	[REDACTED]		
41	[REDACTED]		
42	[REDACTED]		
43	[REDACTED]		
44	[REDACTED]		
45	[REDACTED]		
46	[REDACTED]		
47	[REDACTED]		
48	[REDACTED]		
49	[REDACTED]		
50	[REDACTED]		
51	[REDACTED]		
52	[REDACTED]		
53	[REDACTED]		
54	[REDACTED]		
55	[REDACTED]		
56	[REDACTED]		
57	[REDACTED]		
58	[REDACTED]		
59	[REDACTED]		
60	[REDACTED]		
61	[REDACTED]		
62	[REDACTED]		
63	[REDACTED]		
64	[REDACTED]		
65	[REDACTED]		
66	[REDACTED]		
67	[REDACTED]		
68	[REDACTED]		
69	[REDACTED]		
70	[REDACTED]		
71	[REDACTED]		
72	[REDACTED]		
73	[REDACTED]		
74	[REDACTED]		
75	[REDACTED]		
76	[REDACTED]		
77	[REDACTED]		
78	[REDACTED]		
79	[REDACTED]		
80	[REDACTED]		
81	[REDACTED]		
82	[REDACTED]		
83	[REDACTED]		
84	[REDACTED]		
85	[REDACTED]		
86	[REDACTED]		
87	[REDACTED]		
88	[REDACTED]		
89	[REDACTED]		
90	[REDACTED]		
91	[REDACTED]		
92	[REDACTED]		
93	[REDACTED]		
94	[REDACTED]		
95	[REDACTED]		
96	[REDACTED]		
97	[REDACTED]		
98	[REDACTED]		
99	[REDACTED]		
100	[REDACTED]		

Question	AQ8	Weight	Pass/Fail	Word Limit	
Award Criterion	The Authority requires the Potential Provider to comply with: Mandatory Digital Service Compliance and Data Security and Privacy provisions				
Question	Do you agree to the following Data Security and Privacy requirements?				
Response Guidance	You must provide confirmation that you: <ul style="list-style-type: none"> Agree to the expected data protection designations, and act as a Data Processor for any data processed for the 				

Attachment 3 – Service Specification

	<p>purpose of the pilot on behalf of the Authority, the Data Controller, unless otherwise agreed with the Authority during the mobilisation period.</p> <ul style="list-style-type: none"> • Will undergo an evaluation by the Authority during the mobilisation period to ensure the digital service meets the <u>Digital Technology Assessment Criteria for health and social care (DTAC)</u>, document any changes to the service provision and complete any reassessments, as necessary • Will undergo an assessment by the Authority during the mobilisation period to ensure digital service meets the <u>Government Service Standard</u> and <u>Technology Code of Practice</u> • Understand and agree that, if successful, you will be required to work with the Authority, who, as Data Controller will complete a Data Protection Impact Assessment and a Privacy Notice during the pilot mobilisation period. • Understand and agree that if you are successful, and have a role as data Controller for pre-existing data that you intend to repurpose for the pilot, you will need to consider whether you need to put any additional measures in place. • Have the capability to and will comply with all applicable law regarding the processing of personal data, privacy and security standards. • Will put in place any additional or make changes to your proposed approach to store and process data at the request of the Authority in order to comply with all applicable law regarding the processing of personal data, privacy and security standards <p>Scoring a Fail in more than one mandatory pass/fail question will mean that the bidder's submission is deemed non-compliant and therefore excluded from the competition. If you receive a 'Fail' your bid will continue to be evaluated.</p>
--	--

Provider Response

PASS

Question	AQ9	Weight	1%	Word Limit	500 words
Award Criterion		<p>The Authority requires the Potential Provider to:</p> <p>Fraud Mitigation:</p> <p>Have robust fraud mitigation controls in relation to participants' activity and access to incentives, and robust, transparent mechanisms to share all necessary data and financial reporting with appropriate bodies to enable validation.</p>			
Question		<p>Please detail your processes for preventing, identifying and mitigating risk of user fraud and outlined how you will provide assurances that the data you provide on effectiveness of the programme is accurate and can be validated.</p>			
Response Guidance		<p>This must include:</p> <ul style="list-style-type: none"> Where in the process from user sign up through to incentive redemption you have identified risk of fraudulent user activity and how you will mitigate/minimise risks of fraud, for example, measures to monitor and verify participants baseline and behaviour change activity/progress Whether provision of a data dashboard, or similar, to the Authority and the NIHR PRUs, with regular updates is possible to allow for ease of data validation 			

Provider Response (500 words max.)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Page 165 of 332



Question	AQ10	Weight	Pass/Fail	Word Limit	
Award Criterion		The Authority requires the Potential Provider to comply with: Mandatory fraud mitigation provisions			
Question		Do you agree to the following fraud mitigation requirements?			
Response Guidance		<p>You must provide confirmation that you:</p> <ul style="list-style-type: none"> • Agree to share all data collected throughout the pilot with those identified in the specification [and with any other party specified by the Authority during the contract period, as necessary] including but not limited to participants' behaviour change, reward redemption. • Understand that, if successful, you will be liable for any losses (specifically incentives paid) accrued due to fraud [that could have reasonably been prevented]. • Understand that, if successful, the Authority may share information provided in relation to this project/scheme/process/policy with the DHSC Anti-Fraud Unit (DHSC AFU), NHS Business Services Authority (NHSBSA), NHSE&I, NHS Test and Trace, and NHS Counter Fraud Authority (NHSCFA) for the purposes of the prevention, detection, investigation and prosecution of fraud or any other unlawful activity affecting the healthcare system. <p>Scoring a Fail in more than one mandatory pass/fail question will mean that the bidder's submission is deemed non-compliant and therefore excluded from the competition. If you receive a 'Fail' your bid will continue to be evaluated.</p>			

Provider Response
PASS

Question	AQ11	Weight	Pass/ Fail	Word Limit	
Award Criterion		The Authority requires the Potential Provider to comply with: Mandatory Intellectual Property Rights Provisions			
Question		Do you agree to the following Intellectual Property Rights (IPR) requirements?			
Response Guidance		<p>You must provide confirmation that you:</p> <ul style="list-style-type: none"> Agree to the IPR terms outlined in the specification and draft contract <p>Scoring a Fail in a mandatory pass/fail question will mean that the bidder's submission is deemed non-compliant and therefore excluded from the competition. If you receive a 'Fail' your bid will continue to be evaluated.</p>			

Provider Response
PASS

Question	AQ12	Weight	7%	Word Limit	500 words
Award Criterion		<p>The Authority requires the Potential Provider to:</p> <p>Research and/or Pilot experience:</p> <p>Evidence of project team or partner organisation expertise and experience in designing, delivering, iterating and evaluating a sufficiently powered pilot programme.</p>			
Question		Please provide a supporting statement setting out and establishing your suitability to undertake the pilot project.			
Response Guidance		<p>This must include:</p> <ul style="list-style-type: none"> Relevant expertise in the research methods required for this study (quantitative and/or qualitative) and evidence of such expertise and successful completion of similar 			

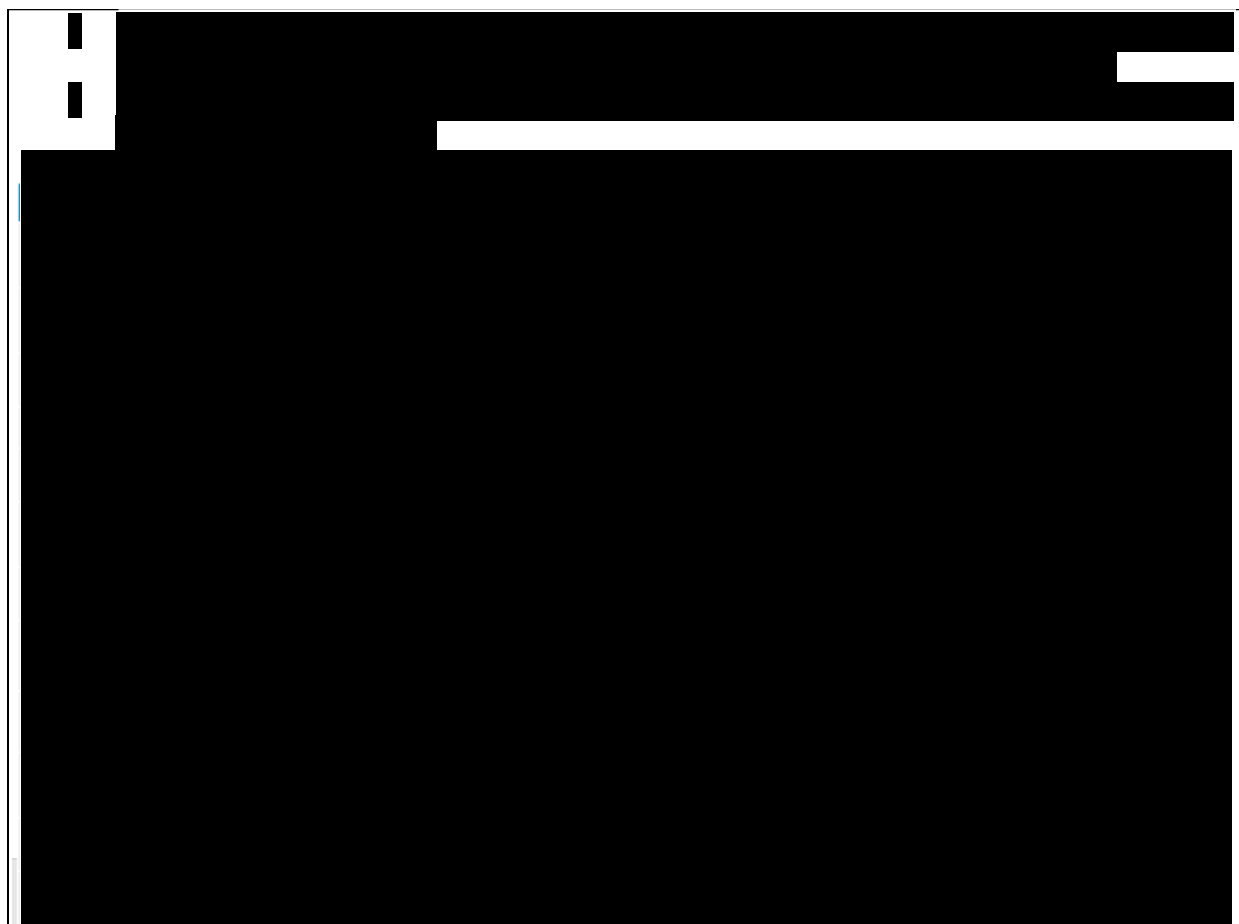
Attachment 3 – Service Specification

	<p>projects, such as project team CVs summaries, final reports or academic publications.</p> <ul style="list-style-type: none">• Evidence of successful engagement at different stages of research during a previous research project, with local stakeholders (including user involvement, communities and local authorities) ideally within a public health setting.• Description of research project team involvement in the project; details of independent evaluation partner and evidence of expertise in conducting the evaluation design proposed.• If applicable, evidence of an established partnership or commitment in principle to form a partnership between the Provider and partner organisation with said research expertise.
--	--

Provider Response (500 words max.)

<div></div> <div></div> <div></div>

[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
[REDACTED]	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]



Question	AQ13	Weight	14%	Word Limit	1500 words (or 3 sides)
Award Criterion	<p>The Authority requires the Potential Provider to:</p> <p>Pilot design- Evidence and Theory of Change:</p> <p>Have a robust, evidence-based approach and rational theory of change to incentivise behaviour change with a clear plan of which behaviour changes will be incentivised and why, and the expected outcomes during the pilot period and beyond, that align with a broad, holistic, achievable approach to behaviour change that is tailored to the needs of the individual.</p>				
Question	<p>Please provide the evidence underpinning your approach and evidence-based theory of change for how your proposed approach to incentives will lead to improvements in the health behaviours of interest for this programme.</p> <p>3) Improve the physical activity levels of participants, with a particular interest in improving the activity levels of those who do not currently achieve <u>CMO recommendations</u> /</p>				

	<p><u>Government policy</u> (where this does not go against clinical advice); and</p> <p>4) Improve the diet of participants, with a particular interest in improving the diet of those who are currently not achieving the <u>Government recommendations on food / drink consumption</u> (i.e. through making healthier food and drink choices, in line with Government recommendations / policy) (where this does not go against clinical advice)</p> <p>Note further information relating to Government policy and recommendations are outlined in Annex A of the specification.</p>
Response Guidance	<p>This must include, for both physical activity AND diet:</p> <ul style="list-style-type: none"> • Your proposed overarching theory of change and supporting evidence for each element, highlighting what evidence is available and your resulting rationale and assumptions. • What overall behaviour changes you expect individual participants to achieve by the end of the pilot programme and the supporting evidence. • Which individual elements of diet and physical activity behaviour you intend to measure and incentivise over the course of the pilot programme, why these behaviours were selected over other alternatives, whether these behaviours will differ for different individuals or groups of individuals, your supporting evidence and whether these behaviours/interventions have been tested with the target users. • How the approach will seek to move participants in the target groups who are not currently meeting the guidelines towards meeting, or closer to meeting the CMO/government recommendations for healthy eating and physical activity behaviours, in a way that is broad, holistic, appropriate, safe, sustainable, equitable and affordable. • How the proposal will also seek to support participants already meeting the guidelines to maintain their behaviour in line with the Chief Medical Officer/Government recommendations for healthy eating and physical activity behaviours in a way that is appropriate, safe, sustainable, equitable and affordable. • How the approach will be tailored to participants to incentivise them to make behaviour changes in a way

Attachment 3 – Service Specification

	<p>that is acceptable and effective for them and is appropriate, safe and sustainable over the longer term.</p> <ul style="list-style-type: none">• How the pilot will ensure that participants' overall health behaviours will improve as a result of participating in the pilot and avoid damaging effects on non-incentivised health behaviours. <p>To note, as part of your response to the next question (AQ14), you are required to set out the chosen design features of your approach e.g. level/value, type, frequency, timing and delivery mechanism of the incentive, in detail including your supporting evidence and/or the rationale for testing/comparing these features.</p>
--	--

Provider Response (1500 words or 3 sides max.)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[illegible]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Attachment 3 – Service Specification

[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
[REDACTED]	
[REDACTED]	
[REDACTED]	

[REDACTED]	
[REDACTED]	

Question	AQ14	Weight	7%	Word Limit	1000 words (or 2 sides)
Award Criterion		<p>The Authority requires the Potential Provider to:</p> <p>Pilot design - Structure:</p> <p>Have a clear rationale for the scheme design, with an evidence-based rationale of how the proposed features are optimal to achieve behaviour change AND/OR a clear rationale to</p>			

	test/compare certain design features where there is a limited evidence base.
Question	<p>Please outline your pilot design and how it will support the primary, secondary and additional objectives of the pilot.</p> <p>Please outline your proposed levels/values of incentive that you will test (e.g. 'high', 'medium, and 'low' maximum per person level/value of incentive), the types of incentive you will offer and the underpinning evidence.</p> <p>Please also outline your chosen approach for each of the additional features set out below and the underpinning evidence AND/OR your approach to test/compare these features and your supporting the rationale. The additional features of the type/design of incentive scheme that you must set out are:</p> <ul style="list-style-type: none"> • type of incentive; • frequency of incentive; • timing of incentive; • delivery mechanism of incentive. <p>Note it is acceptable to either test different approaches for each/some of the design features above, or to take a single approach but you must set out your evidence-based rationale.</p>
Response Guidance	<p>This must include:</p> <ul style="list-style-type: none"> • How you will objectively measure the proposed behaviours, setting out what tools are to be used for data collection, the extent of self-reporting, and whether any element of validation is included to protect against falsification. • To note, wherever possible, the Provider should collect objective measurements and minimise reliance on self-reported data. • How the pilot will monitor unintended consequences and what data you will use to do so. • Your proposed level/value of maximum per-person incentive (for the course of the pilot) for your groups (at least 3), and your rationale and any evidence, where possible, for your proposed values <p>To note the upper limit per-person value of incentive over the course of the pilot is £200 and the lower limit is £10.</p>

	<p>You must propose at least 3 groups (e.g. a 'high' value incentive group, a 'medium' value incentive group, and a 'low' value incentive group) though may propose more than 3.</p> <ul style="list-style-type: none"> • How you will test/compare the different levels/ values of the incentives • How you will determine the value of incentives provided for each individual behaviour [and ensure there is consistency across your whole approach]. This should align with the individual behaviour changes for which you intend to provide incentives to participants over the course of the pilot. • Your chosen design features (type, frequency, timing and delivery mechanism of the incentives) of your scheme and explain the rationale and evidence that proposed design is optimum OR Whether you will test/compare the design features (type, frequency, timing and deliver mechanism of the incentives) of the scheme, how you will do this and your rational for taking this approach. • How the types of incentives you will offer to users e.g. gift cards/vouchers, merchandise, coupons, discounts, goods, and/or services, align with Government policy and do not encourage unhealthy behaviours. <p>To note, you will need to set out the detail on the specific incentives you will provide separately e.g. from specific retailer. Government reserves the right to determine whether the proposed incentives are appropriate for the pilot programme.</p> <ul style="list-style-type: none"> • How many incentives you expect to issue overall per month during the pilot period and the total value of the incentives you expect to issue. This must align with your expected outcomes, level of incentives and frequency and timing of issuance. • Any other methods of encouraging users towards behaviour change, including any personalisation and user communication and the rationale. <p>To note DHSC will work with the successful bidder during the mobilisation period to finalise design of the incentive values and other design features being tested in the pilots.</p>
--	--

Provider Response (1000 words or 2 sides max.)

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[illegible]

[illegible]

100

100

the 1990s, the number of people in the United States who are 65 years of age or older has increased by 50 percent, and the number of people 75 years of age or older has increased by 100 percent. The number of people 85 years of age or older has increased by 200 percent. The number of people 95 years of age or older has increased by 400 percent. The number of people 100 years of age or older has increased by 1,000 percent. The number of people 105 years of age or older has increased by 2,000 percent. The number of people 110 years of age or older has increased by 4,000 percent. The number of people 115 years of age or older has increased by 8,000 percent. The number of people 120 years of age or older has increased by 16,000 percent. The number of people 125 years of age or older has increased by 32,000 percent. The number of people 130 years of age or older has increased by 64,000 percent. The number of people 135 years of age or older has increased by 128,000 percent. The number of people 140 years of age or older has increased by 256,000 percent. The number of people 145 years of age or older has increased by 512,000 percent. The number of people 150 years of age or older has increased by 1,024,000 percent. The number of people 155 years of age or older has increased by 2,048,000 percent. The number of people 160 years of age or older has increased by 4,096,000 percent. The number of people 165 years of age or older has increased by 8,192,000 percent. The number of people 170 years of age or older has increased by 16,384,000 percent. The number of people 175 years of age or older has increased by 32,768,000 percent. The number of people 180 years of age or older has increased by 65,536,000 percent. The number of people 185 years of age or older has increased by 131,072,000 percent. The number of people 190 years of age or older has increased by 262,144,000 percent. The number of people 195 years of age or older has increased by 524,288,000 percent. The number of people 200 years of age or older has increased by 1,048,576,000 percent. The number of people 205 years of age or older has increased by 2,097,152,000 percent. The number of people 210 years of age or older has increased by 4,194,304,000 percent. The number of people 215 years of age or older has increased by 8,388,608,000 percent. The number of people 220 years of age or older has increased by 16,777,216,000 percent. The number of people 225 years of age or older has increased by 33,554,432,000 percent. The number of people 230 years of age or older has increased by 67,108,864,000 percent. The number of people 235 years of age or older has increased by 134,217,728,000 percent. The number of people 240 years of age or older has increased by 268,435,456,000 percent. The number of people 245 years of age or older has increased by 536,870,912,000 percent. The number of people 250 years of age or older has increased by 1,073,741,824,000 percent. The number of people 255 years of age or older has increased by 2,147,483,648,000 percent. The number of people 260 years of age or older has increased by 4,294,967,296,000 percent. The number of people 265 years of age or older has increased by 8,589,934,592,000 percent. The number of people 270 years of age or older has increased by 17,179,869,184,000 percent. The number of people 275 years of age or older has increased by 34,359,738,368,000 percent. The number of people 280 years of age or older has increased by 68,719,476,736,000 percent. The number of people 285 years of age or older has increased by 137,438,953,472,000 percent. The number of people 290 years of age or older has increased by 274,877,906,944,000 percent. The number of people 295 years of age or older has increased by 549,755,813,888,000 percent. The number of people 300 years of age or older has increased by 1,099,511,627,776,000 percent. The number of people 305 years of age or older has increased by 2,199,023,255,552,000 percent. The number of people 310 years of age or older has increased by 4,398,046,511,104,000 percent. The number of people 315 years of age or older has increased by 8,796,093,022,208,000 percent. The number of people 320 years of age or older has increased by 17,592,186,044,416,000 percent. The number of people 325 years of age or older has increased by 35,184,372,088,832,000 percent. The number of people 330 years of age or older has increased by 70,368,744,177,664,000 percent. The number of people 335 years of age or older has increased by 140,737,488,355,328,000 percent. The number of people 340 years of age or older has increased by 281,474,976,710,656,000 percent. The number of people 345 years of age or older has increased by 562,949,953,421,312,000 percent. The number of people 350 years of age or older has increased by 1,125,899,906,842,624,000 percent. The number of people 355 years of age or older has increased by 2,251,799,813,685,248,000 percent. The number of people 360 years of age or older has increased by 4,503,599,627,370,496,000 percent. The number of people 365 years of age or older has increased by 9,007,199,254,740,992,000 percent. The number of people 370 years of age or older has increased by 18,014,398,509,481,984,000 percent. The number of people 375 years of age or older has increased by 36,028,797,018,963,968,000 percent. The number of people 380 years of age or older has increased by 72,057,594,037,927,936,000 percent. The number of people 385 years of age or older has increased by 144,115,188,075,855,872,000 percent. The number of people 390 years of age or older has increased by 288,230,376,151,711,744,000 percent. The number of people 395 years of age or older has increased by 576,460,752,303,423,488,000 percent. The number of people 400 years of age or older has increased by 1,152,921,504,606,846,976,000 percent. The number of people 405 years of age or older has increased by 2,305,843,009,213,693,952,000 percent. The number of people 410 years of age or older has increased by 4,611,686,018,427,387,904,000 percent. The number of people 415 years of age or older has increased by 9,223,372,036,854,775,808,000 percent. The number of people 420 years of age or older has increased by 18,446,744,073,709,551,616,000 percent. The number of people 425 years of age or older has increased by 36,893,488,147,419,103,232,000 percent. The number of people 430 years of age or older has increased by 73,786,976,294,838,206,464,000 percent. The number of people 435 years of age or older has increased by 147,573,952,589,676,412,928,000 percent. The number of people 440 years of age or older has increased by 295,147,905,179,352,825,856,000 percent. The number of people 445 years of age or older has increased by 590,295,810,358,705,651,712,000 percent. The number of people 450 years of age or older has increased by 1,180,591,620,717,411,303,424,000 percent. The number of people 455 years of age or older has increased by 2,361,183,241,434,822,606,848,000 percent. The number of people 460 years of age or older has increased by 4,722,366,482,869,645,213,696,000 percent. The number of people 465 years of age or older has increased by 9,444,732,965,739,290,427,392,000 percent. The number of people 470 years of age or older has increased by 18,889,465,931,478,580,854,784,000 percent. The number of people 475 years of age or older has increased by 37,778,931,862,957,161,709,568,000 percent. The number of people 480 years of age or older has increased by 75,557,863,725,914,323,419,136,000 percent. The number of people 485 years of age or older has increased by 151,115,727,451,828,646,838,272,000 percent. The number of people 490 years of age or older has increased by 302,231,454,903,657,293,676,544,000 percent. The number of people 495 years of age or older has increased by 604,462,909,807,314,587,353,088,000 percent. The number of people 500 years of age or older has increased by 1,208,925,819,614,629,174,706,176,000 percent. The number of people 505 years of age or older has increased by 2,417,851,639,229,258,349,412,352,000 percent. The number of people 510 years of age or older has increased by 4,835,703,278,458,516,698,824,704,000 percent. The number of people 515 years of age or older has increased by 9,671,406,556,917,033,397,649,408,000 percent. The number of people 520 years of age or older has increased by 19,342,813,113,834,066,795,298,816,000 percent. The number of people 525 years of age or older has increased by 38,685,626,227,668,133,590,597,632,000 percent. The number of people 530 years of age or older has increased by 77,371,252,455,336,267,181,195,264,000 percent. The number of people 535 years of age or older has increased by 154,742,504,910,672,534,362,390,528,000 percent. The number of people 540 years of age or older has increased by 309,485,009,821,345,068,724,781,056,000 percent. The number of people 545 years of age or older has increased by 618,970,019,642,690,137,449,562,112,000 percent. The number of people 550 years of age or older has increased by 1,237,940,039,285,380,274,899,124,224,000 percent. The number of people 555 years of age or older has increased by 2,475,880,078,570,760,549,798,248,448,000 percent. The number of people 560 years of age or older has increased by 4,951,760,157,141,521,099,596,496,896,000 percent. The number of people 565 years of age or older has increased by 9,903,520,314,283,042,199,193,993,792,000 percent. The number of people 570 years of age or older has increased by 19,807,040,628,566,084,398,387,9

