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CONTRACT FOR THE PROVISION OF:

**National Reference laboratory in the UK for Feed Additives –
Authorisation and Control**

Reference Number: FS616035

This document forms the contract for the Services between;

**Food Standards Agency (“Client”) having its main or registered office at Aviation
House, 125 Kingsway, London WC2B 6NH**

and

LGC Limited (“Supplier”), FOIA s10 FOIA s10 **OLY**

to be effective from 1st April 2017 until 31st March 2019
unless varied by extension.

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CONTRACT

WHEREAS

The Food Standards Agency has selected the Supplier to act as a Supplier in the performance of activities connected with the Project described on the title page of this contract, for The Food Standards Agency, the Supplier shall undertake to provide the same on the terms and conditions as set out in this Contract.

Unless and until directed otherwise, nothing in this Contract, shall be construed as giving a guarantee of any remunerative work whatsoever unless or until such work is requested and confirmed by means of a duly authorised Purchase Order.

CROWN REPRESENTATIVES

Where any supplier has been adjudged to fall under the auspices of a "Crown Representative" then any resultant terms and conditions will be subject to, where appropriate, any central contracts and/or negotiation or procurement processes involving such suppliers.

IT IS AGREED AS FOLLOWS:

1. TERMS and CONDITIONS

1.1 As used in this Contract:

- a) the terms and expressions set out in Schedule 1 shall have the meanings set out therein;
- b) the masculine includes the feminine and the neuter;
- c) the singular includes the plural and vice versa; and
- d) the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation".

1.2. A 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 statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof.

1.3. A reference to any document other than as specified in Clause 1.2 shall be construed as a reference to the document as at the date of execution of this Contract.

1.4. Headings are included in this Contract for ease of reference only and shall not affect the interpretation or construction of this Contract.

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- 1.5. References to "Clauses" and "Schedules" are, unless otherwise provided, references to the Clauses of and Schedules to this Contract.
- 1.6. Terms or expressions contained in this Contract which are capitalised but which do not have an interpretation in Schedule 1 shall be interpreted in accordance with the common interpretation within the legal services market where appropriate. Otherwise they shall be interpreted in accordance with the dictionary meaning.
- 1.7. In the event and to the extent only of any conflict or inconsistency in the provisions of the Clauses of this Contract and the provisions of the Schedules, the following order of precedence shall prevail:
 - a) the duly authorised Client Purchase Order;
 - b) the Schedules; and
 - c) this Contract

2. THE SERVICES

- 2.1. This Contract shall govern the overall relationship of the Supplier and the Client with respect to the provision of the Ordered Services.
- 2.2. The Supplier shall provide the Ordered Services and meet its responsibilities and obligations hereunder in accordance with the provisions of Schedule 2 (Ordered Services) and Schedule 3 (Specific Obligations).
- 2.3. Notwithstanding clause 2.1, the Supplier shall perform the Ordered Services to the agreed satisfaction of the Client's Representative.
- 2.4. The Supplier shall notify the Client as soon as it becomes aware of an event occurring or which it believes is likely to occur which will cause material delay to or materially impede the performance of any Ordered Services or any part thereof and the Supplier shall take all necessary steps consistent with good practice to obviate and/or minimise the delay to the Client.
- 2.5. In the event that the Supplier fails due to its Default to fulfill an obligation by the date specified in any Purchase Order for such fulfillment, the Supplier shall, at the request of the Client and without prejudice to the Client's other rights and remedies, arrange all such additional resources as are necessary to either obviate the delay or to fulfill the said obligation as early as practicable thereafter, at no additional charge to the Client.
- 2.6. In the event that any obligation of the Supplier specified in the Contract is delayed as a result of a Default by the Client, then :

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- a) The date associated with the relevant obligation(s) as specified in the Purchase Order (and the dates similarly associated with any subsequent obligations specified in the Purchase Order) shall be amended by a period of time equal to the period of such Client Default (or such other period as the parties agree in writing); and
 - b) Both parties shall use all reasonable endeavors to obviate and/or mitigate the impact of such delay and to recover any resultant delay to the performance of the Ordered Services.
- 2.7. Nothing in this document, or any Purchase Order, shall have the effect of making the Supplier or any of the Supplier's other employees or agents, the employee of the Client.
- 2.8. Nothing in this document or any Purchase Order shall constitute the parties as partners of each other.

3. STANDARDS AND REGULATIONS

- 3.1. The Supplier shall at all times comply with the Health and Safety provisions, security requirements and personal conduct obligations, of any premises visited and shall exercise all due care and attention when visiting such premises.
- 3.2. The Supplier shall comply with all applicable national and local laws and regulations (including Data Protection Requirements) and obtain and maintain at its own cost throughout the duration of the Contract all the consents (including Data Protection Requirements), licences, permits and approvals which are necessary for the Supplier to perform its duties under this Contract and to enable the provision of the Ordered Services.
- 3.3. Without prejudice to the provisions of Clause 3.2, the Supplier shall ensure that he/she does not work in excess of the working time limits specified in the Working Time Regulations 1998. The Supplier shall maintain appropriate records regarding their working hours. Without prejudice to the obligations under this Clause 3.3, the Supplier shall make available to the Client any information of which it is aware concerning appointments held by an individual concurrently with the obligations of this Contract.
- 3.4. The Supplier shall be responsible for the administration and deduction of any income tax and national insurance in respect of payments made to such individuals, including in respect of any obligations under the Pay As You Earn system. The Supplier will, or procure that its Sub-Contractors will, account to the appropriate authorities for any income tax, national insurance (if any), VAT and all other liabilities, charges and duties arising out of any payment made to the Supplier under any Purchase Order. The Supplier will indemnify and keep indemnified the Client against any income tax, national insurance (if any), VAT or any other tax liability including any interest, penalties or costs incurred in connection with the same which may at any time be levied, demanded or assessed on the Client by any statutory Agency in respect of payments made to the Supplier.

- 3.5. Nothing in this Contract shall be construed or have effect as constituting any relationship of employer and employee between the Client and the Supplier or its Sub-Contractors. The Supplier shall indemnify and keep indemnified the Client, its officers, employees and agents against all actions, claims, demands, reasonable costs, charges and reasonable expenses incurred by or made against the Client, its officers, employees or agents arising out of or in connection with any services provided under any Purchase Order asserting that they are an employee of the Client or otherwise alleging any breach of any employment related legislation except where such claim arises as a result of any breach of obligations (whether contractual, statutory, at common law or otherwise).

4. MATERIAL BREACH

4.1. If the Supplier:-

does not, in the reasonable opinion of the Client Representative have the skills and experience required for the role of Supplier; or

fails to follow reasonable instructions given by the Client's Representative in the course of his or her work for the Client; or

presents, in the reasonable opinion of the Client's Representative, a risk to security; or

presents, in the reasonable opinion of the Client's Representative, a risk to the reputation of Her Majesty's Government; or

in the reasonable opinion of the Client's Representative is in some other ways unsuitable for to which he has been assigned pursuant to any Purchase Order;

then the Client may serve a notice on the Supplier requesting that the Supplier immediately cease activities under any Purchase Order.

- 4.2. Upon receipt of a notice under Clause 4.1 the Supplier shall immediately cease all activities in connection with the Client's instructions.

- 4.3. Notwithstanding the foregoing, the Client may, at any time, deny access to the Client's or its associates' premises without giving any reason for doing so.

- 4.4. Any activities performed prior to cessation under 4.1 shall be reimbursed on a *quantum meruit* basis.

5. NON-SOLICITATION

The parties agree that during the term of the appointment as described in any Purchase Order and for a period of twelve (12) months thereafter, they will not, whether directly or indirectly, solicit with a view to offering employment the other party and/or its employees or consultants. In the event that either party breaches this Clause, the defaulting party shall pay to the affected party all unavoidable and

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reasonable costs incurred by the affected party including but not limited to a sum equal to the gross salary of the employee or the consultant due under any relevant notice. This Clause shall not restrict either party from appointing any person, whether employee or consultant of the other or not, who has applied in response to an advertisement properly and publicly placed in the normal course of business.