--

Question	AQ15	Weight	5%	Word Limit	1000 words (or 2 sides)
Award Criterion		<p>The Authority requires the Potential Provider to:</p> <p>Pilot design- Sampling, Location & Target Audience:</p> <p>Have a clear approach that ensures sufficient reach to the target audience, supports understanding how incentives work for different groups and provides sufficient statistical power to support a robust evaluation. A clear rationale to engage the target audience either through running the pilot in at least one defined geographical location(s) within England OR an alternative approach that engages the target audience outside of a defined locality.</p>			
Question		<p>Please outline your proposed approach and sampling methodology to engage the target audience for the pilot, specifically, the general adult (18+) population with a focus on:</p> <ul style="list-style-type: none"> those who do not already engage in the health behaviours incentivised by the scheme, i.e. those who do not meet the CMO guidelines for physical activity and do not meet the government recommendations for diets. ‘underserved’ groups, i.e. those from a disadvantaged sociodemographic background (low socio-economic status (SES), ethnic minority background, area of high deprivation). 			
Response Guidance		<p>This must include:</p> <ul style="list-style-type: none"> Your ranked shortlist of five geographical locations for the pilot that meet the requirements set out in the specification OR your alternative approach to running the pilot in a defined geographical location and the rationale for your approach. Which groups you intend to engage in the pilot and how this aligns with the requirement to target the general adult population, with a focus on those who do not already engage in the health behaviours of interest, and underserved groups. 			

Attachment 3 – Service Specification

	<ul style="list-style-type: none"> • How your approach aligns with the key factors outlined in the specification requirements, including health behaviours/outcomes and sociodemographic data. • Target sample sizes per group, what will be tested in each group, and supporting statistical evidence outlining the associated power to detect change that this sampling approach would provide. • How you will measure and validate users' baseline activity and how this will be considered in the design of your scheme. • How your approach will generate learning of what works for different groups, including the target groups and those already meeting the targeted behaviours in order to understand how a scheme could work on a wider scale. <p>If there are any existing public health interventions in the local area that are relevant to the objectives of the pilot and outline how your approach will consider the effects of competing/complementary initiatives.</p>
--	--

Provider Response (1000 words or 2 sides max.)

(b) (5) DPP, [REDACTED]

Attachment 3 – Service Specification

[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	

■	[REDACTED]	
	[REDACTED]	
■	[REDACTED]	
	[REDACTED]	
■	[REDACTED]	
	[REDACTED]	
■	[REDACTED]	
	[REDACTED]	
■	[REDACTED]	
	[REDACTED]	
■	[REDACTED]	
	[REDACTED]	
■	[REDACTED]	
	[REDACTED]	
■	[REDACTED]	
	[REDACTED]	

Question	AQ16	Weight	Pass/ Fail	Word Limit	
Award Criterion		The Authority requires the Potential Provider to comply with:			

■ [REDACTED]
 ■ [REDACTED]
 ■ [REDACTED]
 ■ [REDACTED]
 ■ [REDACTED]
 ■ [REDACTED]

	Mandatory Pilot Design provisions
Question	Do you agree to the following pilot design requirements?
Response Guidance	<p>You must provide confirmation that you:</p> <ul style="list-style-type: none"> Will design the programme in line with any applicable requirements regarding regulatory research and/or ethics approvals, monitoring and reporting. <p>Scoring a Fail in more than one mandatory pass/fail question will mean that the bidder's submission is deemed non-compliant and therefore excluded from the competition. If you receive a 'Fail' your bid will continue to be evaluated.</p>

Provider Response
PASS

Question	AQ17	Weight	5%	Word Limit	750 words
Award Criterion	<p>The Authority requires the Potential Provider to:</p> <p>Marketing and engagement:</p> <p>Have robust and effective marketing and engagement plan that is sustainable and uses a range of marketing techniques that is acceptable to, and engages and retains, participants from the target audience in sufficient numbers to enable evaluation of programme effectiveness and is able to track and report effectiveness to the Authority.</p>				
Question	Please detail your marketing and engagement plan to ensure the pilot engages and retains participants from the target audience and you will track and report effectiveness of your approach.				
Response Guidance	<p>This must include:</p> <ul style="list-style-type: none"> How you will identify and engage the target audience within the localities in which the pilot is operating and ensure that the Authority's target population is accounted for. 				

Attachment 3 – Service Specification

	<ul style="list-style-type: none"> • Consideration of the needs of diverse audiences and how your marketing plan delivers an inclusive solution • How many participants you plan to engage in the pilot. Note, this must align with the pilot design and account for both the number of participants needed to provide the statistical power required to evaluate impact and expected attrition rates. • What user research you will draw on to inform the marketing and engagement approach. This should include: <ul style="list-style-type: none"> ○ Any user involvement in the development of the engagement plan. ○ User research and user journey testing carried out for digital service for the purposes of the pilot. ○ Any existing research underpinning the Better Health campaign. ○ Any existing user research underpinning any existing elements of the digital service. • How you will ensure that the marketing content and messaging for the pilot is focused on encouraging positive health behaviours, avoids stigmatising the programme or its participants, and is not focussed on weight loss or body image. • Which marketing techniques you intend to use to engage and retain users – including but not limited to social media, local campaigns, point of sale promotion and advertising, engaging with local actors/channels. • How you will track, report and evaluate effectiveness of the marketing and engagement plan to the Authority in relation to: <ul style="list-style-type: none"> ○ initial engagement and continued participation of the target audience; ○ acceptability of the programme; and ○ sustainability of the programme (i.e. whether a pilot can operate in a variety of locations and engage participants from a range of groups) <p>Note this assessment will need to be submitted as part of the final evaluation report of the pilot.</p>
--	--

Provider Response (750 words max.)

[Redacted text block]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

<div></div>	
<div></div>	<div></div>
<div></div>	

Attachment 3 – Service Specification

[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	

-
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
-

Attachment 3 – Service Specification

<div data-bbox="203 235 699 722"></div>	
<div data-bbox="203 764 1357 873"></div>	
<div data-bbox="203 905 1403 1614"></div>	
<div data-bbox="203 1656 836 1701"></div>	
<div data-bbox="203 1724 1406 1797"></div>	
<div data-bbox="248 1822 1307 1896"></div>	

[illegible]



Question	AQ18	Weight	Pass/Fail	Word Limit	
Award Criterion	The Authority requires the Potential Provider to comply with: Mandatory marketing and communications provisions				
Question	Do you agree to the following marketing and communications requirements?				
Response Guidance	<p>You must provide confirmation that you:</p> <ul style="list-style-type: none"> Understand that if successful, you agree to operate under a subset of Public Health England's 'Better Health' brand as defined by the Authority during the mobilisation period and in compliance with a license supplied by HMG. Agree to share all data collected throughout the pilot with those identified in the specification [and with any other party specified by the Authority during the contract period, as necessary] for the purposes of monitoring and evaluation <p>Scoring a Fail in more than one mandatory pass/fail question will mean that the bidder's submission is deemed non-compliant and therefore excluded from the competition. If you receive a 'Fail' your bid will continue to be evaluated.</p>				

Provider Response
PASS

Question	AQ19	Weight	7%	Word Limit	1000 words (or 2 sides)
Award Criterion	<p>The Authority requires the Potential Provider to:</p> <p>Evaluation, success measures and data collection:</p>				

	<p>Provide a clear and robust plan to monitor progress and provide a full evaluation assessing the extent to which the scheme fulfilled programme objectives and its impact. Where bidders test and compare optimum features of incentive scheme design, they will need to ensure this is captured as part of their evaluation</p>
Question	<p>Please outline your plan to collect robust data on success measures in line with the criteria set out in the specification requirements, monitor progress and provide a full evaluation assessing the extent to which your scheme fulfilled programme objectives and its impact, including how you will evaluate success against the criteria outlined in the specification requirements.</p> <p>Examples of data the successful organisation may collect is provided at Annex A.</p> <p>Bidders should consider utilising validated tools for data collection e.g. the short-form IPAQ for Physical Activity (link)</p>
Response Guidance	<p>This must include:</p> <ul style="list-style-type: none"> The specific metrics you intend to use to assess each of the criteria set out in Annex C of the specification requirements and why you are taking this approach. <p>To note, wherever possible, the Provider should collect objective measurements and minimise reliance on self-reported data, while recognising that certain success criteria will need to be measured using self-reported data.</p> <ul style="list-style-type: none"> Whether there are other indicators it is necessary to collect and report on for your proposed approach, what they will be and why. Whether you wish to assess the effectiveness of the pilot on improving participants' health outcomes, and if so, how you will do this. Assurance that the data you collect, and method of collection are robust and will lead to reliable analysis. <p>To note, where possible, this should include establishing a live data feed to be accessed by DHSC throughout the duration of the pilot.</p>

	<ul style="list-style-type: none">• An analysis protocol to show how you will analyse your data and judge success.• How you will report on progress on an ongoing basis while the pilot is running.• How you will provide a full evaluation assessing the extent to which your scheme has fulfilled programme objectives, including the primary and secondary aims, and, where appropriate, the additional aim.• How you will include an impact evaluation and whether you will compare your programme to a comparator measure or counterfactual as part of this impact evaluation• How your plans align with the Magenta Book for Government guidance on evaluation approaches.
--	--

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Question	AQ20	Weight	Pass/ Fail	Word Limit	
Award Criterion		The Authority requires the Potential Provider to comply with:			

	Mandatory Evaluation provisions
Question	Do you agree to the following Data Security and Privacy requirements?
Response Guidance	<p>You must provide confirmation that you:</p> <ul style="list-style-type: none"> • Will conduct the evaluation in line with any applicable requirements regarding regulatory [research] and/or ethics approvals, monitoring and reporting, as necessary. • Agree to collect, store, share and use data in compliance with all applicable law regarding the processing of personal data, privacy, and security standards. • Agree to work with the members of the National Institute for Health Research Policy Research Units who will provide an enhanced peer review role in which they will assess the evaluation plans and set out feedback to support development where required. They will also carry out a peer review role at the end of the pilot and assess the published evaluation reports against the analysis plan set out and agreed at contracting. • Agree to cooperate with this evaluation, including sharing original datasets if these are requested by the Authority and/or any evaluation provider. • Agree to adapt the approach at the request of the Authority during the delivery of the programme if it is determined through reporting that the pilot is not on track to meet its objective (to be handled via a change control notice procedure). • Agree to submit the interim and final evaluation reports within the timeframes set out in the specification. <p>Scoring a Fail in more than one mandatory pass/fail question will mean that the bidder's submission is deemed non-compliant and therefore excluded from the competition. If you receive a 'Fail' your bid will continue to be evaluated.</p>

Provider Response
PASS

Question	AQ21	Weight	8.5%	Word Limit	1000 words (or 2 sides)
Award Criterion		<p>The Authority requires the Potential Provider to:</p> <p>Digital Platform/Service</p> <p>Have a seamless solution that delivers on all digital requirements listed in the Specification and enables participants to interact with a digital platform/service including prompting participants to perform the health behaviours of interest, to record, track and monitor their behaviours, and access incentives. The digital platform/service must be capable to integrating with other provider systems and align with the Technology Code of Practice.</p>			
Question		<p>Please provide detail on how your digital service will provide a seamless digital solution that aligns with the pilot design to process and analyse behaviour change data and issue incentives as part of an end-to-end service for participants and partners.</p>			
Response Guidance		<p>This must include:</p> <ul style="list-style-type: none"> • A link to the digital service and/or a demonstration of the service, or elements of it. • What the digital offer for users will be and how it will meet user's needs and is digitally accessible. • How the digital platform/service will collect/receive, store and analyse data on users' behaviours, including how it will interface with any other data providers and be capable of linking to additional partners, if required, for purposes of tracking user's behaviours. • How the digital platform/service will process the value of incentives achieved by users through their behaviour change and translate this into offers with incentives partners that users are able to redeem. • How the digital platform/service will interface with incentives providers to issue an incentive offer to users, whether the incentives can be redeemed through the service and how this will be done. • The user journey for the digital service during the pilot period, including the process flows you will implement to deliver the services for front-end (e.g. participants) and back-end users (e.g. any partners providers that 			

	<p>interface with the digital service) and how this reflects any existing user research.</p> <ul style="list-style-type: none"> • The approach to test the user journey and to carry out some additional user research that builds on existing user research during the mobilisation period and use this to refine and implement any changes to optimise the service, as necessary, ahead of the launch of the service. <p>To note, this should draw on existing research underpinning the Better Health campaign, any existing user research underpinning the digital service.</p> <ul style="list-style-type: none"> • Whether hardware will be supplied to participants or for any other purposes during the pilot period and how you will manage and mitigate risk of hardware loss. • Your proposed approach for ownership/use of the hardware post pilot, if applicable. <p>To note, this approach will need to be agreed with the Authority post contract award.</p> <ul style="list-style-type: none"> • How the service adheres to the Government's Technology Code of Practice and Service Standard. • Where you have previously delivered similar services using industry standard best practice AND/OR have experience with building services that meet the Government Service Standard and Technology Code of Practice AND/OR have passed a Government Service Standard and Technology Code of Practice assessment.
--	---

[illegible]

Attachment 3 – Service Specification

[REDACTED]							
[REDACTED]							
[REDACTED]							
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]							

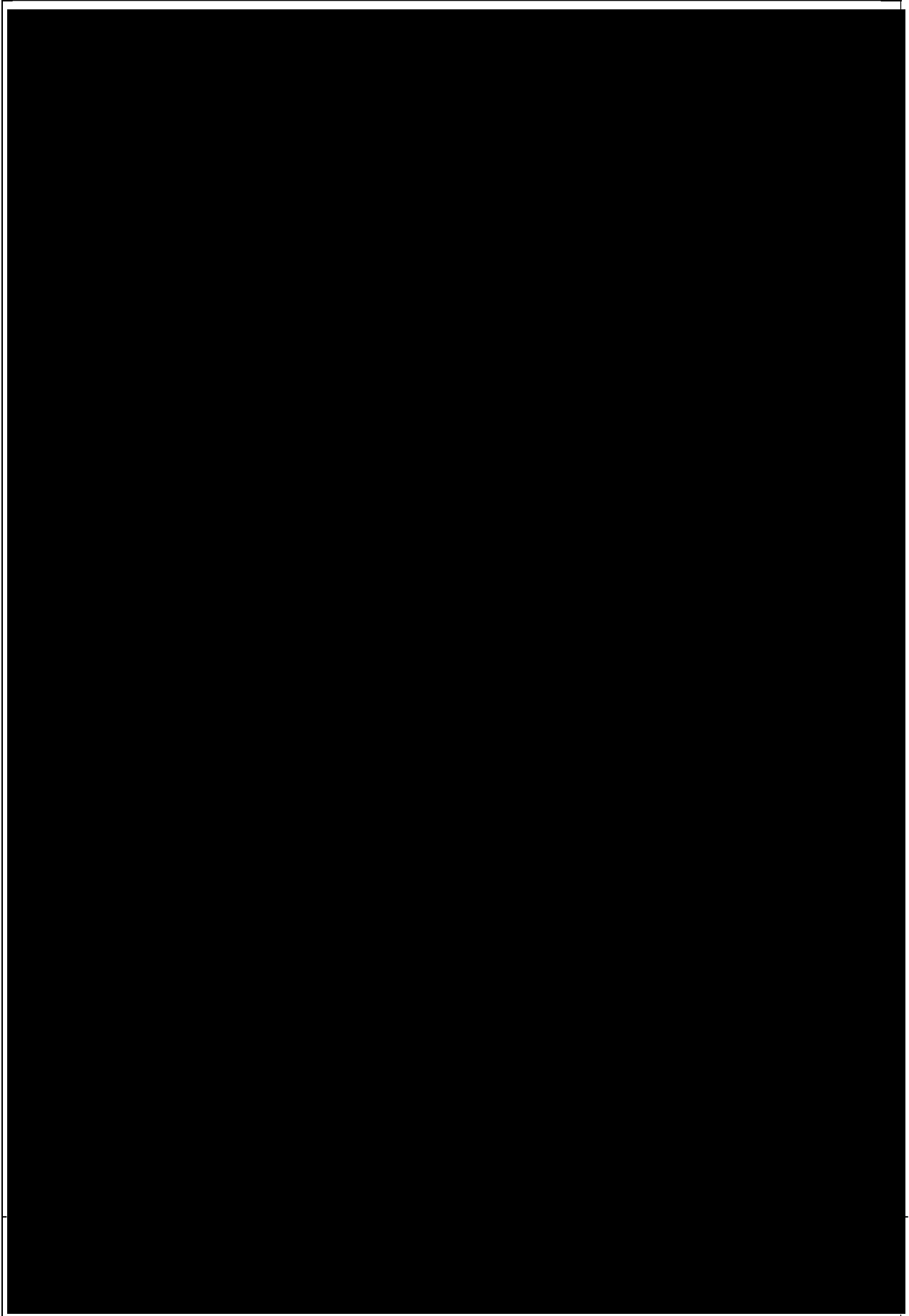
[REDACTED]

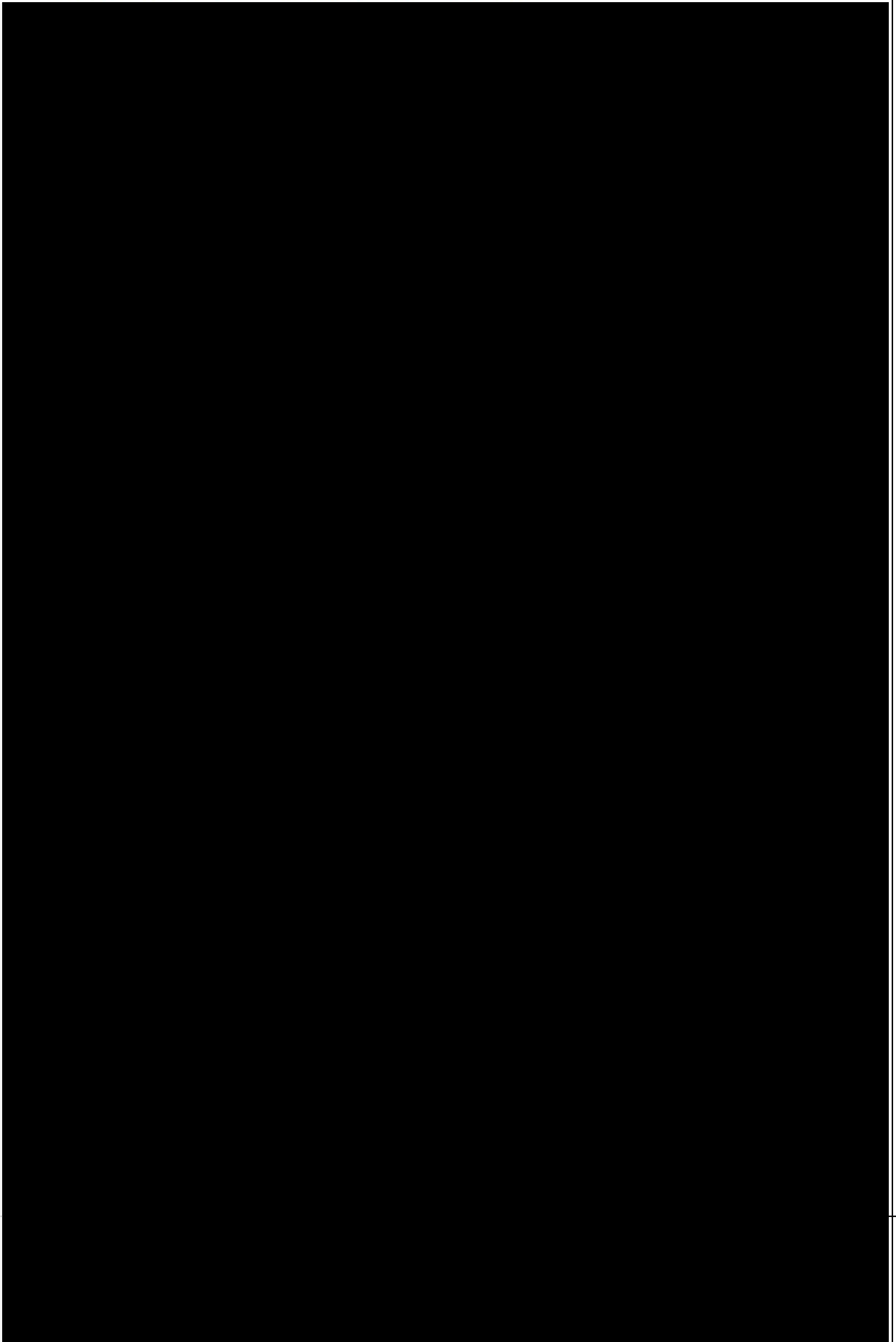
[REDACTED]

[REDACTED]

[REDACTED]

--	--	--	--





[illegible]

[illegible]

Question	AQ22	Weight	3%	Word Limit	500 words
Award Criterion		<p>The Authority requires the Potential Provider to:</p> <p>Digital Platform/Service- operations:</p> <p>Provide ongoing support and maintenance that ensure an optimised, quality and smooth service provision for users and that is responsive and effective at troubleshooting.</p>			
Question		<p>Please provide detail on what operational support you will provide and the escalation procedures you will put in place to ensure you deliver an optimised, quality and smooth digital service for users and that is responsive and effective at troubleshooting.</p>			
Response Guidance		<p>This must include:</p> <ul style="list-style-type: none"> • How you will ensure that any technical issues or bugs in the digital service are identified. • How you will ensure that any technical issues with the digital service are resolved in a timely manner, including what procedures you will put in place in the event that the service goes down. • What ongoing support you will provide during the mobilisation and pilot period to respond to any user reported feedback and/or complaints with the service (participant and back-end users/partners) and ensure quick resolution. • How you provide web analytics, including ongoing data and reporting on the usage of the platform and user journey. 			