6. PARTIES RESPONSIBILITIES & OBLIGATIONS

The responsibilities for the Parties are set out in Schedules 2 and 3

7. CHARGES FOR ORDERED SERVICES

- 7.1. All engagements of the Supplier by the Client, of whatever nature, under the terms of the Agreement must be confirmed by means of a Purchase Order before commencement of the work.
- 7.2. All Charges on any Purchase Order placed under the terms and conditions of this Contract shall utilise the rates as per Schedule 4 as their basis.
- 7.3. In consideration of the performance of the Ordered Services in accordance with this Contract, the Client shall pay the Charges in accordance with the Invoicing Procedure.
- 7.4. Payment shall be made within thirty (30) days of receipt by the Client (at its nominated address for invoices) of a valid invoice (which shall be issued in arrears) from the Supplier.
- 7.5. The Charges are exclusive of Value Added Tax. The Client shall pay the Value Added Tax on the Charges at the rate and in the manner prescribed by law, from time to time.
- 7.6. "VAT on VAT" Prevention:

The Supplier shall not invoice, nor shall the Client be responsible for, any "VAT on VAT" payment. For the avoidance of doubt, in the event that:

- a) the Supplier has incurred expenditure for goods or services from a third party provider in respect of which the Supplier is entitled to reimbursement by the Client under the Contract; and
 - b) the third party provider with whom the expenditure has been incurred has charged the Supplier UK VAT on the price of the relevant goods or services;
- 7.7. Interest shall be payable on any late payments under the Contract in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

- 7.8. The Supplier shall follow the Purchase Order and Invoice process as set out in Schedule 5. All invoices must reference the duly authorised Purchase Order number. Any invoices which do not reference the Purchase Order number shall be returned as unacceptable.
- 7.9. The Supplier shall continuously indemnify the Client against any liability, including any interest, penalties or reasonable costs incurred which is levied, demanded or assessed on the Client at any time in respect of the Supplier's failure to account for or to pay any Value Added Tax relating to payments made to the Supplier under this Contract. Any amounts due under this Clause 7.8 shall be paid in cleared funds by the Supplier to the relevant Agency not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Client.
- 7.10. The Supplier shall accept the Government Procurement Card (GPC) as a means of payment for Ordered Services where GPC is agreed with the Client to be a suitable means of payment.
- 7.11. The Supplier shall accept payment electronically via the Banks Automated Clearing Service (BACS).

7.12. Euro

In the event that the United Kingdom joins the Economic and Monetary Union (and provided always that the exchange rate for conversion between Sterling and the Euro has been fixed), the Client shall at any time thereafter upon three (3) Months notice to the Supplier, be entitled to require the Supplier at no additional charge to convert the Charges from Sterling into Euros (in accordance with EC Regulation number 1103/97). The Supplier shall thereafter submit valid invoices denominated in Euros.

7.13. Efficiency

The Supplier shall be obliged at all times to seek to improve its efficiency in providing Services to the Client and to review the level of Charges in light of possible efficiency gains. Where such improved efficiency is achieved the Supplier shall propose a reduction in the level of Charges and effect such reduction by agreement with the Client.

8. AMENDMENTS and VARIATIONS TO THIS CONTRACT

No amendment to the provisions of this Contract or Special Terms specified in any Purchase Order shall be effective unless agreed in writing on a Variation form by both parties. Any increases in scope or value shall be the subject of separate negotiation but shall, in any event, be upon no less favourable terms than those contained herein.

9. COMMUNICATIONS

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Except as otherwise expressly provided, no communication from one party to the other shall have any validity unless made in writing; nor shall any amendment to any Purchase Order be effected unless made by a duly authorised Purchase Order revision/Contract Variation.

10. TERM AND TERMINATION

- 10.1. This Contract shall take effect from the agreed start date and shall terminate when all requirements are satisfied.
- 10.2. The contract shall be subject to termination for convenience by either party subject to three months notice.
- 10.3. The Client may at any time by notice in writing terminate any Purchase Order, or a part thereof, at 20 days notice without charge. Terminations at less than 20 days notice shall be subject to the Supplier's standard terms and conditions

11. CONSEQUENCES OF TERMINATION AND EXPIRY

- 11.1. In the event of termination in accordance with Clauses 10.2 or 10.3 the Client shall reimburse the Supplier any Charges incurred prior to termination which are wholly, reasonably and properly chargeable by the Supplier in connection with the Contract. The Client shall not be liable to pay any severance payment or compensation to the Supplier for loss of profits suffered as a result of the termination. Determination of such Charges shall be on a *quantum meruit* basis.
- 11.2. Termination, or partial termination, or expiry in accordance with Clause 10 shall not prejudice or affect any right of action or remedy that shall have accrued or shall thereafter accrue to either party.
- 11.3. In the event of termination of the Contract for any reason:
 - a) the Supplier shall return to the Client all Client Property and all Client Data and other items belonging to the Client in its possession;
 - b) subject to the payment of the appropriate portion for work completed, the Supplier shall provide the Client with a copy of all work undertaken to date (whether completed or not), and
 - c) Upon expiry or termination for any reason, the Supplier shall render reasonable assistance to the Client (and any third parties appointed by the Client) if requested, to the extent necessary to effect an orderly cessation of the Services.

12. WARRANTIES AND REPRESENTATIONS

12.1. The Supplier warrants and represents that:

- a) it has full capacity and all necessary consents to enter into and to perform the duties as specified herein;

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- b) this Contract shall be performed in compliance with all applicable laws, enactments, orders, regulations and other similar instruments as amended from time to time;
- c) the Supplier warrants that the Ordered Services shall be provided and carried out by appropriately experienced, qualified and trained personnel with all due skill, care and diligence;
- d) it shall discharge its obligations hereunder with all due skill, care and diligence including good industry practice and (without limiting the generality of this Clause 12, in accordance with its own established internal procedures;
- e) it owns, has obtained or shall obtain valid licences for all Intellectual Property Rights that are necessary for the performance of this Contract and the use of the Ordered Services by the Client;
- f) it has taken and shall continue to take all reasonable steps, in accordance with good industry practice, to prevent the introduction, creation or propagation of any disruptive element (including any virus, worm and/or trojan horse) onto the Ordered Service and into systems, data, software or Confidential Information (held in electronic form) owned by or under the control of, or used by, the Client;
- g) it shall take all reasonable measures to avoid any and all data loss and data corruption during the provision of the Ordered Services in accordance with good industry practice;

13. LIMITATION OF LIABILITY

- 13.1. Neither the Client nor the Supplier excludes or limits liability to the other for death or personal injury arising from its negligence or any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982 or for fraud or fraudulent misrepresentation.
- 13.2. Nothing in this Clause 13 shall be taken as limiting the liability of the Supplier in respect of Clause 14, Clause 15, and Clause 16.
- 13.3. In respect of any claims of liability arising out of the willful default of the Supplier, its employees, servants, the Supplier will have unlimited liability for all reasonably foreseeable loss suffered by the Client as a result of such act, omission or event giving rise to the claim.

13.4. Subject always to the provisions of Clauses 13.1, 13.2 and 13.3, the aggregate liability of the Client and the Supplier for each Year for all Defaults whether arising under contract, tort (including negligence) or otherwise in connection with this Contract shall in no event exceed whichever is the greater of Five hundred thousand pounds or a sum equivalent to one hundred and twenty five percent (125%) of the total charges paid or payable to the Supplier under all contracts entered into during a twelve (12) Month period specified by the claiming party, such twelve (12) Month period including the date on which at least one such Default arose.

13.5. Subject always to the provisions of Clauses 13.1, 13.2 and 13.3, in no event shall either the Client or the Supplier be liable to the other for:

- a) indirect or consequential loss or damage; and/or
- b) loss of profits, business, revenue, goodwill or anticipated savings.

13.6. Subject always to the provisions of Clauses 13.1, 13.2 and 13.3, and 13.4, , the provisions of Clause 13.5 shall not be taken as limiting the right of either the Client or the Supplier to claim from the other for:

- a) reasonable additional operational and administrative costs and expenses;
- b) any reasonable costs or expenses rendered nugatory; and
- c) damage due to the loss of data, but only to the extent that such losses relate to the costs of working around any loss of data and the direct costs of recovering or reconstructing such data,

resulting directly from the Default of the other party.

13.7. The Client and the Supplier expressly agree that should any limitation or provision contained in this Clause 13 be held to be invalid under any applicable statute or rule of law it shall to that extent be deemed omitted, but if any either of them thereby becomes liable for loss or damage which would otherwise have been excluded such liability shall be subject to the other limitations and provisions set out herein.

14. DATA PROTECTION

14.1. The Supplier shall comply at all times with the Data Protection Requirements and shall not perform its obligations under this Contract in such a way as to cause the Client to breach any of its applicable obligations under the Data Protection Requirements.

14.2. The Supplier shall be liable for and shall indemnify (and keep indemnified) the Client against each and every action, proceeding, liability, reasonable cost, claim, loss, reasonable expense (including reasonable legal fees and disbursements on a solicitor and Agency basis) and demand incurred by the Client which arise directly or in connection with the Supplier's data processing activities under this Contract, including without limitation those arising out of any third party demand, claim or action, or any breach of contract, negligence, fraud, willful misconduct, breach of statutory duty or non-compliance with any part of the Data Protection Requirements by the Supplier or its employees, servants, agents or Sub-Contractors.

15. INTELLECTUAL PROPERTY RIGHTS

15.1. Save as granted under this Contract, neither the Client nor the Supplier shall acquire any right, title or interest in the other's Pre-Existing Intellectual Property Rights respectively save that each party hereby grants a licence to the other party to use its Pre-Existing Intellectual Property Rights to the extent necessary to perform its obligations under this Contract.

15.2. All Intellectual Property Rights that are created by the Supplier in the provision of the Services to the Client shall be proprietary to and owned by the Client and the Supplier shall enter into such documentation and perform such acts as the Client shall request to properly vest such Intellectual Property Rights in the Client. Accordingly the Supplier hereby assigns (by way of present assignment of future intellectual property rights) all such Intellectual Property Rights.

15.3. The Supplier shall procure that the provision of the Ordered Services shall not infringe any Intellectual Property Rights of any third party.

15.4. The Supplier shall indemnify the Client against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and Agency basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right in connection with the provision of the Ordered Services, except to the extent that such liabilities have resulted directly from the Client failure properly to observe its obligations under this Clause 15.

15.5. Each of the parties shall notify the other if it receives notice of any claim or potential claim relating to the other party's Pre-Existing Intellectual Property Rights

16. CONFIDENTIALITY

16.1. Without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information, the Client and the Supplier acknowledge that any Confidential Information originating from:

- a) the Client, its servants or agents is the property of the Client; and

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- b) the Supplier, its employees, servants or agents is the property of the Supplier.

16.2. The Supplier and the Client shall procure that:

- a) any person employed or engaged by them (in connection with this Contract in the course of such employment or engagement) shall only use Confidential Information for the purposes of this Contract;
- b) any person employed or engaged by them in connection with this Contract shall not, in the course of such employment or engagement, disclose any Confidential Information to any third party without the prior written consent of the other party;
- c) they shall take all necessary precautions to ensure that all Confidential Information is treated as confidential and not disclosed (save as aforesaid) or used other than for the purposes of this Contract by their employees, servants, agents or Sub-Contractors; and
- d) without prejudice to the generality of the foregoing neither the Client nor the Supplier nor any person engaged by them whether as a servant or a consultant or otherwise shall use the Confidential Information for the solicitation of business from the other or from any third party.

16.3. The provisions of Clause 16.1 and Clause 16.2 shall not apply to any information which:

- a) is or becomes public knowledge other than by breach of this Clause 16; or
- b) is in the possession of the recipient without restriction in relation to disclosure before the date of receipt from the disclosing party; or
- c) is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
- d) is independently developed without access to the Confidential Information; or
- e) must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the party making the disclosure, including any requirements for disclosure under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.
- f) is required to be disclosed by a competent regulatory Agency (including the Law Society or Solicitors Disciplinary Tribunal) or pursuant to any applicable rules of professional conduct.

16.4. Nothing in this Clause 16 shall be deemed or construed to prevent the Client from disclosing any Confidential Information obtained from the Supplier:

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- a) to any other department, office or agency of Her Majesty's Government ("Crown Bodies"), provided that the Client has required that such information is treated as confidential by such Crown Bodies and their servants, including, where appropriate, requiring servants to enter into a confidentiality agreement prior to disclosure of the Confidential Information and the Client shall have no further liability for breach of confidentiality in respect of the departments, offices and agencies. All Crown Bodies in receipt of such Confidential Information shall be considered as parties to this Contract within Section 1(1) of the Contracts (Rights of Third Parties) Act 1999 for the purpose only of being entitled to further disclose the Confidential Information to other Crown Bodies on such terms; and
- b) to any consultant, contractor or other person engaged by the Client in connection herewith, provided that the Client shall have required that such information be treated as confidential by such consultant, contractor or other person, together with their servants including, where appropriate, requiring servants to enter into a confidentiality agreement prior to disclosure of the Confidential Information and the Client shall have no further liability for breach of confidentiality in respect of consultants, contractors or other people.

16.5. The Supplier shall, prior to commencing any work, enter into a confidentiality undertaking in the form set out in Schedule 7.

16.6. If required by the Client, the Supplier shall procure that any of its Staff or associates enters into a confidentiality undertaking in the form set out in Schedule 7 or such alternative form as the Client may substitute from time to time

16.7. Nothing in this Clause 16 shall prevent the Supplier or the Client from using data Processing techniques, ideas and know-how gained during the performance of this Contract in the furtherance of its normal business, to the extent that this does not relate to a disclosure of Confidential Information or an infringement by the Client or the Supplier of any Intellectual Property Rights.

17. PUBLICITY

17.1. The Supplier shall not make any press announcements or publicise this Contract in any way without the Client's prior written consent.

17.2. Notwithstanding the provisions of Clause 17.1, the Supplier shall be entitled to make any announcement required by any securities exchange or regulatory Agency or government body to which it subscribes whether or not the requirement has the force of law.

18. DISPUTE RESOLUTION

- 18.1. Subject to the provisions of Clause 18.2, any dispute arising under, or in connection with this Contract shall be dealt with in accordance with this Clause 18, and neither the Client nor the Supplier shall be entitled to commence or pursue any legal proceedings under the jurisdiction of the courts in connection with any such dispute, until the procedures set out in this Clause 18 have been exhausted.
- 18.2. Clause 18.1 shall be without prejudice to the rights of termination stated in Clause 10 and in addition shall not prevent the Client or the Supplier from applying for injunctive relief in the case of:
- a) breach or threatened breach of confidentiality;
 - b) infringement or threatened infringement of its Intellectual Property Rights;
or
 - c) Infringement or threatened infringement of the Intellectual Property Rights of a third party, where such infringement could expose the Client or the Supplier to liability.
- 18.3. All disputes between the Client and the Supplier arising out of or relating to any Purchase Order shall be referred by Client's Representative or the nominated head of the Supplier's Accountant Management Team to the other for resolution.
- 18.4. If any dispute cannot be resolved pursuant to the provisions of Clause 18.3 within ten (10) Working Days either party may refer the dispute to the Client's Head of Procurement for resolution.
- 18.5. If any dispute cannot be resolved pursuant to the provisions of Clause 18.4 within ten (10) Working Days, then either party may refer the dispute to mediation and if necessary thereafter to the courts in accordance with the provisions of Schedule 6.