Provider Response (500 words max.)

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[Redacted]

[Redacted]

[Redacted]

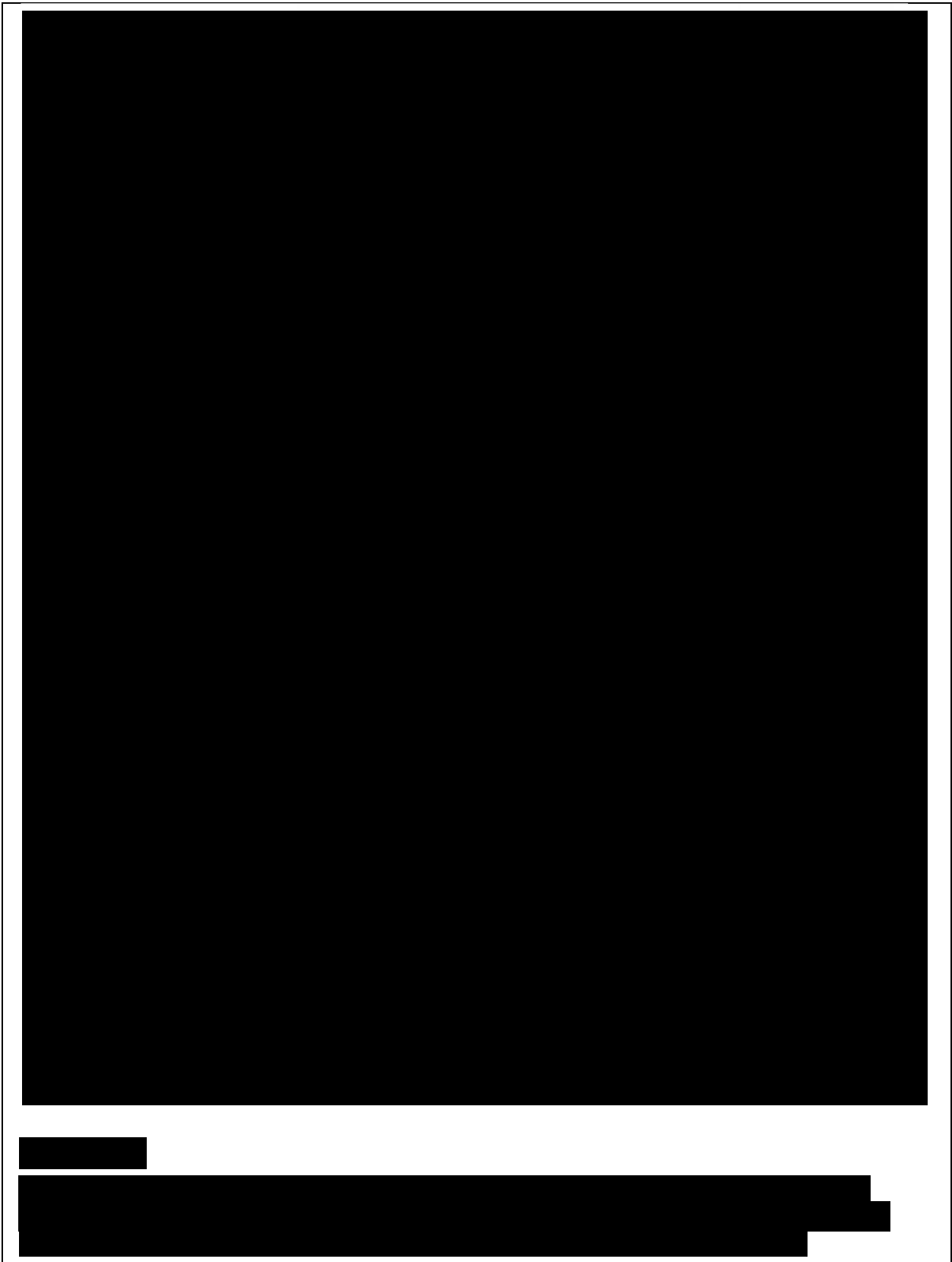
[Redacted]

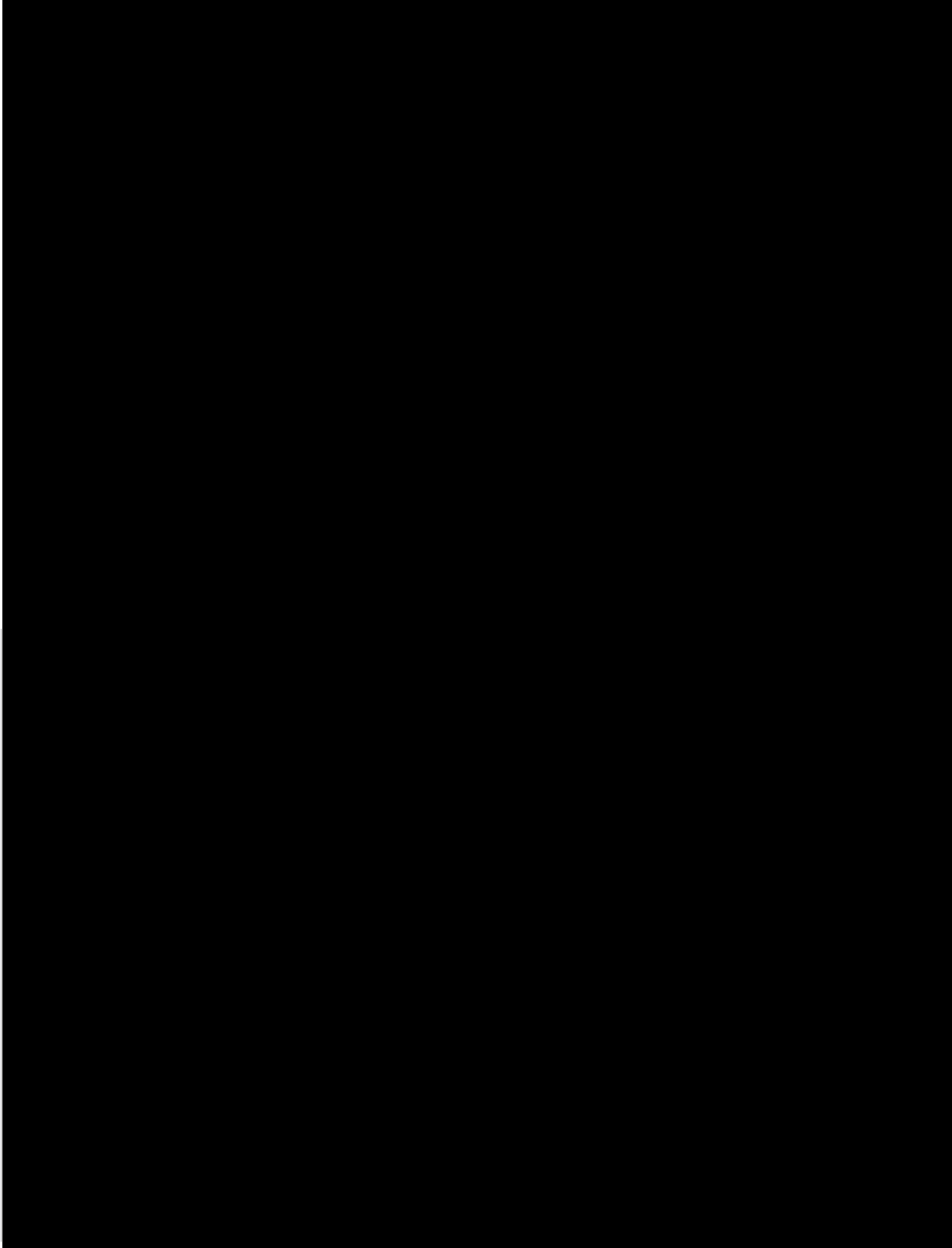
[Redacted]

[Redacted]

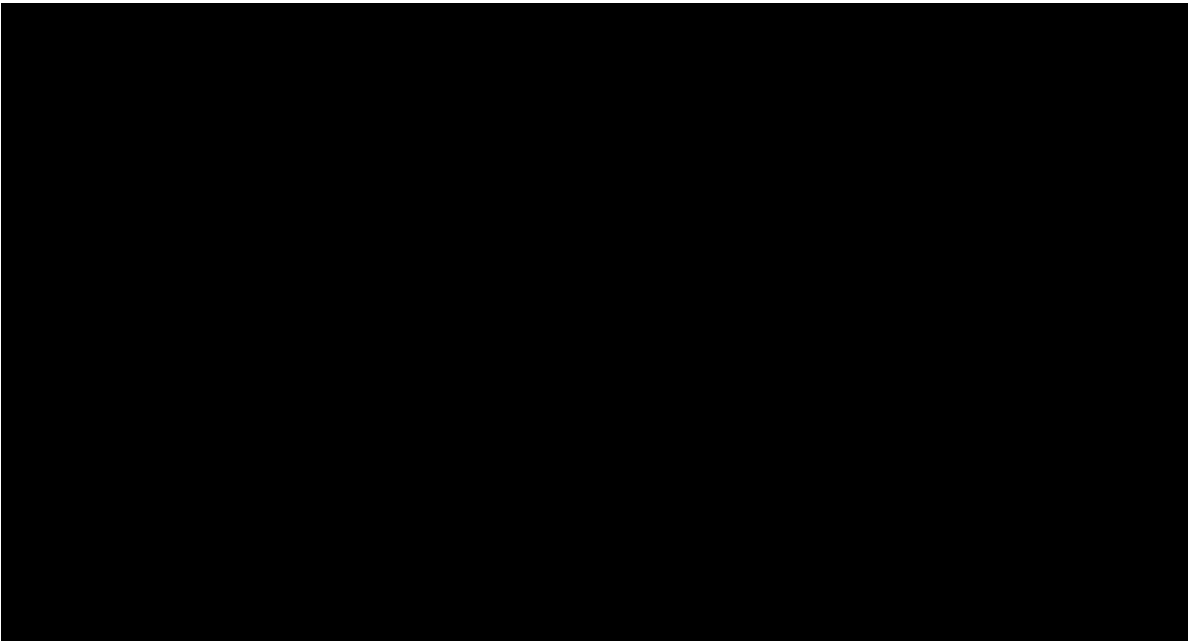
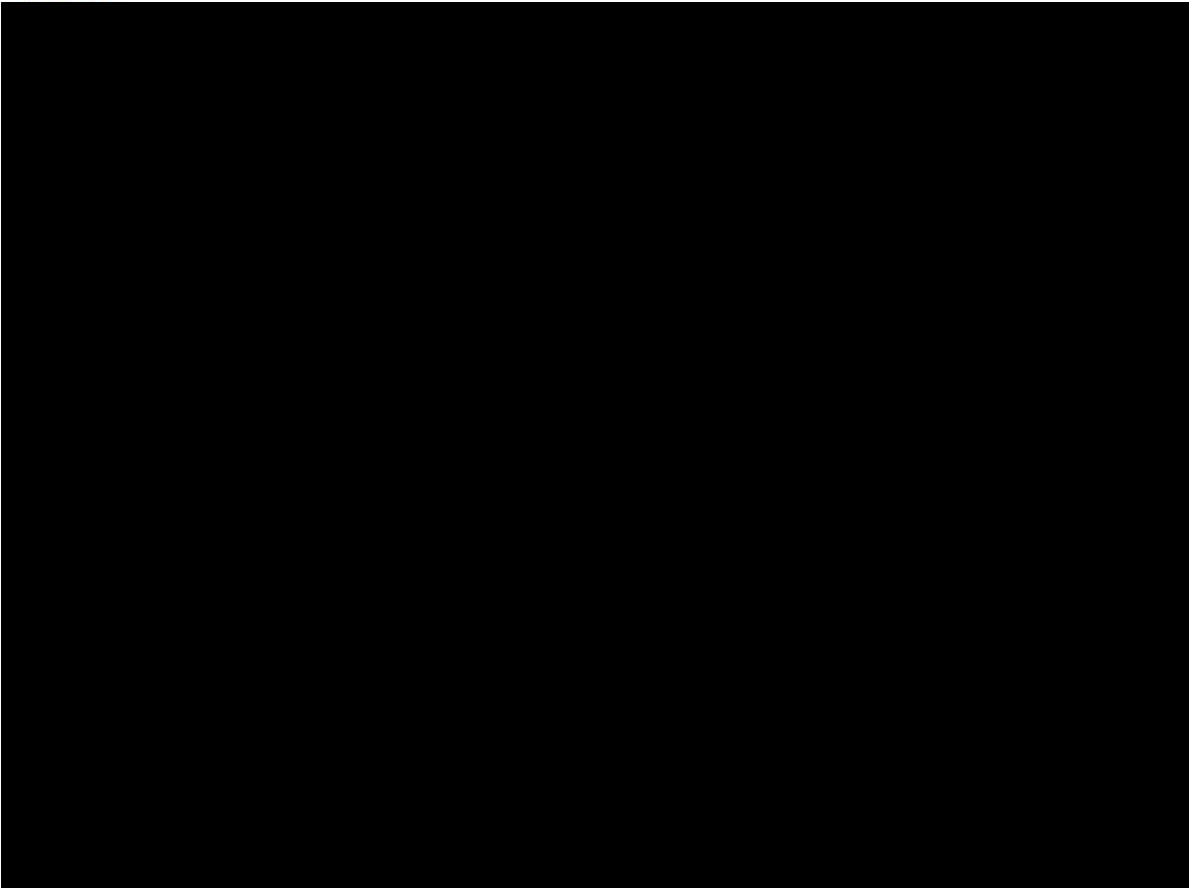
[Redacted]

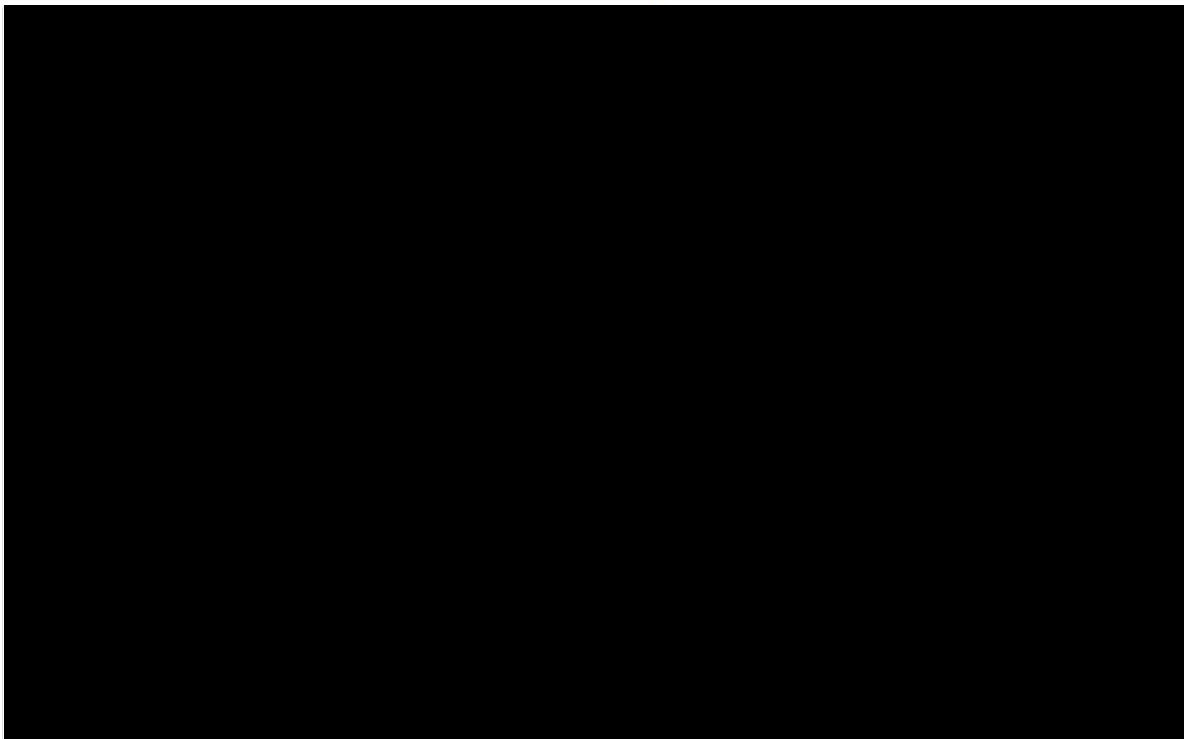
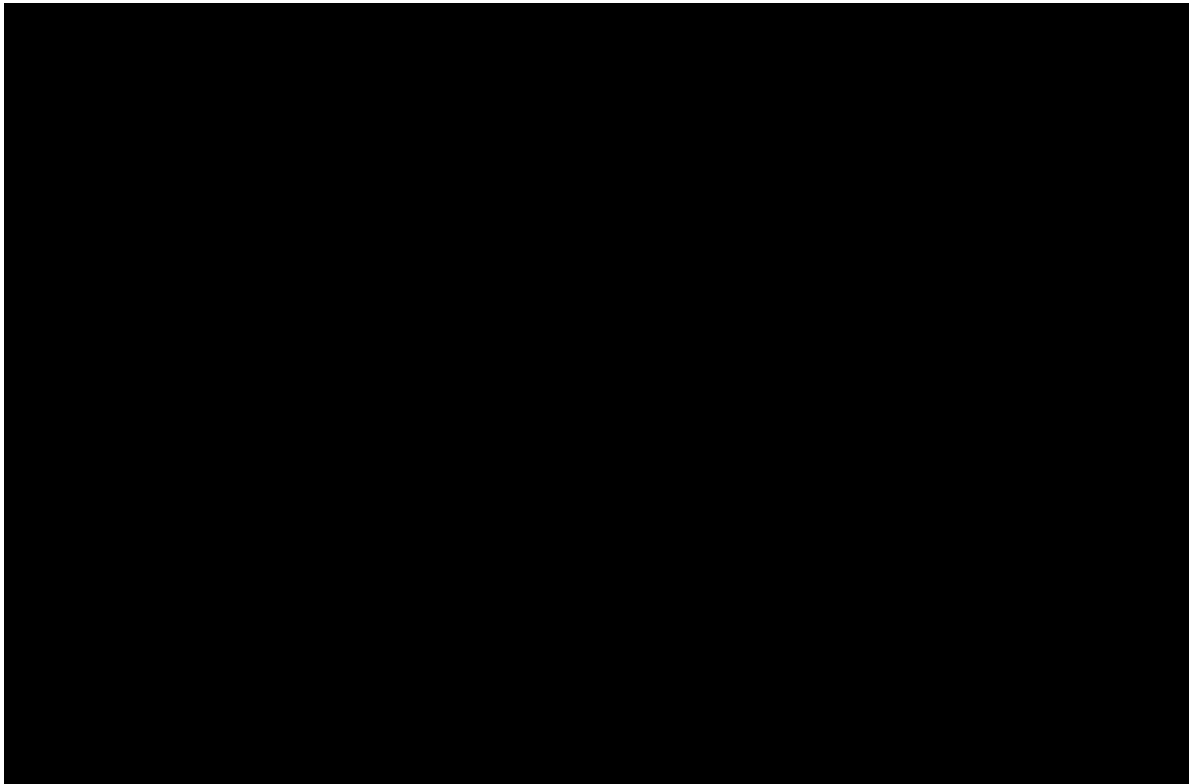
[REDACTED]	
[REDACTED]	
[REDACTED]	





[illegible]





Question	AQ23	Weight	Pass/Fail	Word Limit	
Award Criterion	The Authority requires the Potential Provider to comply with: Mandatory Digital Platform/Service provisions				
Question	Do you agree to the following requirements?				
Response Guidance	<p>You must provide confirmation that you:</p> <ul style="list-style-type: none"> • Have the capability to integrate with any tracking data on participants behaviour, as necessary. • Have the capability to integrate with the provision of incentives directly to participants. • Provide assurance that the digital service will meet the <u>Digital Technology Assessment Criteria for health and social care (DTAC)</u>. • Provide assurance that the digital service will meet the <u>Government Service Standard</u> and <u>Technology Code of Practice</u>. • Will agree to the approach for ownership of any hardware as set out by the Authority post-contract award. <p>Scoring a Fail in more than one mandatory pass/fail question will mean that the bidder's submission is deemed non-compliant and therefore excluded from the competition. If you receive a 'Fail' your bid will continue to be evaluated.</p>				

Provider Response
PASS

Question	AQ24	Weight	8.5%	Word Limit	500 words
Award Criterion	<p>The Authority requires the Potential Provider to:</p> <p>Digital partner establishment:</p> <p>Have evidence of established partnerships with all partners/subcontractors, as necessary, to deliver the digital</p>				

Attachment 3 – Service Specification

	solution, or evidence that the solution will be delivered by the single digital service provider. At a minimum, evidence that they have started to build partnerships with partners/subcontractor, as necessary.
Question	Please detail how established the partnership with the provider of the digital infrastructure is or provide evidence that the single service provider can deliver all service.
Response Guidance	<p>Your answer must include:</p> <ul style="list-style-type: none"> • Whether the digital requirements will be delivered either directly by the single digital provider OR through partnerships or subcontractors. This must include any providers who would collect, track or otherwise input data on user's behaviours. • Evidence of the single digital service provider to deliver on all elements of the digital service provision as outline in response to AQ23 OR evidence of established partnership(s) or commitment in principle with any partners or subcontractor, if required. This must include what arrangements or contracts are in place so far for each partner. • Whether you have any pre-existing contracts or arrangements which may restrict you from forming additional partnerships.

Provider Response (500 words max.)
<div style="background-color: black; height: 20px; width: 150px; margin-bottom: 10px;"></div> <div style="background-color: black; height: 100px; width: 750px;"></div>

[illegible]



Question	AQ25	Weight	9%	Word Limit	750 words
Award Criterion		The Authority requires the Potential Provider to:			
		Incentives offer and mechanism: Provide an incentives offer for users that includes a high volume and wide variety of incentives from multiple incentives partners that are relevant and appealing, with economic value for users within the target audience, with evidence of established, or at a minimum, developing, relationships with incentives providers.			
Question		Please detail your incentives offer including whether you have established partnerships with incentives providers and/or have			

	started to build partnerships and your offer supports the aim of the pilot to provide a ubiquitous offer to users.
Response Guidance	<p>This must include:</p> <ul style="list-style-type: none"> • The variety of incentives you will offer. • Which organisations will provide incentives (specify organisation and the specific incentives offer) and whether they are local or national providers. • How the incentives offer aligns with the requirement to, where possible, further improve their health behaviours (physical activity and diet) in line with Government policy, and directly encourage less healthy diet/physical activity behaviours or other unhealthy behaviours, as outlined in the specification. <p>To note that the Authority reserves the right to reject any element of the proposed incentive offer if it does not align with these principles.</p> <ul style="list-style-type: none"> • Evidence that the incentives offer is broad, relevant and appealing to targeted users, considering, for example, cultural relevance. • How you have ensured that participants would still have access to broad offer of incentive in the possible event that further restrictions in response to the COVID-19 pandemic are introduced. • How long you anticipate the redemption period will be for the incentives offer. Please detail if they are expected to vary between individual incentives. • Your approach to financial management of the incentives, including: how you will evidence the types and value of incentives funding passed through to participants, how you will report on the types and value of incentives issued and redeemed and products/services on which they have been redeemed against. <p>Note, the Provider will need to invoice the Authority monthly in arrears.</p>

Provider Response (750 words max.)

[REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

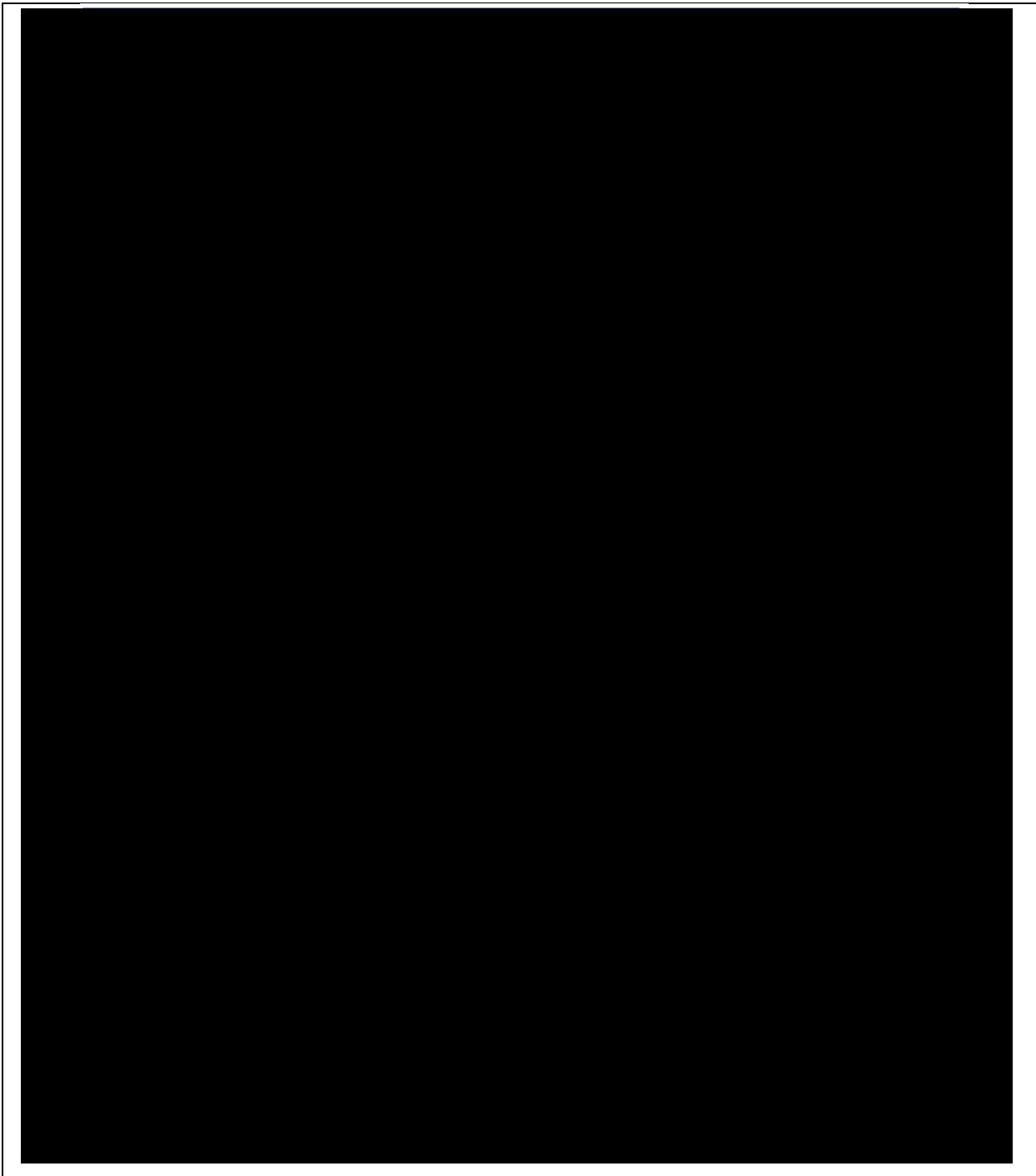
[REDACTED]

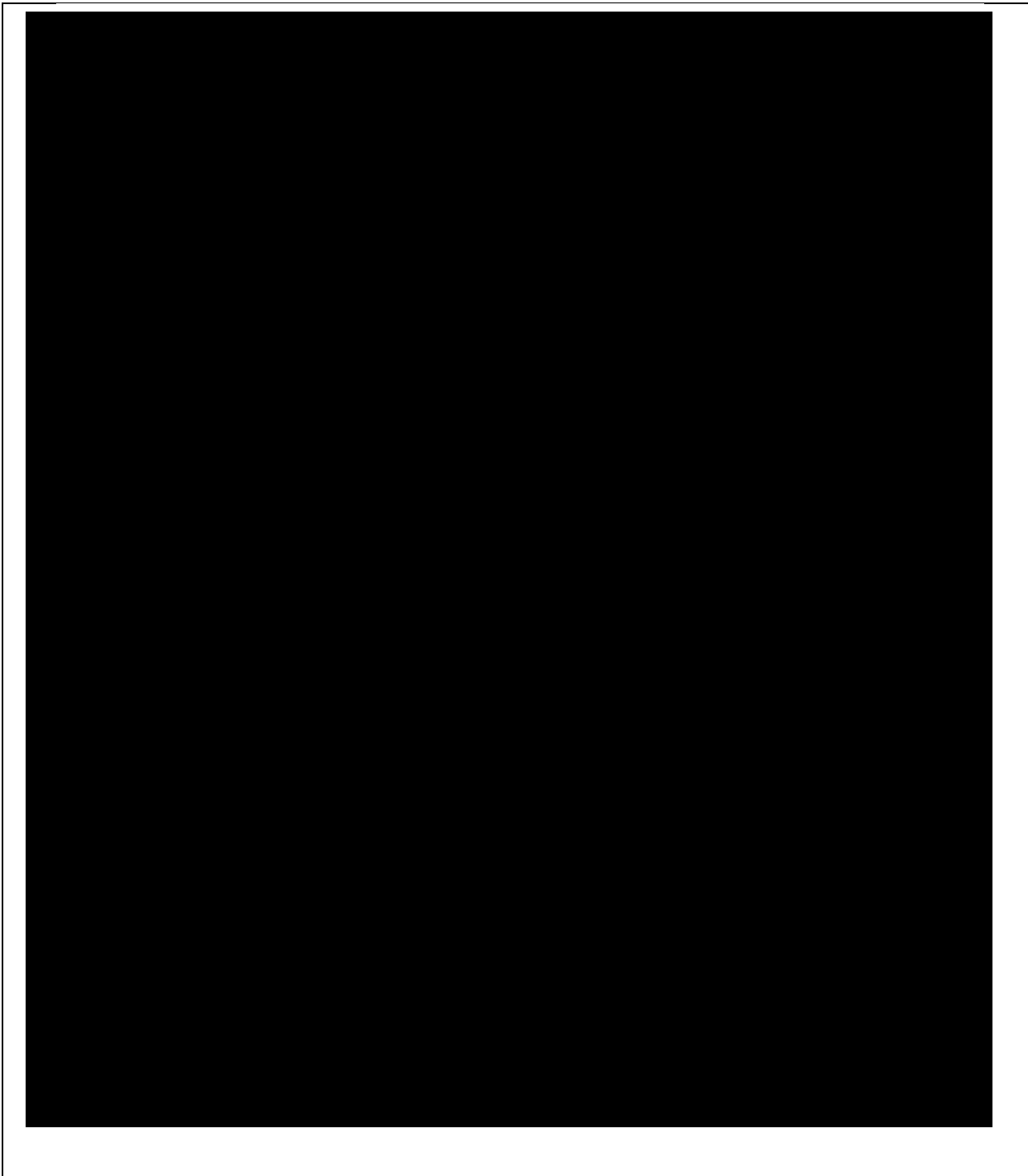
[REDACTED]

[REDACTED]

Attachment 3 – Service Specification

[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	





[illegible]

--

Question	AQ26	Weight	Pass/ Fail	Word Limit	
Award Criterion	The Authority requires the Potential Provider to comply with: Mandatory Incentives Offer and Mechanism provisions				
Question	Do you agree to the following requirements?				
Response Guidance	<p>You must provide confirmation that you:</p> <ul style="list-style-type: none"> • Have the capability to integrate with the digital service to issue the incentive/reward directly to participants. • Have the capability to issue incentives to participants that are redeemable in a timely manner that aligns with the pilot design (frequency and timing). • Have the capability to evidence the values and types of incentives issued and redeemed to participants across demographic groupings during the pilot programme. 				

Attachment 3 – Service Specification

	Scoring a Fail in more than one mandatory pass/fail question will mean that the bidder's submission is deemed non-compliant and therefore excluded from the competition. If you receive a 'Fail' your bid will continue to be evaluated.
--	--

Provider Response
PASS

Question	AQ27	Weight	9%	Word Limit	500 words
Award Criterion	<p>The Authority requires the Potential Provider to:</p> <p>Incentive partner(s) establishment:</p> <p>Provide evidence of established partnerships with all partners/subcontractors, as necessary, to provide the proposed incentives offer. At a minimum, evidence that they have started to build partnerships with partners/subcontractor, as necessary.</p>				
Question	Please detail how established the proposed incentive partnership(s) is.				
Response Guidance	<p>Your answer must include:</p> <ul style="list-style-type: none"> Evidence of an established partnership with each of the proposed incentives partner AND/OR commitment in principle to form a partnership between the Provider and aforementioned incentive partner(s) in AQ25 during the mobilisation period. What would be your approach to bringing on new partnerships during the mobilisation and pilot period. This must include any limitations you foresee in doing this and timeframes. Whether you have any pre-existing contracts or arrangements which may restrict you from forming additional partnerships. 				

Provider Response (500 words max.)
<div style="background-color: black; height: 15px; width: 100%;"></div> <div style="background-color: black; height: 15px; width: 100%;"></div>

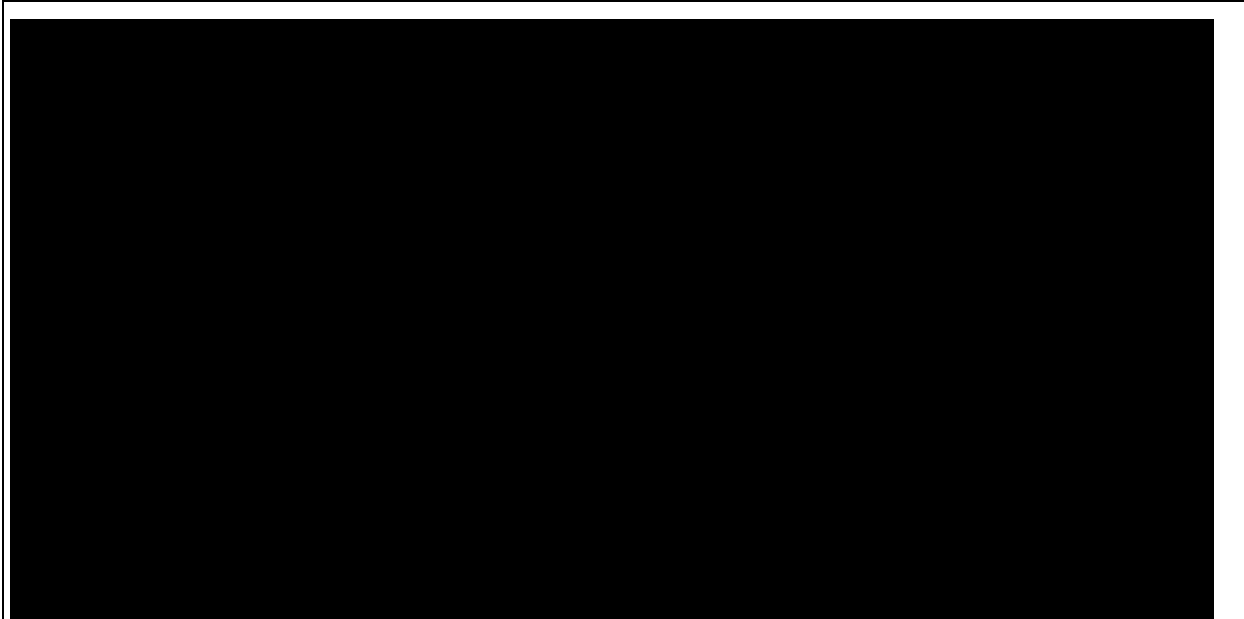
[illegible]

[illegible]

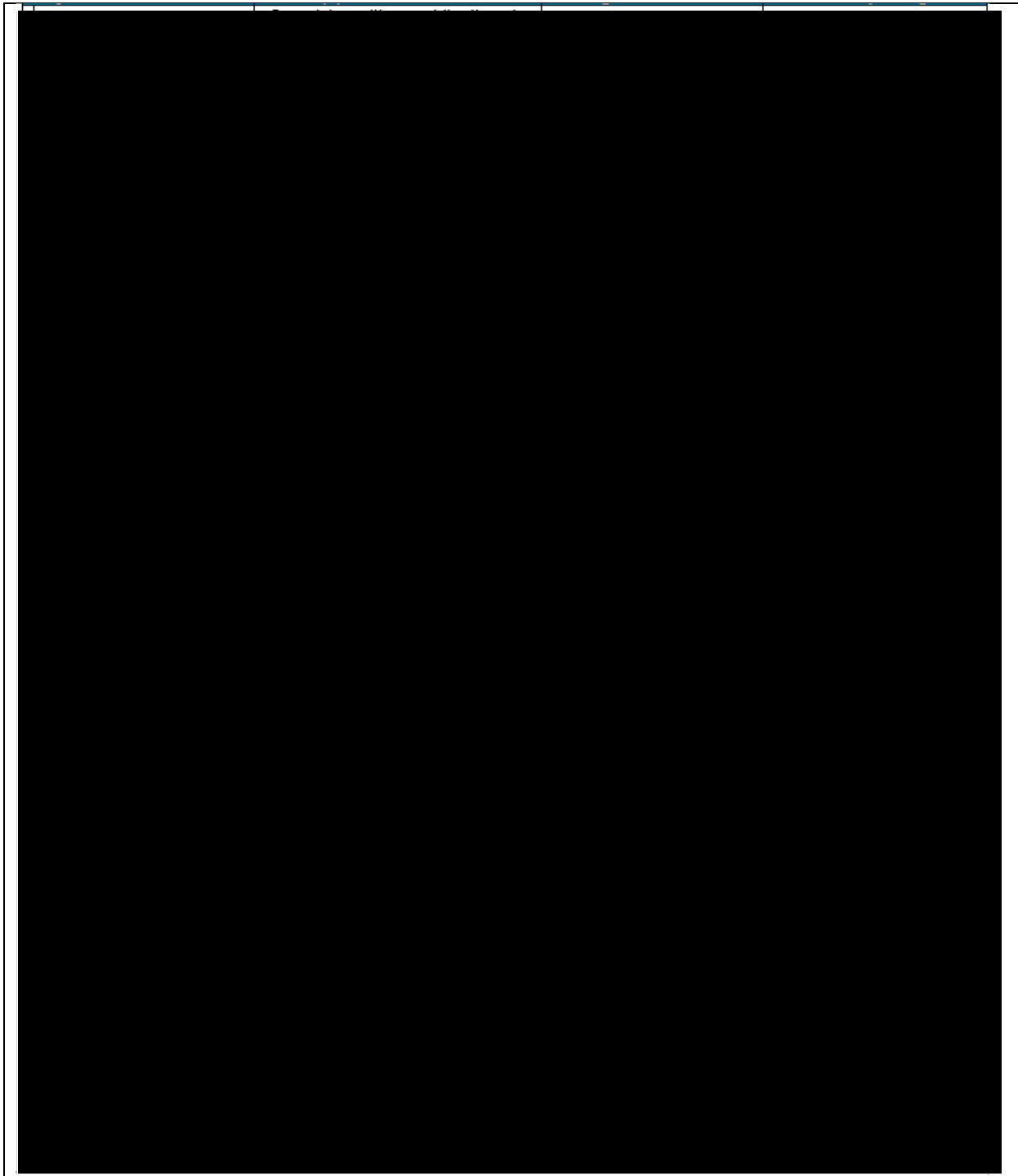
Award Questionnaire – Social Value (10%)

Question	SV01	Weight	33.3%	Word Limit	400 words
Award Criterion		<p>The Authority requires the Potential Provider to:</p> <p>Tackle economic inequality by creating opportunities for entrepreneurship and helping new organisations to grow, supporting economic growth and business creation. Including existing, or planned:</p> <ul style="list-style-type: none"> a. Entrepreneurship, growth and business creation Activities that demonstrate and describe the tenderer's existing or planned: b. Understanding of the level of Small, Medium and Large organisations and Voluntary, Community and Social Enterprises and Mutuals participation in the contract supply chain. c. Identification of opportunities to grow supplier diversity in the contract supply chain or in the location/community where the contract is performed, including SME and VCSE participation and new business creation. d. Engagement activities for potential new suppliers to the contract supply chain, prior to awarding subcontracts. Illustrative examples: advertising upcoming opportunities in accessible media; raising awareness of future opportunities to target audiences; meet the buyer events; awareness raising by guidance or events of how to tender effectively for public supply chain contracts. e. Measures to make the supply chain working environment conducive to a diverse range of suppliers and growing businesses, including but not limited to: <ul style="list-style-type: none"> o structuring the supply chain selection process in a way that ensures fairness (e.g. anti-corruption) and encourages participation by new and growing businesses. , including but not limited to: <ul style="list-style-type: none"> i. advertising supply chain opportunities openly and to ensure they are accessible to new and growing businesses, including advertising subcontracting opportunities on Contracts Finder. ii. ensuring accessibility for disabled business owners and employees. iii. prompt payment. <ul style="list-style-type: none"> • Illustrative examples: co-design and co-creation of services; collaborative performance management; 			

[illegible]



Attachment 3 – Service Specification



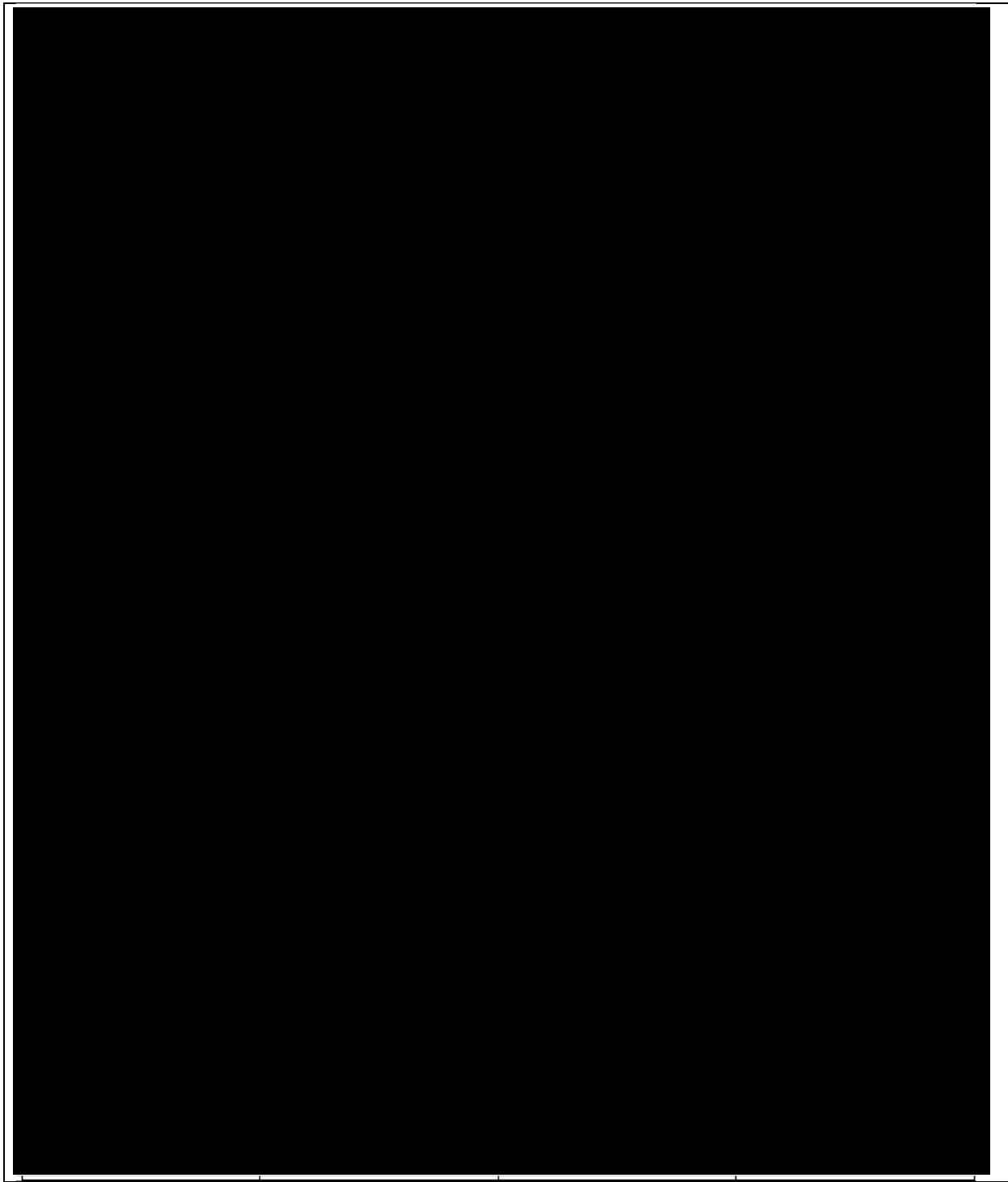
Question	SV02	Weight	33.3%	Word Limit	400 words
Award Criterion		<p>The Authority requires the Potential Provider to:</p> <p>Tackle economic inequality by creating a diverse supply chain to deliver the contract including new businesses and entrepreneur, start-ups, SMEs, VCSE's and mutual.</p> <ul style="list-style-type: none"> • Understanding of the types of businesses in the market and the level of participation by new businesses, entrepreneurs, start-ups, SMEs, VCSEs and mutuals. • Activities to identify opportunities to open sub-contracting under the contract to a diverse range of businesses, including new businesses, entrepreneurs, start-ups, SMEs, VCSEs and mutuals. • Plans for engaging a diverse range of businesses in engagement activities prior to appointing supply chain members (including activities prior to award of the main contract and during the contract term). • Activities that demonstrate a collaborative way to work with a diverse range of businesses as part of the supply chain. Illustrative examples: co-design and co-creation of services; collaborative performance management; appropriate commercial arrangements; inclusive working methods; and use of inclusive technology. <ul style="list-style-type: none"> • Advertising of supply chain opportunities openly and to ensure they are accessible to a diverse range of businesses, including advertising sub-contracting opportunities on Contracts Finder. • Ensuring accessibility for disabled business owners and employees. • Structuring of the supply chain selection process in a way that ensures fairness (e.g. anti-corruption) and encourages participation by a diverse range of businesses, including with regard to new businesses, entrepreneurs, start-ups, SMEs, VCSEs and mutuals 			
Question		Please describe the commitment your organisation will make to ensure that opportunities under the contract deliver against wider departmental social value policies, including improving community integration and tackling economic inequality.			
Response Guidance		<p>Please include:</p> <ul style="list-style-type: none"> • Your 'Method Statement', stating how you will achieve this and how your commitment meets the Award Criteria, and • A timed project plan and process, including how you will implement your commitment and by when. Also, how you 			

Attachment 3 – Service Specification

	<p>will monitor, measure and report on your commitments/the impact of your proposals. You should include but not be limited to:</p> <ul style="list-style-type: none">• timed action plan• use of metrics• tools/processes used to gather data• reporting• feedback and improvement• transparency
--	--

Provider Response (400 words max.)

[Redacted response text]



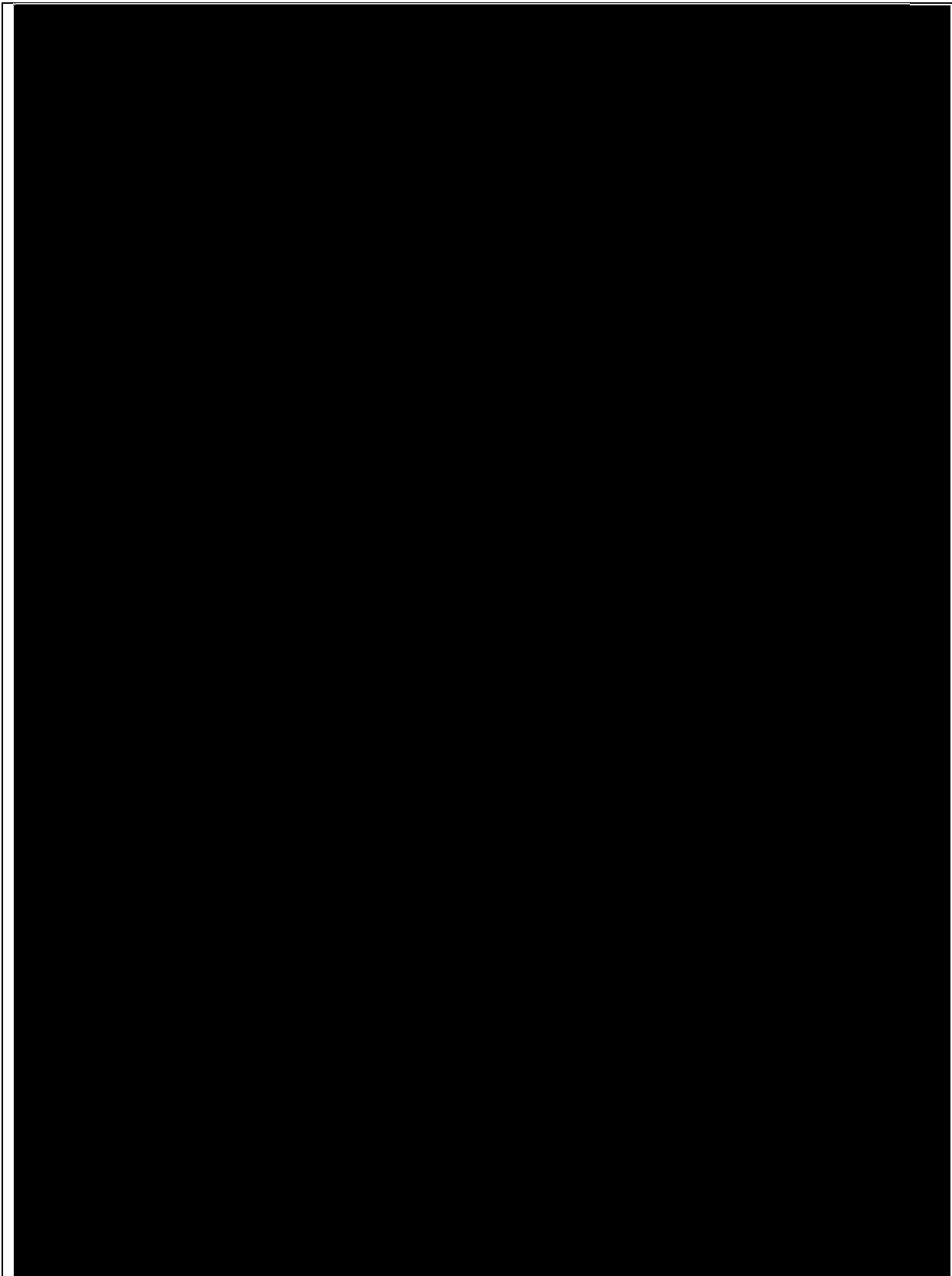
Question	SV03	Weight	33.3%	Word Limit	400 words
Award Criterion		The Authority requires the Potential Provider to:			

	<p>Improve community integration by demonstrating collaboration with users and communities in the co-design and delivery of the contract to support strong, integrated communities Your answer should include activities that demonstrate your existing or planned:</p> <ul style="list-style-type: none"> • Understanding of local demographics, needs and opportunities for the co-design of the goods, services and works to be delivered under the contract. • Methods for engaging with different parts of the community (including the education system) and how communities come together to inform decisions, strategy and projects to leave a positive legacy for future generations. Illustrative examples: engagement events; awareness campaigns and outreach activities; focus groups; ‘anchor institutions’ such as educational establishments and health trusts; Local Economic Partnerships (LEPs); charities; industry or community representative bodies. • Measures to involve local stakeholders and/or users in design (e.g. in the design of services, systems, products or buildings). • Plans for positive actions with community groups. • Measures for making facilities used in the delivery of the contract available for community groups, education or training. • Measures to build trust, gain credibility and build relationships to increase community integration, trust and influence on how the contract is performed. • Flexibility in responsiveness and ability to adapt in approach to community engagement and initiatives. • Support to community-led initiatives relevant to the contract. Illustrative examples: improving transport links; reducing crime; reducing homelessness, poverty and hunger; reducing loneliness; helping with English language proficiency; and helping meaningful social mixing among people with different backgrounds. • Employee volunteering schemes applicable to the contract workforce.
<p>Question</p>	<p>Please describe the commitment your organisation will make to ensure that opportunities under the contract deliver against wider departmental social value policies, including improving community integration and tackling economic inequality.</p>

Response Guidance	<p>Please include:</p> <ul style="list-style-type: none">• Your 'Method Statement', stating how you will achieve this and how your commitment meets the Award Criteria, and• A timed project plan and process, including how you will implement your commitment and by when. Also, how you will monitor, measure and report on your commitments/the impact of your proposals. You should include but not be limited to:<ul style="list-style-type: none">• timed action plan• use of metrics• tools/processes used to gather data• reporting• feedback and improvement• transparency
--------------------------	--

Provider Response (400 words max.)





Attachment 3 – Service Specification

<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>
<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>

[illegible]

**SCHEDULE 6
PRICING**

Core Service Lines:						
	Pilot cost ex VAT	1st 3-month extension post-pilot ex VAT	2nd 3-month extension post-pilot ex VAT	3rd 3-month extension post-pilot ex VAT	4th 3-month extension post-pilot ex VAT	Additional Comments
Service Requirement 1 - Integration and Oversight						
Service Requirement 2 - Pilot design						
Service Requirement 3 - Digital Approach						
Service Requirement 4 - Incentive Provision						
Total Cost:						

SR1: Pilot management, including: end-to-end programme management, service integration, reporting and management information production, regulatory & branding compliance.

Pilot Period	1st 3-month extension		2nd 3-month extension		3rd 3-month extension		4th 3-month extension	
Operating Costs (£) ex VAT:								
Net cost:								
Profit:								
Overall cost:								
Operating Cost Breakdown (£):								
[TBC by the Provider]								

SR2: Pilot design, including: theory of change development, participant sampling and recruitment, marketing and engagement, analysis and evaluation.

Pilot Period	1st 3-month extension	2nd 3-month extension	3rd 3-month extension	4th 3-month extension	
Operating Costs (£) ex VAT:					
1. Theory of change development & pilot design:					
Net cost					
Profit					
Overall cost					
2. Sampling strategy:					
Net cost					
Profit					
Overall cost					
3. Analysis and Evaluation:					
Net cost					
Profit					
Overall cost					
Total Overall Cost					
Operating Cost Breakdown (£):					
[TBC by the Provider]					

[illegible]

SR4: Provision of an attractive incentive portfolio:

[illegible]

SCHEDULE 7 CONTRACT MONITORING

The Provider will be required to meet the following commercial obligations throughout delivery of the services:

Regular financial reporting at a frequency defined by the Authority.

Adopt 'open book' accounting in order to be able to provide regular updates to the Authority to demonstrate active cost management and value for money achieved. Under this process, the successful organisation will be expected to demonstrate to the Authority, upon request, how value for money has been achieved utilising their experience and expertise in active cost management in the market. The Authority will agree with the Provider what information is required to be provided as part of the open book process.

Regular management information and reporting to the Authority on performance against KPIs and outcomes across all key operational and quality management aspects of the services being delivered under this contract, as a frequency defined by the Authority. The Authority may be required to publish KPI data every quarter on gov.uk, and if so, will make a request to the Provider who will ensure they confirm with this request whilst adhering to the relevant data controls.

The high-level KPIs related to the requirements listed in this document are outlined below, however they will need to be refined in line with the specific design of the pilot. The exact KPIs for the pilot programme will be finalised and agreed between the Authority and the Provider during the mobilisation period. The Supplier shall send Performance Monitoring Reports to the Authority detailing the level of service which was achieved to allow KPI monitoring; the frequency of reporting is to be agreed during the mobilisation period.

The Provider shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each KPI as **outlined in the contract in schedule 16**. Any KPI failure shall entitle the Authority to the rights to any Service Credits, any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to meet any Service Level Performance Measure.

No.	KPI Name	Measure Description	Measure Calculation	Monitoring frequency
<u>SR1 KPI's</u>				
PMKPI1	Pilot delivery management information	Delivery of management information [weekly], including but not limited to: recruitment data, retention/engagement data, digital performance data, incentive performance data, feedback.	Management information to be delivered by Friday 12pm to the Authority 90% of the time during the monitoring period. Critical threshold 50%	Quarterly

Attachment 3 – Service Specification

PMKPI2	Risk Mitigation	The Contractor must provide to the Authority up-to-date risk log and mitigation plan for pilot delivery on a monthly basis and on request from the Authority.	The Contractor must provide the report to the Authority on a monthly basis as scheduled within the mobilisation plan and within 5 working days of an ad hoc request 90% of the time during the monitoring period. Critical threshold 50%	Quarterly
PMKPI4	Notification: Data Breach / Security Incident	The Contractor must notify the Authority within [4 working hours] if at any time the Contractor becomes aware, suspects or has reason to believe that data has or may become corrupted, lost or has suffered a data breach in any way.	The Authority must be notified within 4 hours of the Contractor identifying a security / data breach 75% of the time during the monitoring period. Critical threshold 25%	6-monthly
PMKPI5	Correction: Data Breach / Security Incident	The Contractor must provide to the Authority a report to include full details of the incident or the potential incident. The report shall contain as a minimum a root cause analysis.	Provision of a report to include full details on the security incident or potential or attempted incident within 24hrs of its occurrence or discovery by either party 75% of the time . Critical threshold 25%	6-monthly
PMKPI6	Resolution: Data Breach / Security Incident	Time to resolve incidents.	Data breaches & security incidents shall be resolved to the reasonable satisfaction of the Authority within 3 working days of the incident notification 75% of the time during the monitoring period. Critical threshold 25%	6-monthly
PMKPI7	Notification: Regulatory Compliance	The Contractor must notify the Authority within [4 working hours] if at any time the Contractor becomes aware, suspects or has reason to believe that a regulatory, ethical or policy requirement has or may been breached.	The Authority must be notified within [4 working hours] of the identification of a breach 75% of the time during the monitoring period. Critical threshold 25%	6-monthly
PMKPI8	Correction: Regulatory Compliance	The Contractor must provide to the Authority a report to include full details of the incident or the potential incident. The report shall contain as a minimum a root cause analysis.	Provision of a report to include full details on the incident or potential or attempted incident within 24hrs of its discovery by either party 75% of the time during the monitoring period. Critical threshold 25%	6-monthly
PMKPI9	Resolution: Regulatory Compliance	Time to resolve incidents.	Data breaches & security incidents shall be resolved to the reasonable satisfaction of the Authority within 3 working days of the incident notification 75% of the time during the monitoring period. Critical threshold 25%	6-monthly

Attachment 3 – Service Specification

PMKPI10	Notification: Misuse of brand assets	The Contractor must notify the Authority within 4-hours if at any time the Contractor becomes aware, suspects or has reason to believe that the Better Health Brand has or may be used in breach of the Branding guidelines.	The Authority must be notified within [4 hours] of the identification off the misuse of assets 75% of the time during the monitoring period. .	6-monthly
PMKPI11	Data sharing	The contractor must share all data collected as part of the pilot with the Authority within [5 working days] of data collection*.	The contractor must upload data within [5 working days] of data collection 90% of the time during the monitoring period. Critical threshold 25%	Quarterly
PMKPI12	Complaints	The Contractor must record, manage and resolve to the satisfaction of the complainant, all participant queries.	A minimum of 99% of queries during the monitoring period must be recorded, managed and resolved within 5 working days. Critical threshold 50%	Quarterly
PMKPI13	Incident Response	The Contractor shall attend all incident management meetings.	The Contactor must attend 100% of incident management meetings organised during the monitoring period with a minimum of 2 hours notice. Critical threshold 75%	Full contract
PMKPI14	Budget Control 1	The Contractor shall ensure that all invoices are correctly calculated and are validated before submission to the Authority for payment.	90% of invoices during the monitoring period, including downstream elements, to be correctly calculated and are validated prior to sharing with the Authority. Critical threshold 50%	Full contract
PMKPI15	Budget Control 2	On request from the Authority the contractor shall provide cost data with terms and categories aligned to those used in the initial pricing model.	Cost model to be shared with the Authority within 5 working days of request 75% of the time . Critical threshold 25%	Quarterly
PMKPI16	Safeguarding	The Contractor shall conduct DCB0129 re-certification and provide the evidential documentation to the Authority within 5-working days of implementing a change to pilot design.	The Contractor must provide DCB0129 documentation to the Authority within 5-working days of a design change 65% of the time organised during the monitoring period. Critical threshold 25%	Quarterly
PMKPI17	Notification: Safeguarding Concern	The Contractor must notify the Authority within 4 hours if at any time the Contractor becomes aware, suspects or has reason to believe that there is a safeguarding issue on the pilot (i.e. identification of participants engaging in extreme eating behaviours).	The Authority is to be notified of a safeguarding concern within 4working hours of identification 75% of the time organised during the monitoring period. Critical threshold 25%	Quarterly

Attachment 3 – Service Specification

PMKPI18	Reporting: Modern Slavery	The Contractor must report to the Authority on due diligence and compliance with modern slavery obligations included in the Contract in relation to the Contractor and its supply chain.	The Contractor must produce a report quarterly, within 24hours of the scheduled time in the mobilisation plan 65% of the time organised during the monitoring period. Critical threshold 25%	Full contract
PMKPI19	Reporting: Social Value	The Contractor must report to the Authority on Social Value metrics, as outlined in the Contract.	The Contractor must produce a report quarterly, within 24hours of the scheduled time in the mobilisation plan 65% of the time organised during the monitoring period. Critical threshold 25%	Full contract
<u>SR2 KPI's</u>				
PDKP1	Recruitment	The Contractor shall provide to the Authority weekly reports of participant recruitment versus target, split by demographic groupings outlined in the tender response.	Report to be delivered to the Authority weekly by Friday 12pm 90% of the time organised during the monitoring period. Critical threshold 50%	Quarterly
PDKP2	Marketing effectiveness	On request from the Authority the Contractor shall provide a marketing report, comparing the tangible marketing engagement plan with the proposed marketing plan within the tender response.	Within 5 working days 75% of the time organised during the monitoring period. Critical threshold 25%	6-monthly
PDKPI3	Real time evaluation	The contractor shall provide on a monthly basis a progress report against the pilot success criteria, covering: access, engagement, behaviour change. The report should be split by incentive value test-group, and further split by demographic of participants.	Report to be delivered to the Authority monthly by Friday 12pm 80% of the time organised during the monitoring period. Critical threshold: 33%	6-monthly
PDKPI4	PRU support	The Contractor shall share all data requested by the National Institute for Health Research Policy Research Units (PRUs) within 5-working days of request.	Within 5 working days 75% of the time organised during the monitoring period organised during the monitoring period. Critical threshold: 25%	Quarterly
<u>SR3 KPI's</u>				

Attachment 3 – Service Specification

DPKPI1	Data collection	The Contractor shall share all data collected via the digital service with the Authority within [5 working days] of data collection.	Within [5 working days] of collection*, 90% of the time organised during the monitoring period. Critical threshold: 50%	Quarterly
DPKPI2	Incentive linkage	The Contractor shall review the pilot data collected, and trigger issue of corresponding health incentives on a [weekly] basis.	The Contractor must provide evidence in the form of a [report/email] to the Authority on a weekly basis at a minimum, 90% of the time organised during the monitoring period. Critical threshold: 50%	Quarterly
DPKPI3	Reporting: Digital analytics	The Contractor shall report on web analytics, including ongoing data and reporting on the usage of the platform and user journey, data quality and missingness, on a weekly basis to the Authority.	Delivery of a report to the Authority weekly by Friday 12pm, 90% of the time during the monitoring period. Critical threshold: 50%	Quarterly
DPKPI4	Correction: data quality	If the data quality drops below satisfactory levels [%to be agreed in mobilisation], The Contractor must provide to the Authority a report to include full details of the incident, a root cause analysis and remediation plan.	Delivery of a report to the Authority within 5 working days of data quality dropping below satisfactory levels 75% of the time . Critical threshold: 25%	Quarterly
DPKPI5	Remediation: data quality	Time to resolve data quality incidents.	Data quality remediations to be actioned within 3-working days of approval by the Authority 75% of the time . Critical threshold: 25%	Quarterly

SR4 KPI's

IKPI1	Incentives issued	The Contractor shall issue an incentive to the individual within [X days – to be suggested by the contractor within mobilisation plan] of the participant becoming eligible, in line with the proposed timeframes within the tender response.	Issue of an incentive to a participant within [X days] of eligibility 99% of the time organised during the monitoring period. Critical threshold: 75%	Quarterly
IKPI2	Report: Incentives issued	The Contractor shall provide to the Authority a report on a [weekly basis], including at a minimum: the value of incentives issued to date, percentage of incentive provision issued by each provider, split by	Delivery of a report to the Authority [weekly] during the first week of the month, 90% of the time organised during the monitoring period. Critical threshold: 50%	Quarterly

Attachment 3 – Service Specification

		the demographic groupings outlined in the tender response.		
IKP2	Report: Incentives redeemed.	The Contractor shall provide to the Authority a report on a [weekly basis], including at a minimum, split by demographic groupings: the value of incentives redeemed to date, percentage of incentives issued to date that have been redeemed, the average time between incentive issue to incentive redemption by provider.	Delivery of a report to the Authority [weekly] during the first week of the month, 90% of the time organised during the monitoring period. Critical threshold: 50%	Quarterly

Note:

[] implies either to be agreed in the mobilisation plan or suggested minimum frequency of reporting, the Contractor may wish to report on said KPI more frequently than suggested.

*denotes flexibility for this KPI to be applied to data collection or data validation stage, to be agreed during mobilisation.

Outline Implementation Plan:

During the mobilisation period, the Provider is required to develop a detailed implementation plan, based on the outline implementation plan below. Additional milestones, specific to the successful Provider's pilot design, should be added as required. The Provider should align to the timeframes included in the 'Key Milestone Dates' unless agreed in writing by the Authority and suggest appropriate timeframes for Milestones with a 'Provisional Milestone Date.'

Following approval of the detailed implementation plan, the Provider shall perform each of the tasks identified in the Implementation Plan by the applicable Milestone Date assigned to the particular task in the Implementation Plan.

If a Critical Milestone (M24, M29, M30) has not been achieved by the relevant Milestone Date, the Contractor shall pay to the Authority a Delay Payment. This Delay Payment is calculated as 2.5% of SR1 gross profit per day late, up to a cap of 20% of SR1 gross profit per Critical Milestone.

SR1 gross profit total is taken from the Provider's commercial tender response, specifically the profit declared within cell C10 of SR1- Integration and Oversight breakdown, commercial response template.

Attachment 3 – Service Specification

No.	Milestone	Key Milestone Dates	Provisional Milestone Dates
M1	All plans approved by the Authority, including but not limited to:		Within 21 working days of contract signature by both parties
M2	Provision of mobilisation plan for Authority approval.	Within 5 working days of contract signature by both parties	
M3	Provision of detailed implementation plan for Authority approval.	Within 10 working days of contract signature by both parties	
M4	Provision of finalised Marketing & Engagement Plan for Authority approval.	Within 5 working days of contract signature by both parties	
M5	Provision of evaluation plan for Authority approval.	Within 5 working days of contract signature by both parties	
M6	Detailed implementation plan approved.	Within 10 working days of contract signature by both parties	
M7	Pilot design (incl. participant groups, group sizes, incentive values to be tested, behaviours to be tracked) approved.		Within 14 working days of contract signature by both parties
M8	Pilot delivery plan approved.		Within 21 working days of contract signature by both parties
M9	Evaluation plan approved.		Within 21 working days of contract signature by both parties
M10	Final KPI's agreed		Within 10 working days of pilot design approval.
M11	Marketing and Engagement plan approved		Within 14 working days of milestone 2.
M12	All Regulatory and ethical approvals secured, including but not limited to:	Within 45 working days of contract signature by both parties	
M13	DTAC approvals secured		Within 21 working days of contract signature by both parties
M14	Government Service Standards & Technology Code of Practice approvals secured		Within 40 working days
M15	Ethical approvals secured		Within 21 working days of contract signature by both parties
M16	At least 90% of Partnership Organisations identified in tender submission onboarded and incentives confirmed		As agreed in <u>milestone 1</u>
M17	Confirmation of Partnership organisations to be utilised at Pilot Launch		As agreed in <u>milestone 1</u>

Attachment 3 – Service Specification

M18	Digital user research completed		Within 45 working days of contract signature by both parties
M19	Digital solution ready for go-live, including but not limited to, successful:		As agreed in <u>milestone 1</u>
M20	Load testing		
M21	Stability testing		
M21	Accessibility testing		
M22	Security testing		
M23	Marketing and Engagement materials ready		As agreed in <u>milestone 1</u>
M24	Pilot go-live in field.	By no later than 17th January 2022	
M25	At least 50% of projected participant numbers included in tender submission onboarded		As agreed in <u>milestone 1</u>
M26	At least 90% of projected participant numbers included in tender submission onboarded		As agreed in <u>milestone 1</u>
M27	Participant target achieved		As agreed in milestone 1
M28	Baseline behaviour data obtained.		As agreed in <u>milestone 1</u>
M29	Delivery of Interim Pilot Research Evaluation report	By <u>mid-July 2022.</u>	
M30	Delivery of Final Pilot Research Evaluation report	Delivering evaluation report <u>within 12 weeks</u> post pilot completion	M26

In addition, certain Research-specific provisions will also be included as follows:

- a) Progress of the Research will be reviewed periodically by the Authority's Representative against the Specification detailed in Schedule 4.
- b) The Contractor shall provide an interim written report on the progress of the Research according to Schedule 4. The interim report shall be in a form set out by the Authority's Representative as amended from time to time and shall include an outline of the Research Data, methods, an outline of any provisional conclusions together with management information and any other relevant information relating to the Research up to the relevant date.
- c) During the Research period the Contractor shall provide verbal or written reports as reasonably required by the Authority on any aspect of the Research.