19. INSURANCE

- 19.1. The Supplier shall effect and maintain policies of insurance to provide a level of cover sufficient for all risks which may be incurred by the Supplier under this Contract, including death or personal injury, or loss of or damage to property.
- 19.2. The Supplier shall hold employer's liability insurance in respect of its employees in accordance with any legal requirement for the time being in force.
- 19.3. The Supplier shall produce to the Client's Representative, within five (5) Working Days of request, copies of all insurance policies referred to in Clause 19.1 and Clause 19.2 or such other evidence as agreed between the Client and the Supplier that will confirm the extent of the cover given by those policies, together with receipts or other evidence of payment of the latest premiums due under those policies.

19.4. The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under this Contract. It shall be the responsibility of the Supplier to ensure that the amount of insurance cover is adequate to enable it to satisfy all its potential liabilities subject to the limit of liability specified in Clause 13 of this Contract.

20. RECOVERY OF SUMS DUE

20.1. The Client shall be permitted to deduct and withhold from any sum due to the Supplier under this Contract any sum of money due from the Supplier under either:

- a) this Contract;
- b) any other agreement between the Supplier and the Client;

provided that the terms of such other agreement provide for sums of money due from the Supplier under that agreement to be recovered by way of a deduction from sums of money due to the Supplier under this Contract (albeit that this Contract may not be referenced specifically under that agreement).

21. STATUTORY REQUIREMENTS

21.1. The Supplier shall notify the Client of all statutory provisions and approved safety standards applicable to the Ordered Services and their provision and shall be responsible for obtaining all licences, consents or permits required for the performance of this Contract.

21.2. The Supplier shall inform the Client if the Ordered Services are hazardous to health or safety and of the precautions that should be taken in respect thereto.

21.3. The Supplier shall, and shall ensure that its personnel, agents and Sub-Contractors, take all measures necessary to comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to those involved in the performance of this Contract.

22. STATUTORY INVALIDITY

The Client and the Supplier expressly agree that should any limitation or provision contained in this Contract be held to be invalid under any particular statute or law, or any rule, regulation or bye-law having the force of law, it shall to that extent be deemed to be omitted but, if either the Client or the Supplier thereby becomes liable for loss or damage which would have otherwise been excluded, such liability shall be subject to the other limitations and provisions set out herein.

23. ENVIRONMENTAL REQUIREMENTS

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23.1. The Supplier shall comply in all material respects with all applicable environmental laws and regulations in force from time to time in relation to the Services. Without prejudice to the generality of the foregoing, the Supplier shall promptly provide all such information regarding the environmental impact of the Services as may reasonably be requested by the Client.

23.2. The Supplier shall meet all reasonable requests by the Client for information evidencing compliance with the provisions of this Clause 23 by the Supplier.

24. DISCRIMINATION

24.1. The Supplier shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010, the Human Rights Act 1998 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof. The Supplier shall take all reasonable steps to secure the observance of this Clause by all Staff.

24.2. The Supplier shall take all reasonable steps to secure the observance of the provisions of Clause 24.1 by any Sub-Contractor(s) employed in the execution of this Contract.

25. SUPPLIER'S SUITABILITY

25.1. The Client reserves the right under this Contract to refuse to admit to any premises occupied by or on behalf of the Client the Supplier, whose admission has become, in the opinion of the Client, undesirable.

25.2. If the Supplier shall fail to comply with Clause 25.1 and if the Client (whose decision shall be final and conclusive) shall decide that such failure is prejudicial to the interests of the State and if the Supplier does not comply with the provisions of Clause 25.1 within a reasonable time of written notice so to do, then the Client may terminate the any Purchase Order provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Client.

26. OFFICIAL SECRETS ACTS

The Supplier shall take all reasonable steps to ensure that he and all people employed by him or his agents and Sub-Contractors in connection with this Contract are aware of the Official Secrets Act 1989 and where appropriate, with the provisions of the Atomic Energy Act 1946, and that these Acts apply to them during the execution of this Contract and after the expiry or termination of this Contract.

27. CORRUPT GIFTS AND PAYMENTS OF COMMISSION

27.1. The Supplier shall not:

- a) offer or give or agree to give any person in Her Majesty's Service any gift or consideration of any kind as an inducement or reward for doing, forbearing to do, or for having done or forborne to do any act in relation to the obtaining or execution of this Contract or any other contract for Her Majesty's Service or for showing favour or disfavour to any person in relation to this or any other contract for Her Majesty's Service;
- b) enter into this Contract or any other contract with a person in Her Majesty's Service in connection with which commission has been paid or agreed to be paid by him or on his behalf, or to his knowledge, unless before this Contract are accepted, made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Client.

27.2. Any breach of Clause 27.1 by the Supplier or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Supplier) or the commission of any offence by the Supplier or by anyone employed by him or acting on his behalf under the Prevention of Corruption Acts 1889 to 1916, in relation to this Contract or any other contract with Her Majesty's Service shall entitle the Client to terminate any Purchase Order and recover from the Supplier the amount of any direct loss resulting from such termination and/or to recover from the Supplier the amount or value of any such gift, consideration or commission.

27.3. Any dispute, difference or question arising in respect of the interpretation of this Clause 27, the right of the Client to terminate any Purchase Order or the amount or value of any such gift, consideration or commission shall be decided by the Client, whose decision shall be final and conclusive.

27.4. Either Party may terminate this contract and recover all its losses if the other Party, their employees or anyone acting on their behalf:

- a. Corruptly offers, gives or agrees to give to anyone any inducement or reward in respect of this Contract; or
- b. Commits an offence under the Bribery Act 2010.

28. TRANSFER AND SUB-CONTRACTING

28.1. Sub-contracting will be allowed, subject to written authorisation from the Client.

28.2. The Client shall be entitled to nominate sub-contractors at its discretion.

28.3. The Supplier shall be entitled to Sub-Contract its obligations under this Contract, or any resultant Purchase Order, solely with the express permission of the Client Representative; such permission shall not be unreasonably withheld.

28.4. Any sub-contract must allow for full disclosure under 'transparency' requirements.

28.5. The Client shall be entitled to assign or otherwise dispose of its rights and obligations under this Contract and/or any relevant Purchase Order to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Client.

29. RIGHTS OF THIRD PARTIES

29.1. To the extent that this Contract are expressed to confer rights or benefits on a party who is not a party to this Contract, that party shall by virtue of the Contracts (Rights of Third Parties) Act 1999, be entitled to enforce those rights as if it was a party to this Contract. For the avoidance of doubt the consent of any person other than the Client (or the Supplier, as the case may be) is not required to vary or terminate this Contract.

29.2. Except as provided in Clause 29.1, a person who is not a party to this Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract. This Clause 29.2 does not affect any right or remedy of any person that exists or is available otherwise than pursuant to that Act.

30. CLIENT PROPERTY

30.1. All Client Property shall remain the property of the Client and shall be used only for the purposes of the Contract.

30.2. The Supplier undertakes the safe custody of and the due return of all Client Property and shall be responsible for all reasonably foreseeable loss thereof from whatever cause and shall indemnify the Client against such loss.

30.3. Neither the Supplier, nor any Subcontractor nor any other person shall have a lien on any Client Property for any sum due to the Supplier, Subcontractor or other person and the Supplier shall take all reasonable steps to ensure that the title of the Client and the exclusion of any such lien are brought to the notice of all Subcontractors and other persons dealing with any Client Property

31. SEVERABILITY

Subject to the provisions of Clause 22, if any provision of this Contract is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Contract had been accepted with the invalid provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Contract, the Client and the Supplier shall immediately commence good faith negotiations to remedy such invalidity.

32. FREEDOM OF INFORMATION

- 32.1. The Supplier acknowledges that the Client is subject to the requirements of the Code of Practice on Government Information, FOIA and the Environmental Information Regulations and shall assist and cooperate with the Client to enable the Client to comply with its Information disclosure obligations.
- 32.2. The Supplier shall, and shall procure that its Sub-contractors shall:
- transfer to the Client all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
 - provide the Client with a copy of all Information in its possession, or power in the form that the Client requires within five Working Days (or such other period as the Client may specify) of the Client's request; and
 - provide all necessary assistance as reasonably requested by the Client to enable the Client to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 32.3. The Client shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other contract whether the Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations.
- 32.4. In no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so by the Client.
- 32.5. The Supplier acknowledges that (notwithstanding the provisions of Clause 42 – Transparency, the Client may, be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Supplier or the Services:
- in certain circumstances without consulting the Supplier; or
 - following consultation with the Supplier and having taken their views into account;
- provided always that where [reference] applies the Client shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advanced notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.
- 32.6. The Supplier shall ensure that all Information is retained for disclosure and shall permit the Client to inspect such records as requested from time to time.
- 32.7. The Supplier acknowledges that the Commercially Sensitive Information listed in Schedule 9 (if any) is of indicative value only and that the Client may be obliged to disclose it in accordance with clause 32.

33. FORCE MAJEURE

- 33.1. For the purposes of this Contract the expression "Force Majeure" shall mean any cause affecting the performance by either the Client or the Supplier of its obligations arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control including (but without limiting the generality thereof) governmental regulations, fire, flood, or any disaster or an industrial dispute affecting a third party for which a substitute third party is not reasonably available. Any act, event, omission, happening or non-happening will only be considered Force Majeure if it is not attributable to the willful act, neglect or failure to take reasonable precautions of the affected party, its employees, servants or agents or the failure of either the Client or the Supplier to perform its obligations under any Purchase Order.
- 33.2. It is expressly agreed that any failure by the Supplier to perform or any delay by the Supplier in performing its obligations under any Purchase Order which results from any failure or delay in the performance of its obligations by any person, firm or company with which the Supplier shall have entered into any contract, supply arrangement or Sub-Contract or otherwise shall be regarded as a failure or delay due to Force Majeure only in the event that such person firm or company shall itself be prevented from or delayed in complying with its obligations under such Purchase Order, supply arrangement or Sub-Contract or otherwise as a result of circumstances of Force Majeure.
- 33.3. Both the Client and the Supplier agree that any acts, events, omissions, happenings or non-happenings resulting from the adoption of the Euro by the United Kingdom government shall not be considered to constitute Force Majeure under this Contract.
- 33.4. Neither the Client nor the Supplier shall in any circumstances be liable to the other for any loss of any kind whatsoever including but not limited to any damages or abatement of Charges whether directly or indirectly caused to or incurred by the other party by reason of any failure or delay in the performance of its obligations which is due to Force Majeure. Notwithstanding the foregoing, both the Client and the Supplier shall use all reasonable endeavors to continue to perform, or resume performance of, (and having resumed to catch up to the required level of performance existing immediately prior to the Force Majeure event), such obligations hereunder for the duration of such Force Majeure event.
- 33.5. If either the Client or the Supplier become aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part it shall forthwith notify the other by the most expeditious method then available and shall inform the other of the period which it is estimated that such failure or delay shall continue.
- 33.6. It is hereby expressly declared that the only events that shall afford relief from liability for failure or delay shall be any event qualifying for Force Majeure hereunder.

34. LEGISLATIVE CHANGE

- 34.1. The Supplier shall bear the cost of ensuring that the Ordered Services shall comply with all applicable statutes, enactments, orders, regulations or other similar instruments and any amendments thereto, except where any such amendment could not reasonably have been foreseen by the Supplier at the date hereof.
- 34.2. Where such reasonably unforeseeable amendments are necessary, the Client and the Supplier shall use all reasonable endeavors to agree upon reasonable adjustments to the Charges as may be necessary to compensate the Supplier for such additional costs as are both reasonably and necessarily incurred by the Supplier in accommodating such amendments.

35. CONFLICTS OF INTEREST

The Supplier shall disclose to the Client's Representative as soon as is reasonably practical after becoming aware of any actual or potential conflict of interest relating to provision of the Services by the Supplier or any event or matter (including without limitation its reputation and standing) of which it is aware or anticipates may justify the Client taking action to protect its interests.

36. ASSIGNED STAFF

- 36.1. As soon as the Supplier becomes aware of any intended changes to the Account Management Team, they shall inform the Client Representative.
- 36.2. The Client may require the Supplier to attend a meeting and/or submit written notification of the steps it intends to take to mitigate any issues which may result from such changes.

37. INVESTIGATIONS

The Supplier shall immediately notify the Client Representative in writing if any investigations are instituted into the affairs of the Supplier, its partners or key managers under the Companies, Financial Services or Banking Acts, or in the event of any police or Serious Fraud Office enquiries, enquires into possible fraud, any involvement in DTI investigations or any investigations by the Office for the Supervision of Solicitors which might result in public criticism of the Supplier.

38. STATUTORY AUDITORS' ACCESS

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For the purposes of the examination and certification of the Client accounts or any examination, pursuant if appropriate to Section 6(1) of the National Audit Act 1983 or any re-enactment thereof, or pursuant to any equivalent legislation, of the economy, efficiency and effectiveness with which the Client has used its resources, the Client's statutory auditors may examine such documents as they may reasonably require which are owned, held or otherwise within the control of the Supplier and may require the Supplier to produce such oral or written explanations as they consider necessary. For the avoidance of doubt it is hereby declared that the carrying out of an examination, if appropriate, under section 6(3) (d) of the National Audit Act 1983 or any re-enactment thereof, or under any equivalent legislation, in relation to the Supplier is not a function exercisable under this clause 38.

39. ELECTRONIC INSTRUCTION

The Supplier shall use its reasonable endeavors to interface with any system introduced by the Client for issuing electronic instructions, in particular the FSA's Purchase Order system, and to accept such instruction.

40. WAIVER

- 40.1. The failure of the Supplier or the Client to insist upon strict performance of any provision of this Contract or to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations established by this Contract.
- 40.2. A waiver of any default shall not constitute a waiver of any other default.
- 40.3. No waiver of any of the provisions of this Contract shall be effective unless it is expressed to be a waiver communicated by notice, in accordance with the provisions of Clause 9.

41. LAW AND JURISDICTION

Subject to the provisions of Clause 18, the Client and the Supplier accept the exclusive jurisdiction of the English and Welsh courts and agree that this Contract is to be governed by and construed according to the law of England and Wales.

42. TRANSPARENCY

- 42.1. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of these Terms and Conditions and any Purchase Order is not Confidential Information.

- 42.2. The Client shall be responsible for determining in its absolute discretion whether any content of any Purchase Order is exempt from disclosure in accordance with the provisions of the FOIA. Notwithstanding any other term of these Terms and Conditions, the Supplier gives his consent for the Client to publish any Contract or Purchase Order in its entirety, (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), to the general public.
- 42.3. The Client may consult with the Supplier to inform its decision regarding any redactions but the Client shall have the final decision in its absolute discretion.