SCHEDULE 8 COMMERCIALLY SENSITIVE INFORMATION

General

The Contractor considers that the type of information listed in Table 1 below is Confidential Information and the type of information listed in Table 2 is Commercially Sensitive Information

Table 1 Types of Information that the Potential Provider considers to be Confidential

Information considered confidential (include page/paragraph number)	Section of FOIA/EIR under which exemption is sought	Reason for exemption	Dates between which exemption is sought
None			

Table 2 Types of Information that the Potential Provider considers to be Commercially Sensitive

Information considered confidential (include page/paragraph number)	Section of FOIA/EIR under which exemption is sought	Reason for exemption	Dates between which exemption is sought
None			

**SCHEDULE 9
VARIATION FORM**

No of Contract being varied:

.....

Variation Form No:

.....

BETWEEN:

The Department for Health and Social Care ("the Authority")

and

HeadUp Systems Ltd ("the Contractor")

1. The Contract is varied as follows and shall take effect on the date signed by both Parties:

[Insert details of the Variation]

2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Authority

Signature

.....

Date

.....

Name (in Capitals)

.....

Address

.....

Signed by an authorised signatory to sign for and on behalf of the Contractor

Signature

.....

Date

.....

Name (in Capitals)

.....

Address

.....

.....

SCHEDULE 10 STAFF TRANSFER

1. DEFINITIONS

1.1. In this Schedule, the following definitions shall apply:

“Admission Contract”	The agreement to be entered into by which the Contractor agrees to participate in the Schemes as amended from time to time’
“Contractor’s Final Contractor Personnel List”	a list provided by the Contractor of all Contractor Personnel who will transfer under the Employment Regulations on the Relevant Transfer Date;
“Contractor’s Provisional Contractor Personnel List”	a list prepared and updated by the Contractor of all Contractor Personnel who are engaged in or wholly or mainly assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Contractor
“Eligible Employee”	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the Admission Contract;
“Employee Liabilities”	<p>all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following:</p> <ul style="list-style-type: none">a. redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;b. unfair, wrongful or constructive dismissal compensation;

Attachment 3 – Service Specification

- c. compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- d. compensation for less favourable treatment of part-time workers or fixed term employees;
- e. outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;
- f. employment claims whether in tort, contract or statute or otherwise; and
- g. any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

“Fair Employee(s)”

Deal those Transferring Authority Employees who are on the Relevant Transfer Date entitled to the protection of New Fair Deal and any Transferring Former Contractor Employees who originally transferred pursuant to a Relevant Transfer under the Employment Regulations (or the predecessor legislation to the Employment Regulations), from employment with a public sector employer and who were once eligible to participate in the Schemes and who at the Relevant Transfer Date become entitled to the protection of New Fair Deal;

“Former Contractor”

a contractor supplying services to the Authority before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such contractor (or any sub-contractor of any such sub-contractor);

“New Fair Deal”		the revised Fair Deal position set out in the HM Treasury guidance: “Fair Deal for staff pensions: staff transfer from central government” issued in October 2013;
“Notified contractor”	Sub-	a Sub-contractor identified in the Annex to this Schedule to whom Transferring Authority Employees and/or Transferring Former Contractor Employees will transfer on a Relevant Transfer Date;
“Old Fair Deal”		means HM Treasury Guidance “Staff Transfers from Central Government: A Fair Deal for Staff Pensions” issued in June 1999 including the supplementary guidance “Fair Deal for Staff Pensions: Procurement of Bulk Transfer Agreements and Related Issues” issued in June 2004;
“Relevant Transfer”		a transfer of employment to which the Employment Regulations applies;
“Relevant Date”	Transfer	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
“Replacement contractor”	Sub-	a sub-contractor of the Replacement Contractor to whom Transferring Contractor Employees will transfer on a Service Transfer Date (or any sub-contractor of any such Sub-contractor);
“Schemes”		the Principal Civil Service Pension Scheme available to employees of the civil service and employees of bodies under the Superannuation Act 1972, as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Scheme and (ii) Death Benefits Scheme; the Civil Service Additional Voluntary Contribution Scheme; and the 2015 New Scheme (with effect from a date to be notified to the Contractor by the Minister for the Cabinet Office);
“Service Transfer”		any transfer of the Services (or any part of the Services), for whatever reason, from the Contractor or any Sub-contractor

to a Replacement Contractor or a Replacement Sub-contractor;

“Service Date” **Transfer** The date of a Service Transfer;

“Staffing Information” in relation to all persons identified on the Contractor's Provisional Contractor Personnel List or Contractor's Final Contractor Personnel List, as the case may be, such information as the Authority may reasonably request (subject to all applicable provisions of the Data Protection Legislation), but including in an anonymised format:

- a. their ages, dates of commencement of employment or engagement and gender;
- b. details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise;
- c. the identity of the employer or relevant contracting Party;
- d. their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- e. their wages, salaries and profit sharing arrangements as applicable;
- f. details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- g. any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- h. details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;

Attachment 3 – Service Specification

- i. copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- j. any other “employee liability information” as such term is defined in Regulation 11 of the Employment Regulations;

“Transferring Authority Employees”	those employees of the Authority to whom the Employment Regulations will apply on the Relevant Transfer Date;
“Transferring Contractor Employees”	those employees of the Contractor and/or the Contractor’s Sub-contractors to whom the Employment Regulations will apply on the Service Transfer Date; and
“Transferring Former Contractor Employees”	in relation to a Former Contractor, those employees of the Former Contractor to whom the Employment Regulations will apply on the Relevant Transfer Date.

2. INTERPRETATION

Where a provision in this Schedule imposes an obligation on the Contractor to provide an indemnity, undertaking or warranty, the Contractor shall procure that each of its Sub-contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Authority, Former Contractor, Replacement Contractor or Replacement Sub-contractor, as the case may be.

PART A: TRANSFERRING AUTHORITY EMPLOYEES AT COMMENCEMENT OF SERVICES

1. RELEVANT TRANSFERS

1.1. The Authority and the Contractor agree that:

- 1.1.1. the commencement of the provision of the Services or of each relevant part of the Services will be a Relevant Transfer in relation to the Transferring Authority Employees; and
- 1.1.2. as a result of the operation of the Employment Regulations, the contracts of employment between the Authority and the Transferring Authority Employees (except in relation to any terms dis-applied through operation of Regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant

Transfer Date as if originally made between the Contractor and/or any Notified Sub-contractor and each such Transferring Authority Employee.

- 1.2. The Authority shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Authority Employees in respect of the period arising up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period up to (but not including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Authority; and (ii) the Contractor and/or any Notified Sub-contractor (as appropriate).

2. AUTHORITY INDEMNITIES

- 2.1. Subject to Paragraph 2.2, the Authority shall indemnify the Contractor and any Notified Sub-contractor against any Employee Liabilities in respect of any Transferring Authority Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
 - 2.1.1. any act or omission by the Authority occurring before the Relevant Transfer Date;
 - 2.1.2. the breach or non-observance by the Authority before the Relevant Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Authority Employees; and/or
 - (b) any custom or practice in respect of any Transferring Authority Employees which the Authority is contractually bound to honour;
 - 2.1.3. any claim by any trade union or other body or person representing the Transferring Authority Employees arising from or connected with any failure by the Authority to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;
 - 2.1.4. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions;

- (a) in relation to any Transferring Authority Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Authority Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Authority to the Contractor and/or any Notified Sub-contractor as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date;
 - 2.1.5. a failure of the Authority to discharge, or procure the discharge of, all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Authority Employees arising before the Relevant Transfer Date;
 - 2.1.6. any claim made by or in respect of any person employed or formerly employed by the Authority other than a Transferring Authority Employee for whom it is alleged the Contractor and/or any Notified Sub-contractor as appropriate may be liable by virtue of the Employment Regulations; and
 - 2.1.7. any claim made by or in respect of a Transferring Authority Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Authority Employee relating to any act or omission of the Authority in relation to its obligations under Regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Contractor or any Sub-contractor to comply with Regulation 13(4) of the Employment Regulations.
- 2.2. The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Contractor or any Sub-contractor (whether or not a Notified Sub-contractor) whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:
- 2.2.1. arising out of the resignation of any Transferring Authority Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Contractor and/or any Sub-contractor to occur in the period from (and including) the Relevant Transfer Date; or
 - 2.2.2. arising from the failure by the Contractor or any Sub-contractor to comply with its obligations under the Employment Regulations.

- 2.3. If any person who is not identified by the Authority as a Transferring Authority Employee claims, or it is determined in relation to any person who is not identified by the Authority as a Transferring Authority Employee, that his/her contract of employment has been transferred from the Authority to the Contractor and/or any Notified Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
- 2.3.1. the Contractor shall, or shall procure that the Notified Sub-contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Authority; and
 - 2.3.2. the Authority may offer (or may procure that a third party may offer) employment to such person within fifteen (15) Working Days of receipt of the notification by the Contractor and/or any Notified Sub-contractor, or take such other reasonable steps as the Authority considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 2.4. If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Authority, the Contractor shall, or shall procure that the Notified Sub-contractor shall, immediately release the person from his/her employment or alleged employment.
- 2.5. If by the end of the fifteen (15) Working Day period specified in Paragraph 2.3.2:
- 2.5.1. no such offer of employment has been made;
 - 2.5.2. such offer has been made but not accepted; or
 - 2.5.3. the situation has not otherwise been resolved, the Contractor and/or any Notified Sub-contractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.
- 2.6. Subject to the Contractor and/or any Notified Sub-contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in applicable Law, the Authority shall indemnify the Contractor and/or any Notified Sub-contractor (as appropriate) against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 2.5 provided that the Contractor takes, or procures that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.7. The indemnity in Paragraph 2.6:
- 2.7.1. shall not apply to:

- (a) any claim for:
 - i. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - ii. equal pay or compensation for less favourable treatment of part-time in any case in relation to any alleged act or omission of the Contractor and/or any Sub-contractor; or
- 2.7.2. any claim that the termination of employment was unfair because the Contractor and/or Notified Sub-contractor neglected to follow a fair dismissal procedure; and
- 2.7.3. shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Contractor and/or any Notified Sub-contractor (as appropriate) to the Authority within six (6) Months of the Commencement Date.
- 2.8. If any such person as is referred to in Paragraph 2.3 is neither re-employed by the Authority nor dismissed by the Contractor and/or any Notified Sub-contractor within the time scales set out in Paragraph 2.5 such person shall be treated as having transferred to the Contractor and/or any Notified Sub-contractor and the Contractor shall, or shall procure that the Notified Sub-contractor shall, comply with such obligations as may be imposed upon it under applicable Law.

3. CONTRACTOR INDEMNITIES AND OBLIGATIONS

- 3.1. Subject to Paragraph 3.2, the Contractor shall indemnify the Authority against any Employee Liabilities in respect of any Transferring Authority Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
 - 3.1.1. any act or omission by the Contractor or any Sub-contractor whether occurring before, on or after the Relevant Transfer Date;
 - 3.1.2. the breach or non-observance by the Contractor or any Sub-contractor on or after the Relevant Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Authority Employees; and/or
 - (b) any custom or practice in respect of any Transferring Authority Employees which the Contractor or any Sub-contractor is contractually bound to honour;

- 3.1.3. any claim by any trade union or other body or person representing any Transferring Authority Employees arising from or connected with any failure by the Contractor or any Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- 3.1.4. any proposal by the Contractor or a Sub-contractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Authority Employees to their material detriment on or after their transfer to the Contractor or the relevant Sub-contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Authority Employee but for their resignation (or decision to treat their employment as terminated under Regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 3.1.5. any statement communicated to or action undertaken by the Contractor or any Sub-contractor to, or in respect of, any Transferring Authority Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Authority in writing;
- 3.1.6. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring Authority Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Authority Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Authority to the Contractor or a Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7. a failure of the Contractor or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Authority Employees in respect of the period from (and including) the Relevant Transfer Date; and

- 3.1.8. any claim made by or in respect of a Transferring Authority Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Authority Employee relating to any act or omission of the Contractor or any Sub-contractor in relation to their obligations under Regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Authority's failure to comply with its obligations under Regulation 13 of the Employment Regulations.
- 3.2. The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Authority whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Authority's failure to comply with its obligations under the Employment Regulations.
- 3.3. The Contractor shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with Regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of the Transferring Authority Employees, from (and including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Authority and the Contractor.

4. INFORMATION

The Contractor shall, and shall procure that each Sub-contractor shall, promptly provide to the Authority in writing such information as is necessary to enable the Authority to carry out its duties under Regulation 13 of the Employment Regulations. The Authority shall promptly provide to the Contractor and each Notified Sub-contractor in writing such information as is necessary to enable the Contractor and each Notified Sub-contractor to carry out their respective duties under Regulation 13 of the Employment Regulations.

5. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

- 5.1. The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Contractor of employees whose employment begins after the Relevant Transfer Date, and the Contractor undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.

- 5.2. The Contractor shall, and shall procure that each Sub-contractor shall, comply with any requirement notified to it by the Authority relating to pensions in respect of any Transferring Authority Employee as set down in:
- 5.2.1. the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;
 - 5.2.2. Old Fair Deal; and/or
 - 5.2.3. the New Fair Deal.
- 5.3. Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 5.1 or 5.2 shall be agreed in accordance with the Change Control Process.

6. PENSIONS

- 6.1. The Contractor shall, and shall procure that each of its Sub-contractors shall, comply with the pensions provisions in the following Annex.

ANNEX TO PART A: PENSIONS

1. PARTICIPATION

- 1.1. The Contractor undertakes to enter into the Admission Contract.
- 1.2. The Contractor and the Authority undertake to do all such things and execute any documents (including the Admission Contract) as may be required to enable the Contractor to participate in the Schemes in respect of the Fair Deal Employees.
- 1.3. The Contractor shall bear its own costs and all costs that the Authority reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Contractor participating in the Schemes.

2. FUTURE SERVICE BENEFITS

- 2.1. The Contractor shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date and the Contractor shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of Schemes for service from (and including) the Relevant Transfer Date.
- 2.2. The Contractor undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to the Authority, provide to any Fair Deal Employee who immediately prior to such cessation remained an Eligible Employee with access to an occupational pension scheme certified by the Government Actuary's Department or any actuary nominated by the Authority in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes at the relevant date.
- 2.3. The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of New Fair Deal.

3. FUNDING

- 3.1. The Contractor undertakes to pay to the Schemes all such amounts as are due under the Admission Contract and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.
- 3.2. The Contractor shall indemnify and keep indemnified the Authority on demand against any claim by, payment to, or loss incurred by, the Schemes in respect of the failure to account

to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Contractor to or in respect of the Schemes.

4. PROVISION OF INFORMATION

4.1. The Contractor and the Authority respectively undertake to each other:

- 4.1.1. to provide all information which the other Party may reasonably request concerning matters (i) referred to in this Annex and (ii) set out in the Admission Contract, and to supply the information as expeditiously as possible; and
- 4.1.2. not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date concerning the matters stated in this Annex without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

5. INDEMNITY

The Contractor undertakes to the Authority to indemnify and keep indemnified the Authority on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which relate to the payment of benefits under an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

6. EMPLOYER OBLIGATION

The Contractor shall comply with the requirements of [Part 1 of] the Pensions Act 2008 and the Transfer of Employment (Pension Protection) Regulations 2005.

7. SUBSEQUENT TRANSFERS

7.1. The Contractor shall:

- 7.1.1. not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the date of the relevant future transfer;
- 7.1.2. provide all such co-operation and assistance as the Schemes and the Replacement Contractor and/or the Authority may reasonably require to enable the Replacement Contractor to participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal; and
- 7.1.3. for the period either:

Attachment 3 – Service Specification

- (a) after notice (for whatever reason) is given, in accordance with the other provisions of this Contract, to terminate the Contract or any part of the Services; or
- (b) after the date which is two (2) years prior to the date of expiry of this Contract, ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Contractor or the Authority, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the prior approval of the Authority (such approval not to be unreasonably withheld). Save that this sub-paragraph shall not apply to any change made as a consequence of participation in an Admission Contract.

PART B: TRANSFERRING FORMER CONTRACTOR EMPLOYEES AT COMMENCEMENT OF SERVICES

1. RELEVANT TRANSFERS

1.1. The Authority and the Contractor agree that:

- 1.1.1. the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Contractor Employees; and
- 1.1.2. as a result of the operation of the Employment Regulations, the contracts of employment between each Former Contractor and the Transferring Former Contractor Employees (except in relation to any terms disapplied through the operation of Regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Contractor and/or Notified Sub-contractor and each such Transferring Former Contractor Employee.

1.2. The Authority shall procure that each Former Contractor shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Contractor Employees in respect of the period up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Contractor shall make, and the Authority shall procure that each Former Contractor makes, any necessary apportionments in respect of any periodic payments.

2. FORMER CONTRACTOR INDEMNITIES

2.1. Subject to Paragraph 2.2 the Authority shall procure that each Former Contractor shall indemnify the Contractor and any Notified Sub-contractor against any Employee Liabilities in respect of any Transferring Former Contractor Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

- 2.1.1. any act or omission by the Former Contractor arising before the Relevant Transfer Date;
- 2.1.2. the breach or non-observance by the Former Contractor arising before the Relevant Transfer Date of:

- (a) any collective agreement applicable to the Transferring Former Contractor Employees; and/or
 - (b) any custom or practice in respect of any Transferring Former Contractor Employees which the Former Contractor is contractually bound to honour;
- 2.1.3. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring Former Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Former Contractor Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Contractor to the Contractor and/or any Notified Sub-contractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
- 2.1.4. a failure of the Former Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Contractor Employees in respect of the period to (but excluding) the Relevant Transfer Date;
- 2.1.5. any claim made by or in respect of any person employed or formerly employed by the Former Contractor other than a Transferring Former Contractor Employee for whom it is alleged the Contractor and/or any Notified Sub-contractor as appropriate may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
- 2.1.6. any claim made by or in respect of a Transferring Former Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Contractor Employee relating to any act or omission of the Former Contractor in relation to its obligations under Regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Contractor or any Sub-contractor to comply with Regulation 13(4) of the Employment Regulations.

- 2.2. The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Contractor or any Sub-contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:
- 2.2.1. arising out of the resignation of any Transferring Former Contractor Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Contractor or any Sub-contractor to occur in the period from (and including) the Relevant Transfer Date; or
 - 2.2.2. arising from the failure by the Contractor and/or any Sub-contractor to comply with its obligations under the Employment Regulations.
- 2.3. If any person who is not identified by the Authority as a Transferring Former Contractor Employee claims, or it is determined in relation to any person who is not identified by the Authority as a Transferring Former Contractor Employee, that his/her contract of employment has been transferred from a Former Contractor to the Contractor and/or any Notified Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
- 2.3.1. the Contractor shall, or shall procure that the Notified Sub-contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Authority and, where required by the Authority, to the Former Contractor; and
 - 2.3.2. the Former Contractor may offer (or may procure that a third party may offer) employment to such person within fifteen (15) Working Days of the notification by the Contractor and/or the Notified Sub-contractor or take such other reasonable steps as the Former Contractor considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 2.4. If an offer referred to in Paragraph 2.3.2 is accepted, or if the situation has otherwise been resolved by the Former Contractor and/or the Authority, the Contractor shall, or shall procure that the Notified Sub-contractor shall, immediately release the person from his/her employment or alleged employment.
- 2.5. If by the end of the fifteen (15) Working Day period specified in Paragraph 2.3.2:
- 2.5.1. no such offer of employment has been made;
 - 2.5.2. such offer has been made but not accepted; or

- 2.5.3. the situation has not otherwise been resolved, the Contractor and/or any Notified Sub-contractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.
- 2.6. Subject to the Contractor and/or any Notified Sub-contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law, the Authority shall procure that the Former Contractor indemnifies the Contractor and/or any Notified Sub-contractor (as appropriate) against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 2.5 provided that the Contractor takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.7. The indemnity in Paragraph 2.6:
- 2.7.1. shall not apply to:
- (a) any claim for:
 - i. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - ii. equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Contractor and/or any Sub-contractor; or
 - (b) any claim that the termination of employment was unfair because the Contractor and/or Notified Sub-contractor neglected to follow a fair dismissal procedure; and
- 2.7.2. shall apply only where the notification referred to in Paragraph 2.3.1 is made by the Contractor and/or any Notified Sub-contractor (as appropriate) to the Authority and, if applicable, the Former Contractor, within six (6) Months of the Services Commencement Date.
- 2.8. If any such person as is described in Paragraph 2.3 is neither re-employed by the Former Contractor nor dismissed by the Contractor and/or any Notified Sub-contractor within the time scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Contractor or Notified Sub-contractor and the Contractor shall, or shall procure that the Notified Sub-contractor shall, comply with such obligations as may be imposed upon it under the Law.

3. CONTRACTOR INDEMNITIES AND OBLIGATIONS

- 3.1. Subject to Paragraph 3.2, the Contractor shall indemnify the Authority and/or the Former Contractor against any Employee Liabilities in respect of any Transferring Former Contractor Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- 3.1.1. any act or omission by the Contractor or any Sub-contractor whether occurring before, on or after the Relevant Transfer Date;
 - 3.1.2. the breach or non-observance by the Contractor or any Sub-contractor on or after the Relevant Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Former Contractor Employee; and/or
 - (b) any custom or practice in respect of any Transferring Former Contractor Employees which the Contractor or any Sub-contractor is contractually bound to honour;
 - 3.1.3. any claim by any trade union or other body or person representing any Transferring Former Contractor Employees arising from or connected with any failure by the Contractor or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - 3.1.4. any proposal by the Contractor or a Sub-contractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Contractor Employees to their material detriment on or after their transfer to the Contractor or a Sub-contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Contractor Employee but for their resignation (or decision to treat their employment as terminated under Regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
 - 3.1.5. any statement communicated to or action undertaken by the Contractor or a Sub-contractor to, or in respect of, any Transferring Former Contractor Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Authority and/or the Former Contractor in writing;

- 3.1.6. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Former Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Former Contractor Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Contractor to the Contractor or a Sub-contractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7. a failure of the Contractor or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Contractor Employees in respect of the period from (and including) the Relevant Transfer Date; and
- 3.1.8. any claim made by or in respect of a Transferring Former Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Contractor Employee relating to any act or omission of the Contractor or any Sub-contractor in relation to obligations under Regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Contractor's failure to comply with its obligations under Regulation 13 of the Employment Regulations.
- 3.2. The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Contractor's failure to comply with its obligations under the Employment Regulations.
- 3.3. The Contractor shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with Regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Contractor Employees, on and from the Relevant Transfer Date (including the payment of
-

all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Contractor and the Former Contractor.