43. SECURITY PROVISIONS

Supplier Personnel – Staffing Security

- 43.1 The Supplier shall comply with the staff vetting procedures in respect of all Supplier Personnel employed or engaged in the provision of the Services. The Supplier confirms that all Supplier Personnel employed or engaged by the Supplier at the Effective Date were vetted and recruited on such a basis that is equivalent to and no less strict than the Staff Vetting procedures as laid out by Cabinet Office:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200551/HMG_Baseline_Personnel_Security_Standard_V3_2_Apr-2013.pdf
- 43.2 The Supplier shall provide training on a continuing basis for all Supplier Personnel employed or engaged in the provision of the Services in compliance with the Security Policy – Table of Policies – See Annex D.
- 43.3 The Supplier agrees to conform to the below standards as directed by the Client:

Baseline Standard

- a) The **Baseline Standard** is not a formal security clearance but aims to provide an appropriate level of assurance as to the trustworthiness, integrity and probable reliability of prospective **Suppliers** and/or their **Staff**.
- b) It should be applied to all private sector **Employees** working on government **Contracts** (e.g. **Suppliers** and consultants), who require access to the **Agency's** premises, or knowledge or custody of, government assets protectively marked up to and including CONFIDENTIAL.
- c) The outcome of checks should be recorded on the **Baseline Standard Verification Record**. This will be carried out by the **Agency's Representative**.

Enhanced Baseline Standard

Some **Contracts** may require the **Baseline Standard** to be supplemented with additional checks (e.g. a Criminal Record Check (including spent convictions) or a Credit Worthiness Check). A Criminal Record Check could take up to 2 **Weeks** to process.

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43.4 The Baseline Standard comprises verification of the following four main elements:

- a) Identity
- b) Employment history (past 3 years)
- c) Nationality and Immigration Status
- d) Criminal record (unspent convictions only)

43.5 Additionally, contractors and their staff are required to give a reasonable account of any significant periods (6 months or more in the past 3 years) of time spent abroad.

43.6 Verification of identity is essential before any individual can begin working on the Client's premises or have access to assets/documents as described above. Before a contract is awarded contractors and their staff who will work on the Client's premises or have access to assets/documents as described above will be asked to provide the following:

- a) Confirmation of name, date of birth and address. (ID should be corroborated by original documents i.e. full passport, national ID card, current UK full driving license, birth certificate, bank correspondence or utility bills.)
- b) National insurance number or other unique personal identifying number where appropriate.
- c) Full details of previous employers (name, address and dates), over the past 3 years.
- d) Confirmation of any necessary qualifications/licences.
- e) Educational details and references where someone is new to the workforce.
- f) Confirmation of permission to work in the UK if appropriate.

43.7 Client Data

- a) The Supplier shall not delete or remove any proprietary notices contained within or relating to the Client Data.
- b) The Supplier shall not store, copy, disclose, or use the Client Data except as necessary for the performance by the Supplier of its obligations under this Contract or as otherwise expressly authorised in writing by the Client.

43.8 To the extent that Client Data is held and/or processed by the Supplier, the Supplier shall supply that Client Data to the Client as requested by the Client in the format specified herein:

- 43.9 The Supplier shall take responsibility for preserving the integrity of Client Data and preventing the corruption or loss of Client Data.
- 43.10 The Supplier shall perform secure back-ups of all Client Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Business Continuity and Disaster Recovery Plan. The Supplier shall ensure that such back-ups are available to the Client at all times upon request and are delivered to the Client at no less than monthly intervals.
- 43.11 The Supplier shall ensure that any system on which the Supplier holds any Client Data, including back-up data, is a secure system that complies with the Security Policy.
- 43.12 If the Client Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, the Client may:
- require the Supplier (at the Supplier's expense) to restore or procure the restoration of Client Data to the extent and in accordance with the requirements specified in herein and the Supplier shall do so as soon as practicable but not later than two working days; and/or
 - itself restore or procure the restoration of Client Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified herein
- 43.13 If at any time the Supplier suspects or has reason to believe that Client Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Client immediately and inform the Client of the remedial action the Supplier proposes to take.

Protection of Personal Data

- 43.14 With respect to the parties' rights and obligations under this Contract, the parties agree that the Client is the Data Controller and that the Supplier is the Data Processor. The Supplier shall:
- process the Personal Data only in accordance with instructions from the Client (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified by the Client to the Supplier during the Term);
 - process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Law or any Regulatory Body;

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- implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
- take reasonable steps to ensure the reliability of any Supplier Personnel who have access to the Personal Data;
- obtain prior written consent from the Client in order to transfer the Personal Data to any Sub-suppliers or Affiliates for the provision of the Services;
- ensure that all Supplier Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 43;
- ensure that none of Supplier Personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Client;
- notify the Client (within five Working Days) if it receives:
 - a request from a Data Subject to have access to that person's Personal Data; or
 - a complaint or request relating to the Client's obligations under the Data Protection Legislation;
- provide the Client with full cooperation and assistance in relation to any complaint or request made, including by:
 - providing the Client with full details of the complaint or request;
 - complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Client's instructions;
 - providing the Client with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Client); and
 - providing the Client with any information requested by the Client;
- permit the Client or the Client Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, in accordance with clause 38 (Audits), the Supplier's data Processing activities (and/or those of its agents, subsidiaries and Sub-suppliers) and comply with all reasonable requests or directions by the Client to enable the Client to verify and/or procure that the Supplier is in full compliance with its obligations under this Contract;
- provide a written description of the technical and organisational methods employed by the Supplier for processing Personal Data (within the timescales required by the Client); and
- not Process Personal Data outside the European Economic Area without the prior written consent of the Client and, where the Client consents to a transfer, to comply with:
 - the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and

- any reasonable instructions notified to it by the Client.

43.15 The Supplier shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Client to breach any of its applicable obligations under the Data Protection Legislation.

Confidentiality

43.16 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party shall

- treat the other party's Confidential Information as confidential [and safeguard it accordingly]; and
- not disclose the other party's Confidential Information to any other person without the owner's prior written consent.

43.17 Clause 43.13 shall not apply to the extent that:

- such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to clause 32 (Freedom of Information);
- such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
- such information was obtained from a third party without obligation of confidentiality;
- such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
- it is independently developed without access to the other party's Confidential Information.

43.18 The Supplier may only disclose the Client's Confidential Information to the Supplier Personnel who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Supplier Personnel are aware of and shall comply with these obligations as to confidentiality.

43.19 The Supplier shall not, and shall procure that the Supplier Personnel do not, use any of the Client's Confidential Information received otherwise than for the purposes of this Contract.

43.20 At the written request of the Client, the Supplier shall procure that those members of the Supplier Personnel identified in the Client's notice signs a confidentiality undertaking prior to commencing any work in accordance with this Contract.

43.21 Nothing in this Contract shall prevent the Client from disclosing the Supplier's Confidential Information:

- to other Crown Bodies or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Agency;
- to any consultant, supplier or other person engaged by the Client or any person conducting an Office of Government Commerce gateway review;
 - for the purpose of the examination and certification of the Client's accounts; or
 - for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Client has used its resources.

43.22 The Client shall use all reasonable endeavours to ensure that any government department, Contracting Agency, employee, third party or Sub-contractor to whom the Supplier's Confidential Information is disclosed pursuant to clause 43 is made aware of the Client's obligations of confidentiality.

43.23 Nothing in this clause 43 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.

Security Requirements

43.24 The Supplier shall comply, and shall procure the compliance of the Supplier Personnel, with the Security Policy (see Table of Policies – See Annex D) and the Supplier shall ensure that the Security Plan produced by the Supplier fully complies with the Security Policy.

43.25 The Client shall notify the Supplier of any changes or proposed changes to the Security Policy.

43.26 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the Services it may submit a Change Request. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall then be agreed in accordance with the Change Control Procedure.

43.27 Until and/or unless a change to the Charges is agreed by the Client pursuant to clause 43 the Supplier shall continue to perform the Services in accordance with its existing obligations.

Malicious Software

43.28 The Supplier shall, as an enduring obligation throughout the Term, use the latest versions of anti-virus definitions available from an industry accepted anti-virus

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software vendor to check for and delete Malicious Software from the ICT Environment.

- 43.29 Notwithstanding clause 43, if Malicious Software is found, the parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Client Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.
- 43.30 Any cost arising out of the actions of the parties taken in compliance with the provisions of clause 43 shall be borne by the parties as follows.
- by the Supplier where the Malicious Software originates from the Supplier Software, the Third Party Software or the Client Data (whilst the Client Data was under the control of the Supplier); and
 - by the Client if the Malicious Software originates from the Client Software or the Client Data (whilst the Client Data was under the control of the Client);

Warranties

- 43.31 The Supplier warrants, represents and undertakes for the duration of the Term that all personnel used to provide the Services will be vetted in accordance with good industry practice and the Supplier's usual staff vetting procedures.

44. ACCEPTANCE TESTING IS NOT APPLICABLE

- 44.1. The Supplier shall ensure that, prior to the delivery of any Deliverables which are specified in the Purchase Order as being subject to Acceptance Testing such Deliverables, it will have successfully completed its internal testing procedures. On provision of the Deliverables to the Client, the Supplier will provide to the Client a certificate confirming the successful completion of its internal testing procedures.
- 44.2. As soon as practicable after such provision of the Deliverables, the Client shall start to carry out Acceptance Testing of the Deliverables in accordance with the Acceptance Tests and the Client shall complete the Acceptance Tests and notify the Supplier of the results of the Acceptance Tests by the time specified in the Purchase Order. Any failure by the Client to communicate to the Supplier the results of the Acceptance Tests by the time ten (10) Business Days after the Acceptance Tests were due to complete as specified in the Purchase Order without completing the Acceptance Tests shall constitute deemed acceptance of such Deliverables. The Supplier shall provide the assistance in respect of such Acceptance Testing as set out in the Acceptance Tests for the duration set out in the Purchase Order and the Supplier shall be permitted to be present at such Acceptance Tests. In the event that the Acceptance Tests are not completed within the time period specified in the Purchase Order and the Supplier can demonstrate to the Client's reasonable satisfaction that such failure was a direct result of a breach of the Client's obligations under this Contract, the Client shall in respect of any further assistance that is provided by the Supplier in respect of the Acceptance Tests, pay for such assistance at the applicable rates set out in Schedule 4 save that

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any such charges must be approved by the Client in advance. The Supplier shall immediately notify the Client Representative in the event of any deemed acceptance under this clause 44.

44.3. If, in the reasonable opinion of the Client, the Deliverables meet all of the Acceptance Criteria, the Deliverables shall have passed their Acceptance Tests. Unless there is deemed acceptance of the Deliverables in accordance with clause 44.2, the only evidence of such acceptance shall be an acceptance certificate in a form acceptable to both parties. The Client shall notify the Supplier within ten (10) Business Days of completion of the Acceptance Tests whether or not the Deliverables have passed their Acceptance Tests.

44.4. If the Deliverables do not pass their Acceptance Tests, the Client shall provide the Supplier with written reasons for such failure. Except where the Acceptance Test Due Date has passed or passes prior to the Deliverables passing their Acceptances Tests (in which case clause 44.5 shall apply), the Supplier shall be given the opportunity to correct any errors in the Deliverables and resubmit them for Acceptance Testing in accordance with this clause 44. In such circumstances, this clause 43.4 shall also apply to such resubmission.

44.5. If the Deliverables have not passed their Acceptance Tests or are not deemed under clause 44.2 to have passed their Acceptance Tests by the Acceptance Test Due Date, the Client shall, at its sole option, have the following rights, save that if the Supplier can demonstrate to the Client's reasonable satisfaction that the delay is solely due to a breach by the Client of its obligations under this Contract, the Acceptance Test Due Date shall be extended by one (1) day in respect of each day of such delay:

- a) without prejudice to the Client's other rights and remedies, to accept by written notice such part of the Deliverables as the Client specifies in which case the Client, shall pay such amount to the Supplier as the Client reasonably believes reflects a fair and reasonable proportion of the Charges and the Client shall, at its sole option, elect in such notice whether the Supplier should no longer be required to provide the Services in respect of such Deliverables that are not so accepted; or
- b) to extend the Acceptance Test Due Date for such period as the Client may specify, in which case (but only if) the Acceptance Test Due Date is specified to be a Final Acceptance Test Due Date; or
- c) without prejudice to the Client's other rights and remedies, to terminate the appropriate Purchase Order without any cost and liability whatsoever, in which event the Client shall obtain a full refund from the Supplier of all Charges paid to the Supplier under the relevant Purchase Order.

44.6. If the Deliverables have not passed their Acceptance Tests by the date 10 (ten) Business Days (or such other period as may be agreed in the Purchase Order) after the Acceptance Test Due Date, the Client shall, at its sole option, have the

right, without prejudice to the Client's other rights and remedies, to terminate the Purchase Order without any cost and liability whatsoever, in which event the Client shall obtain a full refund from the Supplier of all Charges paid to the Supplier for the respective Deliverable or if agreed in a Purchase Order, a Milestone, save that if the Supplier can demonstrate to the Client's reasonable satisfaction that the delay is solely due to a breach by the Client of its obligations under this Contract or the applicable Purchase Order, the Acceptance Test Due Date shall be extended by one (1) day in respect of each day of such delay.

44.7. In the event that the Client extends the Acceptance Test Due Date pursuant to clause 44.5(b) and the Deliverables have not passed their Acceptance Test by such extended Acceptance Test Due Date, clause 44.6 shall apply.

44.8. If, without the Supplier's consent, the Client puts a Deliverable into the production environment before that Deliverable has passed its Acceptance Tests, the Supplier shall not be liable for any loss and damage caused by errors in such Deliverable which arise prior to the date upon which that Deliverable has passed, or is deemed to have passed, its Acceptance Tests. For the avoidance of doubt, this clause 44.8 shall not give any relief to the Supplier in respect of loss and damage caused after the date upon which such Deliverable passes its Acceptance Tests.

44.9. Clause 44.8 shall not apply in respect of any Deliverable where:

- a) the reason that the Client has put that Deliverable into the production environment before that Deliverable has passed its Acceptance Tests, is that delays have been caused predominantly by the Supplier, the Sub-Contractors or any other person acting on behalf of the Supplier; and
- b) the Client notifies the Supplier that it is putting, or has put, that Deliverable into the production environment before that Deliverable has passed its Acceptance Tests; and
- c) the Client acting reasonably, believes it is necessary or desirable to put that Deliverable into the production environment before that Deliverable has passed its Acceptance Tests.

44.10. For the avoidance of doubt, if the Client puts a Deliverable into the production environment before that Deliverable has passed its Acceptance Tests, and even if deemed acceptance has already occurred, the Client may then carry out such Acceptance Tests and from the date the Client has completed such Acceptance Tests, the rights granted to the Client under clauses 44.5 and 44.6 shall apply and the relief granted to the Supplier under clause 44.8 shall cease to apply.

44.11. The Supplier acknowledges and agrees that it shall not be entitled to charge the Client for any corrective work undertaken on any Deliverables to meet the Acceptance Criteria where the Deliverables fail their Acceptance Tests provided the relevant failure was not directly caused by a breach of the Client of its obligations under this Contract or a Purchase Order.

45. EXIT MANAGEMENT

(Depending on the complexity of the services a separate Schedule (see Schedule 11) may be required)

- 45.1. On receipt of notice to terminate this Contract or a Purchase Order or expiration of this Contract or a Purchase Order, however and whenever occurring, the Parties shall comply with the Exit Management Requirements as may be set out in any appropriate Purchase Order.
- 45.2. During the Exit Period the Charges shall continue to apply, even where the Exit Period continues after the expiry of the Term.
- 45.3. In order to facilitate the Exit Management Requirements, the Supplier shall, if requested by the Client to do so, extend the Term of this Contract or a Purchase Order.
- 45.4. No right or licence is granted to either Party or their advisers in relation to any Confidential Information except as expressly set out in this Contract.