4. INFORMATION

- 4.1. The Contractor shall, and shall procure that each Sub-contractor shall, promptly provide to the Authority and/or at the Authority's direction, the Former Contractor, in writing such information as is necessary to enable the Authority and/or the Former Contractor to carry out their respective duties under Regulation 13 of the Employment Regulations. The Authority shall procure that the Former Contractor shall promptly provide to the Contractor and each Notified Sub-contractor in writing such information as is necessary to enable the Contractor and each Notified Sub-contractor to carry out their respective duties under Regulation 13 of the Employment Regulations.

5. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

- 5.1. The Contractor shall, and shall procure that each Sub-contractor shall, comply with any requirement notified to it by the Authority relating to pensions in respect of any Transferring Former Contractor Employee as set down in:
- 5.1.1. the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;
 - 5.1.2. Old Fair Deal; and/or
 - 5.1.3. the New Fair Deal.
- 5.2. Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Change Control Process.

6. PROCUREMENT OBLIGATIONS

Notwithstanding any other provisions of this Part B, where in this Part B the Authority accepts an obligation to procure that a Former Contractor does or does not do something, such obligation shall be limited so that it extends only to the extent that the Authority's contract with the Former Contractor contains a contractual right in that regard which the Authority may enforce, or otherwise so that it requires only that the Authority must use

reasonable endeavours to procure that the Former Contractor does or does not act accordingly.

7. PENSIONS

The Contractor shall, and shall procure that each Sub-contractor shall, comply with the pensions provisions in the following Annex in respect of any Transferring Former Contractor Employees who transfer from the Former Contractor to the Contractor.

ANNEX TO PART B: PENSIONS

1. PARTICIPATION

- 1.1. The Contractor undertakes to enter into the Admission Agreement.
- 1.2. The Contractor and the Authority:
 - 1.2.1. undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the Contractor to participate in the Schemes in respect of the Fair Deal Employees;
 - 1.2.2. agree that the Authority is entitled to make arrangements with the body responsible for the Schemes for the Authority to be notified if the Contractor breaches the Admission Agreement; and
 - 1.2.3. agree that notwithstanding sub-paragraph 1.2.2 of this Annex to Part B: Pensions the Contractor shall notify the Authority in the event that it breaches the Admission Agreement.
- 1.3. The Contractor shall bear its own costs and all costs that the Authority reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Contractor participating in the Schemes.

2. FUTURE SERVICE BENEFITS

- 2.1. If the Contractor is rejoining the Schemes for the first time, the Contractor shall procure that the Fair Deal Employees shall be either admitted to or offered continued membership of the relevant section of the Schemes that they became eligible to join on the Relevant Transfer Date and shall continue to accrue or accrue benefits in accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.
- 2.2. If staff have already been readmitted to the Schemes, the Contractor shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date and the Contractor shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.
- 2.3. The Contractor undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to the Authority, provide to any Fair Deal Employee who immediately prior to such cessation

remained an Eligible Employee with access to an occupational pension scheme certified by the Government Actuary's Department or any actuary nominated by the Authority in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes at the relevant date.

- 2.4. The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of New Fair Deal.

3. FUNDING

- 3.1. The Contractor undertakes to pay to the Schemes all such amounts as are due under the Admission Agreement and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.
- 3.2. The Contractor shall indemnify and keep indemnified the Authority on demand against any claim by, payment to, or loss incurred by the Schemes in respect of the failure to account to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Contractor to or in respect of the Schemes.

4. PROVISION OF INFORMATION

- 4.1. The Contractor and the Authority respectively undertake to each other:
- 4.1.1. to provide all information which the other Party may reasonably request concerning matters (i) referred to in this Annex and (ii) set out in the Admission Agreement, and to supply the information as expeditiously as possible; and
 - 4.1.2. not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date concerning the matters stated in this Annex without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

5. INDEMNITY

- 5.1. The Contractor undertakes to the Authority to indemnify and keep indemnified the Authority on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which relate to the payment of benefits under an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

6. EMPLOYER OBLIGATION

- 6.1. The Contractor shall comply with the requirements of [Part 1 of] the Pensions Act 2008 and the Transfer of Employment (Pension Protection) Regulations 2005.

7. SUBSEQUENT TRANSFERS

- 7.1. The Contractor shall:

7.1.1. not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the date of the relevant future transfer;

7.1.2. provide all such co-operation and assistance as the Schemes and the Replacement Contractor and/or the Authority may reasonably require to enable the Replacement Contractor to participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under the New Fair Deal; and

7.1.3. for the period either:

(a) after notice (for whatever reason) is given, in accordance with the other provisions of this Contract, to terminate the Contract or any part of the Services; or

(b) after the date which is two (2) years prior to the date of expiry of this Contract,

- 7.2. ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Contractor or the Authority, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the prior approval of the Authority (such approval not to be unreasonably withheld). Save that this sub-paragraph shall not apply to any change made as a consequence of participation in an Admission Agreement.

PART C: NO TRANSFER OF EMPLOYEES AT COMMENCEMENT OF SERVICES

1. PROCEDURE IN THE EVENT OF TRANSFER

- 1.1. The Authority and the Contractor agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Authority and/or any Former Contractor.
- 1.2. If any employee of the Authority and/or a Former Contractor claims, or it is determined in relation to any employee of the Authority and/or a Former Contractor, that his/her contract of employment has been transferred from the Authority and/or the Former Contractor to the Contractor and/or any Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:
 - 1.2.1. the Contractor shall, and shall procure that the relevant Sub-contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Authority and, where required by the Authority, give notice to the Former Contractor; and
 - 1.2.2. the Authority and/or the Former Contractor may offer (or may procure that a third party may offer) employment to such person within fifteen (15) Working Days of the notification by the Contractor or the Sub-contractor (as appropriate) or take such other reasonable steps as the Authority or Former Contractor (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.
- 1.3. If an offer referred to in Paragraph 1.2.2 is accepted (or if the situation has otherwise been resolved by the Authority and/or the Former Contractor), the Contractor shall, or shall procure that the Sub-contractor shall, immediately release the person from his/her employment or alleged employment.
- 1.4. If by the end of the fifteen (15) Working Day period specified in Paragraph 1.2.2:
 - 1.4.1. no such offer of employment has been made;
 - 1.4.2. such offer has been made but not accepted; or
 - 1.4.3. the situation has not otherwise been resolved,the Contractor and/or the Sub-contractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

2. INDEMNITIES

- 2.1. Subject to the Contractor and/or the relevant Sub-contractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 2.4, the Authority shall:
- 2.1.1. indemnify the Contractor and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any employees of the Authority referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Contractor takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities; and
 - 2.1.2. procure that the Former Contractor indemnifies the Contractor and/or any Notified Sub-contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Contractor made pursuant to the provisions of Paragraph 1.4 provided that the Contractor takes, or shall procure that the relevant Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.2. If any such person as is described in Paragraph 1.2 is neither re employed by the Authority and/or the Former Contractor as appropriate nor dismissed by the Contractor and/or any Sub-contractor within the fifteen (15) Working Day period referred to in Paragraph 1.4 such person shall be treated as having transferred to the Contractor and/or the Sub-contractor (as appropriate) and the Contractor shall, or shall procure that the Sub-contractor shall, comply with such obligations as may be imposed upon it under Law.
- 2.3. Where any person remains employed by the Contractor and/or any Sub-contractor pursuant to Paragraph 2.2, all Employee Liabilities in relation to such employee shall remain with the Contractor and/or the Sub-contractor and the Contractor shall indemnify the Authority and any Former Contractor, and shall procure that the Sub-contractor shall indemnify the Authority and any Former Contractor, against any Employee Liabilities that either of them may incur in respect of any such employees of the Contractor and/or employees of the Sub-contractor.
- 2.4. The indemnities in Paragraph 2.1:
- 2.4.1. shall not apply to:
 - (a) any claim for:

- i. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
- ii. equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Contractor and/or any Sub-contractor; or

- (b) any claim that the termination of employment was unfair because the Contractor and/or any Sub-contractor neglected to follow a fair dismissal procedure; and

- 2.4.2. shall apply only where the notification referred to in Paragraph 1.2.1 is made by the Contractor and/or any Sub-contractor to the Authority and, if applicable, Former Contractor within six (6) Months of the Services Commencement Date.

3. PROCUREMENT OBLIGATIONS

Where in this Part C the Authority accepts an obligation to procure that a Former Contractor does or does not do something, such obligation shall be limited so that it extends only to the extent that the Authority's contract with the Former Contractor contains a contractual right in that regard which the Authority may enforce, or otherwise so that it requires only that the Authority must use reasonable endeavours to procure that the Former Contractor does or does not act accordingly.

PART D: EMPLOYMENT EXIT PROVISIONS

1. PRE-SERVICE TRANSFER OBLIGATIONS

- 1.1. The Contractor agrees that within twenty (20) Working Days of the earliest of:

- 1.1.1. receipt of a notification from the Authority of a Service Transfer or intended Service Transfer;
- 1.1.2. receipt of the giving of notice of early termination of this Contract;
- 1.1.3. the date which is twelve (12) Months before the end of the Term; and
- 1.1.4. receipt of a written request of the Authority at any time (provided that the Authority shall only be entitled to make one such request in any six (6) Month period),

it shall provide in a suitably anonymised format so as to comply with the Data Protection Legislation, the Contractor's Provisional Contractor Personnel List, together with the Staffing Information in relation to the Contractor's Provisional Contractor Personnel List and it shall provide an updated Contractor's Provisional Contractor Personnel List at such intervals as are reasonably requested by the Authority.

- 1.2. At least twenty (20) Working Days prior to the Service Transfer Date, the Contractor shall provide to the Authority or at the direction of the Authority to any Replacement Contractor and/or any Replacement Sub-contractor:
 - 1.2.1. the Contractor's Final Contractor Personnel List, which shall identify which of the Contractor Personnel are Transferring Contractor Employees; and
 - 1.2.2. the Staffing Information in relation to the Contractor's Final Contractor Personnel List (insofar as such information has not previously been provided).
- 1.3. The Authority shall be permitted to use and disclose information provided by the Contractor under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Contractor and/or Replacement Sub-contractor.
- 1.4. The Contractor warrants, for the benefit of the Authority, any Replacement Contractor, and any Replacement Sub-contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5. From the date of the earliest event referred to in Paragraph 1.1, the Contractor agrees, that it shall not, and agrees to procure that each Sub-contractor shall not, assign any person to the provision of the Services who is not listed on the Contractor's Provisional Contractor Personnel List and shall not without the approval of the Authority (not to be unreasonably withheld or delayed):
 - 1.5.1. replace or re-deploy any Contractor Personnel listed on the Contractor Provisional Contractor Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
 - 1.5.2. make, promise, propose or permit any material changes to the terms and conditions of employment of the Contractor Personnel (including any payments connected with the termination of employment);
 - 1.5.3. increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Contractor Personnel save for fulfilling assignments and projects previously scheduled and agreed;

- 1.5.4. introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Contractor's Provisional Contractor Personnel List;
- 1.5.5. increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- 1.5.6. terminate or give notice to terminate the employment or contracts of any persons on the Contractor's Provisional Contractor Personnel List save by due disciplinary process,

and shall promptly notify, and procure that each Sub-contractor shall promptly notify, the Authority or, at the direction of the Authority, any Replacement Contractor and any Replacement Sub-contractor of any notice to terminate employment given by the Contractor or relevant Sub-contractor or received from any persons listed on the Contractor's Provisional Contractor Personnel List regardless of when such notice takes effect.

- 1.6. During the Term, the Contractor shall provide, and shall procure that each Sub-contractor shall provide, to the Authority any information the Authority may reasonably require relating to the manner in which the Services are organised, which shall include:
 - 1.6.1. the numbers of employees engaged in providing the Services;
 - 1.6.2. the percentage of time spent by each employee engaged in providing the Services; and
 - 1.6.3. a description of the nature of the work undertaken by each employee by location.
- 1.7. The Contractor shall provide, and shall procure that each Sub-contractor shall provide, all reasonable cooperation and assistance to the Authority, any Replacement Contractor and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Contractor Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Contractor Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within five (5) Working Days following the Service Transfer Date, the Contractor shall provide, and shall procure that each Sub-contractor shall provide, to the Authority or, at the direction of the Authority, to any Replacement Contractor and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Contractor's Final Contractor Personnel List who is a Transferring Contractor Employee:

- 1.7.1. the most recent Month's copy pay slip data;
- 1.7.2. details of cumulative pay for tax and pension purposes;
- 1.7.3. details of cumulative tax paid;
- 1.7.4. tax code;
- 1.7.5. details of any voluntary deductions from pay; and
- 1.7.6. bank/building society account details for payroll purposes.

2. EMPLOYMENT REGULATIONS EXIT PROVISIONS

- 2.1. The Authority and the Contractor acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Contractor and/or a Replacement Sub-contractor. Such change in the identity of the contractor of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Authority and the Contractor further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Contractor and the Transferring Contractor Employees (except in relation to any contract terms disapplied through operation of Regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Contractor and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Contractor Employee.
- 2.2. The Contractor shall, and shall procure that each Sub-contractor shall, comply with all its obligations in respect of the Transferring Contractor Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Contractor Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Contractor and/or the Sub-contractor (as appropriate); and (ii) the Replacement Contractor and/or Replacement Sub-contractor.

- 2.3. Subject to Paragraph 2.4 the Contractor shall indemnify the Authority and/or the Replacement Contractor and/or any Replacement Sub-contractor against any Employee Liabilities in respect of any Transferring Contractor Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:
- 2.3.1. any act or omission of the Contractor or any Sub-contractor whether occurring before, on or after the Service Transfer Date;
 - 2.3.2. the breach or non-observance by the Contractor or any Sub-contractor occurring on or before the Service Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Contractor Employees; and/or
 - (b) any other custom or practice with a trade union or staff association in respect of any Transferring Contractor Employees which the Contractor or any Sub-contractor is contractually bound to honour;
 - 2.3.3. any claim by any trade union or other body or person representing any Transferring Contractor Employees arising from or connected with any failure by the Contractor or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
 - 2.3.4. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (a) in relation to any Transferring Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Contractor Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Contractor to the Authority and/or Replacement Contractor and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
 - 2.3.5. a failure of the Contractor or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring

Contractor Employees in respect of the period up to and including the Service Transfer Date;

- 2.3.6. any claim made by or in respect of any person employed or formerly employed by the Contractor or any Sub-contractor other than a Transferring Contractor Employee for whom it is alleged the Authority and/or the Replacement Contractor and/or any Replacement Sub-contractor may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
 - 2.3.7. any claim made by or in respect of a Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee relating to any act or omission of the Contractor or any Sub-contractor in relation to its obligations under Regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Authority and/or Replacement Contractor to comply with Regulation 13(4) of the Employment Regulations.
- 2.4. The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Contractor and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:
- 2.4.1. arising out of the resignation of any Transferring Contractor Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Contractor and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date; or
 - 2.4.2. arising from the Replacement Contractor's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5. If any person who is not a Transferring Contractor Employee claims, or it is determined in relation to any person who is not a Transferring Contractor Employee, that his/her contract of employment has been transferred from the Contractor or any Sub-contractor to the Replacement Contractor and/or Replacement Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:
- 2.5.1. the Authority shall procure that the Replacement Contractor shall, or any Replacement Sub-contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Contractor; and

- 2.5.2. the Contractor may offer (or may procure that a Sub-contractor may offer) employment to such person within fifteen (15) Working Days of the notification by the Replacement Contractor and/or any and/or Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 2.6. If such offer is accepted, or if the situation has otherwise been resolved by the Contractor or a Sub-contractor, the Authority shall procure that the Replacement Contractor shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.
- 2.7. If after the fifteen (15) Working Day period specified in Paragraph 2.5.2 has elapsed:
- 2.7.1. no such offer of employment has been made;
- 2.7.2. such offer has been made but not accepted; or
- 2.7.3. the situation has not otherwise been resolved
- the Authority shall advise the Replacement Contractor and/or Replacement Sub-contractor, as appropriate that it may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.
- 2.8. Subject to the Replacement Contractor and/or Replacement Sub-contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Contractor shall indemnify the Replacement Contractor and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 2.7 provided that the Replacement Contractor takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.9. The indemnity in Paragraph 2.8:
- 2.9.1. shall not apply to:
- (a) any claim for:
- i. discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
- ii. equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Replacement Contractor and/or Replacement Sub-contractor; or

- (b) any claim that the termination of employment was unfair because the Replacement Contractor and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure; and

2.9.2. shall apply only where the notification referred to in Paragraph 2.5.1 is made by the Replacement Contractor and/or Replacement Sub-contractor to the Contractor within six (6) Months of the Service Transfer Date.

2.10. If any such person as is described in Paragraph 2.5 is neither re-employed by the Contractor or any Sub-contractor nor dismissed by the Replacement Contractor and/or Replacement Sub-contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Contractor Employee and the Replacement Contractor and/or Replacement Sub-contractor shall comply with such obligations as may be imposed upon it under applicable Law.

2.11. The Contractor shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of the Transferring Contractor Employees before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

2.11.1. the Contractor and/or any Sub-contractor; and

2.11.2. the Replacement Contractor and/or the Replacement Sub-contractor.

2.12. The Contractor shall, and shall procure that each Sub-contractor shall, promptly provide to the Authority and any Replacement Contractor and/or Replacement Sub-contractor, in writing such information as is necessary to enable the Authority, the Replacement Contractor and/or Replacement Sub-contractor to carry out their respective duties under Regulation 13 of the Employment Regulations. The Authority shall procure that the Replacement Contractor and/or Replacement Sub-contractor, shall promptly provide to the Contractor and each Sub-contractor in writing such information as is necessary to enable the Contractor and each Sub-contractor to carry out their respective duties under Regulation 13 of the Employment Regulations.

- 2.13. Subject to Paragraph 2.14, the Authority shall procure that the Replacement Contractor indemnifies the Contractor on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities in respect of each Transferring Contractor Employee (or, where applicable any employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee) arising from or as a result of:
- 2.13.1. any act or omission of the Replacement Contractor and/or Replacement Sub-contractor;
 - 2.13.2. the breach or non-observance by the Replacement Contractor and/or Replacement Sub-contractor on or after the Service Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Contractor Employees; and/or
 - (b) any custom or practice in respect of any Transferring Contractor Employees which the Replacement Contractor and/or Replacement Sub-contractor is contractually bound to honour;
 - 2.13.3. any claim by any trade union or other body or person representing any Transferring Contractor Employees arising from or connected with any failure by the Replacement Contractor and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - 2.13.4. any proposal by the Replacement Contractor and/or Replacement Sub-contractor to change the terms and conditions of employment or working conditions of any Transferring Contractor Employees on or after their transfer to the Replacement Contractor or Replacement Sub-contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Contractor Employee but for their resignation (or decision to treat their employment as terminated under Regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
 - 2.13.5. any statement communicated to or action undertaken by the Replacement Contractor or Replacement Sub-contractor to, or in respect of, any Transferring Contractor Employee on or before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Contractor in writing;

- 2.13.6. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Contractor Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Contractor or Sub-contractor, to the Replacement Contractor or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
- 2.13.7. a failure of the Replacement Contractor or Replacement Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Contractor Employees in respect of the period from (and including) the Service Transfer Date; and
- 2.13.8. any claim made by or in respect of a Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee relating to any act or omission of the Replacement Contractor or Replacement Sub-contractor in relation to obligations under Regulation 13 of the Employment Regulations.
- 2.14. The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Contractor and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Relevant Transfer Date, including any Employee Liabilities arising from the failure by the Contractor and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations.

ANNEX: LIST OF NOTIFIED SUB-CONTRACTORS

SCHEDULE 11
KEY PERSONNEL

Key Role	Name of Key Personnel	Responsibilities / Authorities	Minimum period in Key Role

SCHEDULE 12

EXIT PLAN AND SERVICE TRANSFER ARRANGEMENTS

1. DEFINITIONS

1.1. In this Schedule, the following definitions shall apply:

"Documentation"		<p>any descriptions of the Services, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) which is required to be supplied by the Contractor to the Authority under the Contract as:</p> <ul style="list-style-type: none">a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Authority to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Services;b) is required by the Contractor in order to provide the Services; and/orc) has been or shall be generated for the purpose of providing the Services;
"Ethical Agreement"	Wall	<p>means an ethical wall agreement in a form similar to the draft ethical wall agreement set out in the Model Services Contract at Schedule 8.5 (Exit Management) Annex 2 (Draft Ethical Wall Agreement) or an alternative form of ethical wall agreement agreed between the Parties;</p>
"Model Contract"	Services	<p>means the Model Services Contract published and maintained by Cabinet Office, as update from time to time, the current version of which is published at https://www.gov.uk/government/publications/model-services-contract</p>
"Registers"		<p>means the registers and database referred to in Paragraph 4.2.1 and Paragraph 4.2.2 of this Schedule 12;</p>
"Transferable Contracts"		<p>Sub-contracts, licences or other agreements which are necessary to enable the Authority or any Replacement Contractor to provide the Replacement Services,</p>

including in relation to licences all relevant Documentation;

“Transitional Assistance Notice” has the meaning set out in Paragraph 5.1 of this Schedule 12;

“Transitional Assistance Period” has the meaning set out in Paragraph 5.1.3 of this Schedule 12.

2. PURPOSE OF THIS SCHEDULE

- 2.1. The Contractor is required to ensure the orderly transition of the Services from the Contractor to the Authority or any Replacement Contractor in the event of any termination (including partial termination) or expiry of this Contract. This Schedule sets out the principles of the exit and service transition arrangements which are intended to achieve this and upon which the Exit Plan shall be based.
- 2.2. For the avoidance of doubt the Contractor is responsible for the overall management of the exit and Service transfer arrangements.

3. EXIT

- 3.1. The Exit Plan shall:
 - 3.1.1. address each of the issues set out in this Schedule 12 (Exit Plan and Service Transfer Arrangements) to facilitate the transition of the Services from the Contractor to the Replacement Contractor and/or the Authority and shall ensure that there is no disruption in the supply of the Services and no deterioration in the quality of delivery of the Services;
 - 3.1.2. detail how the Services will transfer to the Replacement Contractor and/or the Authority including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Authority's technology components from any technology components run by the Contractor or any of its Sub-contractors (where applicable);
 - 3.1.3. specify the scope of the Transitional Assistance Services that may be required by the Authority, any charges that would be payable for the provision of Transitional Assistance Services and detail how such services would be provided (if required) during the Termination Period;
 - 3.1.4. provide a timetable and identify critical issues for carrying out the Transitional Assistance Services; and

- 3.1.5. set out the management structure to be put in place and employed during the Termination Period.

4. OBLIGATIONS DURING THE TERM

- 4.1. The Contractor and the Authority shall each appoint an exit manager and provide written notification of such appointment to each other within six (6) Months after the Commencement Date. The Contractor's exit manager shall be responsible for ensuring that the Contractor and its employees, agents and Sub-contractors comply with this Schedule. The Contractor shall ensure that its exit manager has the requisite authority to arrange and procure any resources of the Contractor as are reasonably necessary to enable the Contractor to comply with this Paragraph 4.1. The exit managers shall liaise with one another in relation to all issues relevant to termination or expiry and all matters connected with this Schedule 12 and each Party's compliance with it.
 - 4.2. During the Term, the Contractor shall:
 - 4.2.1. create and maintain a register of:
 - (a) all assets, detailing their ownership status;
 - (b) all Sub-contracts and other agreements required to perform the Services; and
 - (c) all Pilot Participant account data created in the course of providing the Services including contact details of Pilot Participants ("**Participant Data**").
 - 4.2.2. create and maintain a database setting out the Contractor's technical infrastructure through which the Services are delivered. Such database shall be capable of allowing staff of the Replacement Contractor and/or the Authority to acquire sufficient technical understanding of how the Contractor provides the Services to ensure the smooth transition of the Services with the minimum of disruption; and
 - 4.2.3. at all times keep the Registers up to date and shall maintain copies of any agreements referred to in any Register.
 - 4.3. The Parties shall agree the format of the Registers as part of the process of agreeing the first Exit Plan.
 - 4.4. At the same time as the Contractor submits a revised Exit Plan, it shall also submit to the Authority up-to-date Registers.
-

- 4.5. On reasonable notice, the Contractor shall provide to the Authority and/or to its Replacement Contractor (subject to the Replacement Contractor entering into reasonable written confidentiality undertakings with the Contractor), such material and information as the Authority shall reasonably require in order to facilitate the preparation by the Authority of any invitation to tender and/or to facilitate any potential Replacement Contractor undertaking due diligence.

5. TRANSITIONAL ASSISTANCE SERVICES

- 5.1. The Authority shall be entitled to require the provision of Transitional Assistance Services by sending the Contractor a notice to that effect (a “**Transitional Assistance Notice**”) at any time prior to the termination or expiry of the Contract. The Transitional Assistance Notice shall specify:
- 5.1.1. the date from which Transitional Assistance Services are required;
 - 5.1.2. the nature and extent of the Transitional Assistance Services required; and
 - 5.1.3. the period during which it is anticipated that Transitional Assistance Services will be required (“**Transitional Assistance Period**”) which shall continue no longer than twelve (12) Months after the date that the Contractor ceases to provide the Services.
- 5.2. The Authority shall have an option to extend the Transitional Assistance Period beyond the period specified in the Transitional Assistance Notice by written notice to the Contractor provided that such extension shall not extend beyond six (6) Months after the expiry of the period referred to in Paragraph 5.1.3 (Transitional Assistance Services) of this Schedule 12 (Exit Plan and Service Transfer Arrangements).
- 5.3. The Authority shall have the right to terminate its requirement for Transitional Assistance Services by serving not less than twenty (20) days' notice upon the Contractor to such effect.
- 5.4. The Transitional Assistance Services shall be provided in good faith and in accordance with Good Industry Practice.
- 5.5. During the Transitional Assistance Period, the Contractor shall, in addition to providing the Services and the Transitional Assistance Services, provide to the Authority any reasonable assistance requested by the Authority to allow the Services to continue without interruption and to facilitate the orderly transfer of the Services. The Contractor shall use all reasonable endeavours to reallocate resources to provide these services without additional costs. However if this is not possible, any additional reasonable costs incurred by the Contractor in this regard which are not already in the scope of the Transitional

Assistance Services or the Exit Plan shall be provided on a time-and-materials basis in accordance with the applicable rates set out in Schedule 6 (Pricing) and subject to agreement under the Change Control Process.

- 5.6. The Authority and the Contractor acknowledge that the transition of the Services to the Replacement Contractor may be phased over a period of time so that certain identified Services are transferred to the Replacement Contractor before others.
- 5.7. The Authority shall, at the Contractor's reasonable request, require the Replacement Contractor and any agent or personnel of the Replacement Contractor, to enter into an appropriate confidentiality undertaking with the Contractor.
- 5.8. The Contractor shall comply with all of its obligations contained in the Exit Plan.
- 5.9. From the date six (6) Months before expiry or from the service by either Party of any Termination Notice (whichever is the earlier) and during any Termination Period, the Contractor shall not terminate or vary in any material respect any Transferable Contract without the Authority's prior written consent, such consent not to be unreasonably withheld or delayed.
- 5.10. The Contractor shall comply with all of its obligations regarding the Contractor Personnel in accordance with Clause 3 (Application of TUPE at the Commencement of the Provision of the Services) of Schedule 1 (Key Provisions) and Schedule 10 (Staff Transfer).
- 5.11. Upon the termination or expiry of the Contract (as the case may be) or upon expiration of the Termination Period or, provided that it does not have an adverse impact on the ability of the Contractor to provide the Services or the Transitional Assistance Services, at any time during the Termination Period (as the Authority shall require):
 - 5.11.1. the Contractor shall cease to use the Authority Data and, at the direction of the Authority either:
 - (a) provide the Authority or Replacement Contractor with a complete and uncorrupted version of the Authority Data in electronic form (or such other format as reasonably required by the Authority); or
 - (b) destroy (including removal from any hard disk) or return (at the Authority's option) all copies of the Authority Data not required to be retained by the Contractor for statutory compliance purposes and confirm in writing that such destruction has taken place;
 - 5.11.2. the Contractor shall erase from any computers, storage devices and storage media that are to be retained by the Contractor after the end of the Termination

Period any software containing the Intellectual Property Rights owned by the Authority;

- 5.11.3. the Contractor shall return to the Authority such of the following as are in the Contractor's possession or control:
 - (a) all materials created by the Contractor under this Contract, the Intellectual Property Rights in which are owned by the Authority;
 - (b) any and all Participant Data;
 - (c) any other equipment which belongs to the Authority; and
 - (d) any items that have been on-charged to the Authority, such as consumables;
 - 5.11.4. the Contractor shall vacate any Authority's Premises; and
 - 5.11.5. each Party shall return to the other Party all Confidential Information of the other Party and shall certify that it does not retain the other Party's Confidential Information.
- 5.12. The Transitional Assistance Services to be provided by the Contractor shall include (without limitation) such of the following services as the Authority may specify:
- 5.12.1. providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Authority or Replacement Contractor after the end of the Termination Period;
 - 5.12.2. providing details of work volumes and staffing requirements over the preceding twelve (12) Months;
 - 5.12.3. analysing and providing information about capacity and performance requirements, processor requirements and bandwidth requirements, and known planned requirements for capacity growth;
 - 5.12.4. transferring all training material and providing appropriate training to those Authority and/or Replacement Contractor staff responsible for internal training in connection with the provision of the Services;
 - 5.12.5. providing for transfer to the Authority and/or the Replacement Contractor of all knowledge reasonably required for the provision of the Services which may, as

appropriate, include information (including any and all Participant Data), records and documents; and

- 5.12.6. answering all reasonable questions from the Authority and/or the Replacement Contractor regarding the Services.

6. OBLIGATION TO ENTER INTO AN ETHICAL WALL AGREEMENT ON RE-TENDERING OF SERVICES

- 6.1. The Authority may require the Contractor to enter into the Ethical Wall Agreement at any point during a re-tendering or contemplated re-tendering of the Services or any part of the Services.
- 6.2. If required to enter into the Ethical Wall Agreement, the Contractor will return a signed copy of the Ethical Wall Agreement within 10 Working Days of receipt. The Contractor's costs of entering into the Ethical Wall Agreement will be borne solely by the Contractor.

SCHEDULE 13 PROCESSING, PERSONAL DATA AND DATA SUBJECTS

ANNEX 1: PROCESSING PERSONAL DATA

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

The contact details of the Controller's Data Protection Officer are:



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



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

Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of Controller for each Category of Personal Data	<p><i>The Authority is Controller and the Contractor is Processor</i></p> <ul style="list-style-type: none"> <i>[Insert the scope of Personal Data for which the purposes and means of the processing by the Contractor is determined by the Authority]</i> <p><i>[The Contractor and Authority will work together over the coming weeks to refine the design and evaluation plans for the pilot, as part of this we will agree which specific types of data are necessary for the delivery of the programme. Are there any additional categories of data that should be included below?]</i></p> <p>The personal data processed for the Health Incentives Pilot will be finalised once the pilot design and evaluation plans are finalised during the mobilisation period and ahead of the launch of the pilot in 2022.</p> <ul style="list-style-type: none"> Sociodemographic information Health status information

	<ul style="list-style-type: none"> Physical activity behaviours Diet behaviours Contact information <i>[is this necessary for issuing of incentives?]</i>
Subject matter of the processing	The Processing is needed in order to ensure that the Processor can effectively deliver the contract to provide a service to members of the public who will participate in the pilot programme and to evaluate the effectiveness of the pilot programme.
Duration of the processing	Data may be processed for the duration of the contract and evaluation period which is expected to end 10 October 2022, unless otherwise extended in line with the contract duration or at a later date if agreed by all parties.
Nature and purposes of the processing	<p><i>[Please be as specific as possible, but make sure that you cover all intended purposes.]</i></p> <p><i>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.</i></p> <p><i>The purpose might include: employment processing, statutory obligation, recruitment assessment etc.]</i></p> <p>The nature and purposes of the data processing by the Contractor will be for the purposes of delivering the pilot programme and evaluation only.</p> <p><i>[The Contractor and Authority will work together over the coming weeks to refine and add detail on specific processes and operations that will be necessary to deliver the pilot. Are there additional processes that should be included below?]</i></p>

Attachment 3 – Service Specification

	<ul style="list-style-type: none"> Collecting sociodemographic and health information data for the purposes of targeting, engaging individual participants, assessing their suitability to participate in the programme and evaluating the impact of the pilot on different groups; Collecting baseline physical activity and diet information on individuals and recording any changes in these behaviours and levels of engagement throughout the pilot period for the purposes of tracking behaviour change and eligibility for incentives; and Collecting and using personal contact information, in order to process and transfer incentives to individuals. <i>[is this necessary for issuing of incentives?]</i> Analysis of data to evaluate the effectiveness of the pilot programme against the objectives and aims outlined in the specification. All data collected via the pilot programme will be stored in an ISO 27001:2013-certified data centre in the UK.
Type of Personal Data being Processed	<p><i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, Biometric Data, Data Concerning Health, Profiling, etc.]</i></p> <p><i>[We will need to expand on the areas below to include detail on specific types of data in line with examples above. At this point, we have included only the specific types of data that we know will be necessary to collect and would like to refine the other data types together as we finalise the design and evaluation plans. We will update the contract as plans are finalised and types of data specified and agreed between the Contractor and Authority.]</i></p> <p>The personal data processed for the Health Incentives Pilot will be updated once the pilot design and evaluation plans are finalised during the mobilisation period and ahead of the launch of the pilot in 2022.</p> <p>The personal data processed for the Health Incentives Pilot will be finalised once the pilot design and evaluation plans are finalised during the mobilisation period and ahead of the launch of the pilot in 2022.</p> <ul style="list-style-type: none"> Sociodemographic information

	<ul style="list-style-type: none"> • Health status information • Physical activity behaviours: step count; distance travelled; calories burned; and moderate and vigorous physical activity • Diet behaviours: reported food intake and meal habits. • Contact information <i>[is this necessary for issuing of incentives?]</i>
Categories of Data Subject	Members of the public participating in the health incentives pilot programme aged 18 and over and living in England.
<p>Plan for return and destruction of the data once the processing is complete</p> <p>UNLESS requirement under union or member state law to preserve that type of data</p>	The Processor will retain any data collected and/or processed for the purposes of the pilot programme for the duration of the contract period. The Processor must destroy the data by the end of the contract, unless otherwise extended in line with the contract duration or at a later date if agreed by all parties.

SCHEDULE 14

BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN

1. BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN

1.1. The Contractor shall ensure that the BCDR Plan shall include:

- 1.1.1. details of how the Contractor will implement the BCDR Plan;
- 1.1.2. details of how the BCDR Plan inter-operates with any other disaster recovery and business continuity plan of the Authority (as notified by the Authority from time to time);
- 1.1.3. details as to how the invocation of any element of the BCDR Plan may impact on the operation of the Services and a full analysis of the risks to the operation of the services; and
- 1.1.4. identification of all reasonably possible failures of or disruptions to the Services.

1.2. The Contractor shall ensure that the BCDR Plan shall also include:

- 1.2.1. back-up methodology;
- 1.2.2. data verification procedures;
- 1.2.3. identification of all potential disaster recovery scenarios;
- 1.2.4. provision of appropriate levels of spares, maintenance equipment and test equipment;
- 1.2.5. responsibilities of the Sub-contractors in the event of a disaster;
- 1.2.6. hardware configuration details, network planning and invocation rules and procedures;
- 1.2.7. data centre site audits; and
- 1.2.8. Authority obligations and dependencies.

1.3. The BCDR Plan shall be designed so as to ensure that:

- 1.3.1. the Services are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;

- 1.3.2. the adverse impact of any disaster is minimised as far as reasonably possible;
 - 1.3.3. it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
 - 1.3.4. it details a process for the management of disaster recovery testing.
- 1.4. The Contractor shall also ensure that the BCDR Plan defines the processes, activities and responsibilities relating to the application of emergency fixes in business-critical emergency situations. It shall also define the rules for storing data, the required availability for that data and the mechanisms for making that data available. It shall also include:
- 1.4.1. risk analysis (including failure scenarios, assessments, identification of single points of failure and ways to manage such failure and business impact analysis);
 - 1.4.2. possible areas where system critical elements can be "dual sourced" so as to eliminate or minimise single points of failure;
 - 1.4.3. business continuity maintenance;
 - 1.4.4. documentation of business processes, procedures and responsibilities;
 - 1.4.5. a communications strategy; and
 - 1.4.6. procedures for reverting to normal service.

SCHEDULE 15 STEP-IN RIGHTS

1. STEP-IN RIGHTS

1.1. In this Schedule, the following definitions shall apply:

“Deductions” means any service credits, compensation for unacceptable Service Level failure, delay payments or any other deduction which is paid or payable to the Authority under this Contract;

“Sites” means any premises (including the Premises, the Contractor's premises or third party premises) from, to or at which:

(a) the Services are (or are to be) provided; or

(b) the Contractor manages, organises or otherwise directs the provision or the use of the Services.

“Step-In Notice” has the meaning given in Clause 1.2 of this Schedule 15 (Step-In Rights);

“Step-In Trigger Event” means:

(a) a condition occurs that triggers the Authority's right to terminate the Contract under Clause 16 (Termination) of Schedule 2;

(b) a Default by the Contractor that is materially preventing or materially delaying the performance of the Services or any material part of the Services;

(c) the Authority considers that the circumstances constitute an emergency despite the Contractor not being in breach of its obligations under this Contract;

(d) the Authority being advised by a regulatory body that the exercise by the Authority of its rights under Clause 1.2 of this Schedule 15 (Step-In Rights) is necessary;

(e) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Services; and/or

- (f) a need by the Authority to take action to discharge a statutory duty.

“Step-Out Date” has the meaning given in Clause 1.6.2 of this Schedule 15 (Step-In Rights);

“Step-Out Notice” has the meaning given in Clause 1.6 of this Schedule 15 (Step-In Rights);

“Step-Out Plan” has the meaning given in Clause 1.7 of this Schedule 15 (Step-In Rights);

“Required Action” has the meaning given in Clause 1.2.1 of this Schedule 15 (Step-In Rights);

- 1.2. On the occurrence of a Step-In Trigger Event, the Authority may serve notice on the Contractor (a **“Step-In Notice”**) that it will be taking action under this Schedule 15 (Step-In Rights), either itself or with the assistance of a third party (provided any third parties appointed by the Authority shall be subject to the same confidentiality obligations as the Authority under Clause 27 (Confidential Information) of Schedule 2). The Step-In Notice shall set out the following:

- 1.2.1. the action the Authority wishes to take and in particular the Services that it wishes to control (the **“Required Action”**);
- 1.2.2. the Step-In Trigger Event that has occurred and whether the Authority believes that the Required Action is due to the Contractor’s Default;
- 1.2.3. the date on which it wishes to commence the Required Action;
- 1.2.4. the time period which it believes will be necessary for the Required Action;
- 1.2.5. whether the Authority will require access to the Contractor’s premises and/or the Sites; and
- 1.2.6. to the extent practicable, the impact that the Authority anticipates the Required Action will have on the Contractor’s obligations to provide the Services during the period that the Required Action is being taken.

- 1.3. Following service of a Step-In Notice, the Authority shall:

- 1.3.1. take the Required Action set out in the Step-In Notice and any consequential additional action as it reasonably believes is necessary to achieve the Required Action;
 - 1.3.2. keep records of the Required Action taken and provide information about the Required Action to the Contractor;
 - 1.3.3. co-operate wherever reasonable with the Contractor in order to enable the Contractor to continue to provide the Services in relation to which the Authority is not assuming control; and
 - 1.3.4. act reasonably in mitigating the cost that the Contractor will incur as a result of the exercise of the Authority's rights under this Schedule 15 (Step-In Rights).
- 1.4. For so long as and to the extent that the Required Action is continuing, then:
- 1.4.1. the Contractor shall not be obliged to provide the Services to the extent that they are the subject of the Required Action;
 - 1.4.2. no Deductions shall be applicable in relation to the Contract Price in respect of Services that are the subject of the Required Action and the provisions of Clause 1.5 of this Schedule 15 (Step-In Rights) shall apply to Deductions from Contract Price in respect of other Services; and
 - 1.4.3. the Authority shall pay to the Contractor the Contract Price after subtracting any applicable Deductions and the Authority's costs of taking the Required Action.
- 1.5. If the Contractor demonstrates to the reasonable satisfaction of the Authority that the Required Action has resulted in the degradation of any Services not subject to the Required Action beyond that which would have been the case had the Authority not taken the Required Action, then the Contractor shall be entitled to an agreed adjustment of the Contract Price.
- 1.6. Before ceasing to exercise its Step-In rights under this Schedule 15 (Step-In Rights) the Authority shall deliver a written notice to the Contractor (a “**Step-Out Notice**”), specifying:
- 1.6.1. the Required Action it has actually taken; and
 - 1.6.2. the date on which the Authority plans to end the Required Action (the “**Step-Out Date**”) subject to the Authority being satisfied with the Contractor's ability to resume the provision of the Services and the Contractor's plan developed in accordance with Clause 1.7 of this Schedule 15 (Step-In Rights).

- 1.7. The Contractor shall, following receipt of a Step-Out Notice and not less than twenty (20) Working Days prior to the Step-Out Date, develop for the Authority's approval a draft plan (a “**Step-Out Plan**”) relating to the resumption by the Contractor of the Services, including any action the Contractor proposes to take to ensure that the affected Services satisfy the requirements of this Contract.
- 1.8. If the Authority does not approve the draft Step-Out Plan, the Authority shall inform the Contractor of its reasons for not approving it. The Contractor shall then revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to the Authority for the Authority's approval. The Authority shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.
- 1.9. The Contractor shall bear its own costs in connection with any step-in by the Authority under this Schedule 15 (Step-In Rights), provided that the Authority shall reimburse the Contractor's reasonable additional expenses incurred directly as a result of any step-in action taken by the Authority under:
 - 1.9.1. limbs (c) or (d) of the definition of a Step-In Trigger Event; or
 - 1.9.2. limbs (e) and (f) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Authority serving the Step-In Notice is identified as not being the result of the Contractor's Default).

SCHEDULE 16 SERVICE LEVELS

1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 3 (Definitions):

"Service Credits" any service credits specified in the Annex to Part A of this Schedule being payable by the Contractor to the Authority in respect of any failure by the Contractor to meet one or more Service Levels;

"Service Credit Cap" has the meaning given to it in the Order Form;

"Service Level Failure" means a failure to meet the Service Level Performance Measure in respect of a Service Level;

"Service Level Performance Measure" shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule; and

"Service Level Threshold" shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule.

2. What happens if you don't meet the Service Levels

- 2.1 The Contractor shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.
- 2.2 The Contractor acknowledges that any Service Level Failure shall entitle the Authority to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Authority as a result of the Contractor's failure to meet any Service Level Performance Measure.
- 2.3 The Contractor shall send Performance Monitoring Reports to the Authority detailing the level of service which was achieved.
- 2.4 A Service Credit shall be the Authority's exclusive financial remedy for a Service Level Failure except where:

2.4.1 the Contractor has over the previous (twelve) 12 Month period exceeded the Service Credit Cap; and/or

2.4.2 the Service Level Failure:

- (a) exceeds the relevant Service Level Threshold;
- (b) has arisen due to a Prohibited Act or wilful Default by the Contractor;
- (c) results in the corruption or loss of any Government Data; and/or
- (d) results in the Authority being required to make a compensation payment to one or more third parties; and/or
- (e) the Authority is otherwise entitled to or does terminate this Contract.

3. Critical Service Level Failure

3.1 On the occurrence of a Critical Service Level Failure:

3.1.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and

3.1.2 the Authority shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Contractor in respect of that Service Period ("Compensation for Critical Service Level Failure"),

provided that the operation of this paragraph **Error! Reference source not found.** shall be without prejudice to the right of the Authority to terminate this Contract and/or to claim damages from the Contractor for material Default.

Part A: Service Levels and Service Credits

4. Service Levels

4.1 If the level of performance of the Contractor:

4.1.1 is likely to or fails to meet any Service Level Performance Measure; or

4.1.2 is likely to cause or causes a Critical Service Failure to occur,

4.2 the Contractor shall immediately notify the Authority in writing and the Authority, in its absolute discretion and without limiting any other of its rights, may:

- 4.2.1 require the Contractor to immediately take all remedial action that is reasonable to mitigate the impact on the Authority and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;
 - 4.2.2 instruct the Contractor to comply with the Rectification Plan Process;
 - 4.2.3 if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Contractor to the Authority; and/or
 - 4.2.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).
- 5. Service Credits**
- 5.1 The Authority shall use the Performance Monitoring Reports supplied by the Contractor to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.
 - 5.2 Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Contractor shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in the Annex to Part A of this Schedule.

Annex A to Part A: Services Levels and Service Credits Table

Guidance Note: to be populated from the ITT Specification Table of KPIs once agreed – with Service Credits as shown here.

Service Levels				Service Credit for each Service Period
Service Level Performance Criterion	Key Indicator	Service Level Performance Measure	Service Level Threshold	
Accurate and timely billing of Authority	Accuracy /Timelines	at least 98% at all times	[]	0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure
Access to Authority support	Availability	at least 98% at all times	[]	0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure

The Service Credits shall be calculated on the basis of the following formula:

Example:

Formula: $x\% \text{ (Service Level Performance Measure)} - x\% \text{ (actual Service Level performance)}$ = $x\%$ of the Charges payable to the Authority as Service Credits to be deducted from the next Invoice payable by the Authority

Worked example: 98% (e.g. Service Level Performance Measure requirement for accurate and timely billing Service Level) - 75% (e.g. actual performance achieved against this Service Level in a Service Period) = 23% of the Charges payable to the Authority as Service Credits to be deducted from the next Invoice payable by the Authority]