46. ENTIRE AGREEMENT

This Contract constitutes the entire understanding between the Client and the Supplier relating to the subject matter.

- 46.1. Neither the Client nor the Supplier has relied upon any representation or promise except as expressly set out in this Contract.
- 46.2. Both the Client and the Supplier unconditionally waives any rights it may have to claim damages against the other on the basis of any statement made by the other (whether made carelessly or not) not set out or referred to in this Contract (or for breach of any warranty given by the other not so set out or referred to) unless such statement or warranty was made or given fraudulently.
- 46.3. Both the Client and the Supplier unconditionally waives any rights it may have to seek to rescind this Contract on the basis of any statement made by the other (whether made carelessly or not) whether or not such statement is set out or referred to in this Contract unless such statement was made fraudulently.

This contract is deemed to have commenced at the date given on page 1.

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Signed for and on behalf of the **Foods Standards Agency:**

By 

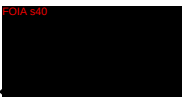
Name..... 

Title....PROCUREMENT CATEGORY MANAGER

Date ...13th APRIL 2017.....

Signed for and on behalf of **LGC Limited:**



By..... 

Name.. 

Title....CHIEF SCIENTIFIC OFFICER

Date.....7/4/2017.....

schedule 1

INTERPRETATIONS

Account Management Team	The Supplier's personnel who have been designated as their point(s) of contact for management of this contract
Client Property	means anything issued or otherwise furnished in connection with the Contract by or on behalf of the Client, other than any real property.
Client's Representative	means the member of the Client staff who shall be the main contact point under the Contract or any relevant Purchase Order
Charges	means charges payable by the Client to the supplier for the performance of the Services, which must be itemised in full on any relevant Purchase Order
Confidential Information	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of either party, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential.
Data Protection Requirements	mean the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

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Default	means any breach of the obligations of any party (including but not limited to fundamental breach or breach of a fundamental term) or any default, act, omission, negligence or statement of any party, it's employees, agents or Sub-Contractors in connection with or in relation to the subject matter of this Contract and in respect of which such party is liable to the other.
Environmental Information Regulations	mean the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations.
Equipment	means any computers, laptops, servers, networks, internet broadband, wireless or other connections, other computer associated equipment or presentation equipment
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 in relation to such legislation.
Government Accounting	means HM Treasury's manual of accounting principles for government as updated from time to time
Government Procurement Card (GPC)	means the UK Government's VISA purchasing card.
Industry Regulator	means any statutory or non-statutory body with responsibility for regulating (or promoting self regulation) of the provision on the type of services being provided by the Supplier.
Information	has the meaning given under section 84 of the Freedom of Information Act 2000.
Intellectual Property Rights	means patents, trademarks, service marks, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, trade or business names and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom).
Invoicing Procedure	means the procedure by which the Supplier invoices the Client, as set out in <u>Schedule 5</u> .

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Law	means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body.
Mediator	has the meaning ascribed to it in <u>Schedule 6</u> .
Month	means a calendar month and "Monthly" shall be similarly construed.
Nominated Sub-Contractor	means any sub-contractor engaged by the Supplier, at the direction of the Client, in connection with the provision of Ordered Services
Ordered Services	means the services which the Client has instructed the Supplier to carry out in any Purchase Order, subject to <u>Schedule 2</u> .
Personal Data	shall have the same meaning as set out in the Data Protection Act 1998.
Pre-Existing Intellectual Property Rights	shall mean any Intellectual Property rights vested in or licensed to the Supplier or Client prior to or independently of the performance by the Supplier or Client of their obligations under this Contract.
Private Agency	means a commercial organisation to which service provision has been outsourced by a Contracting Agency, which assumes the role and responsibilities of the Agency under a Contract.
Purchase Order	means an order for Services served by the Client on the Supplier by means of the Client's i-Procurement system
Quarter	means a three (3) month period beginning on 1 st January, 1 st April, 1 st July or 1 st October. The term 'Quarterly' shall be similarly construed.
Regulatory Body	means those government departments and regulatory, statutory and other entities, committees 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 this Contract or any other affairs of the Client and "Regulatory Body" shall be construed accordingly.

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Requests for Information	means a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations.
Services	means services which the Supplier has agreed to provide under any Purchase Order.
Special Terms	means additional Client specific terms, to which the Supplier's has agreed
Specific Obligations	means any obligations entered at <u>Schedule 3</u>
Staff	means employees, agents and contractors of the Supplier
Sub-Contractor	means any sub-contractor engaged by the Supplier in connection with the provision of Ordered Services.
Supplier	The person identified in the Contract their employees, agents or any other persons under the control of the Supplier
Working Days	means Monday to Friday inclusive, excluding English public and bank holidays.
Year	means a calendar year.

SCHEDULE 2

THE ORDERED SERVICES

1. INTRODUCTION

This Schedule 2 specifies the Ordered Services to be provided to the Client by the Supplier in the services required for FS616035. Please see the Schedule 2 - "Evidence Requirement Document"

This Schedule will be completed by reference to the successful Tenderer's quotation.

2. BACKGROUND & INTENTION

3. SPECIFICATION

4. CONTINUOUS IMPROVEMENT

In conjunction with the Client representative, the Supplier shall develop, maintain and improve performance and service with a view to enhancing the overall delivery of service. This may include but shall not be limited to review sessions (formal and informal).

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SCHEDULE 3

SPECIFIC OBLIGATIONS

1. SUPPLIER'S OBLIGATIONS

This Schedule 3 specifies the Ordered Services to be provided to the Client by the Supplier in the services required for FS616035. Please see Schedule 3 – "Application form for an evidence gathering project with Food Standards Agency – Research"

This Schedule will be completed by reference to the successful Tenderer's quotation.

2. CLIENT'S OBLIGATIONS

Notwithstanding the collaboration necessary with the Supplier to enable the provision of Support and Development services, the Client shall be responsible for:

- Reporting incidents as soon as possible, and for providing all relevant information to enable the Supplier to progress resolution of the incident
- Provision of suitable premises and facilities such as desks, chairs, overhead projectors, where appropriate and essential to the delivery of services
- Provision of access to the appropriate equipment and sites to enable the Supplier to undertake specific responsibilities in the supply of Support and Development services

3. REVIEW MEETINGS

This Clause shall be developed in conjunction with the successful tenderer(s) dependant on the nature and progress of the services.

The parties shall attend and fully participate in the undernoted meetings.

These shall take place at the Client's premises at Foss House, York, unless otherwise agreed in which case they could be held by phone or via video-conference.

Meeting	Activities	Inputs	Outputs	Attendees
SERVICE REVIEW	•Review of performance. •Ensure escalated issues and risks are actioned. •Contract Coverage - Ensure all work has been agreed prior to start and is covered under the contract and within a Purchase Order. •Financial Management - Review spend against	•Agenda / minutes of last meeting •Minutes of Contract Review (where	•Minutes / actions of meeting •Key messages for Client teams	Client Representative (Chair) (presently XX) Supplier Representative (presently XX) Optional Invitees:
Frequency:				

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Monthly	plans; resolving any escalated invoicing or payment issues. Review of overall financial risk. •Capacity Planning -Reviewing demand and supply forecasts, driving alignment in the relationship, look for economies over time as well as improving ways of matching demand and supply. •Contract Review and Administration -Ensure the contract is kept up to date, review list of amendments and/ or issues that need to be resolved.	appropriate) •Supplier's MI •Active PO list / aged debt position •Demand Forecast	•Key messages for Supplier teams •Rolling forecast of demand	Service Delivery Lead (presently XX) Procurement Business Partner (presently XX) Or their nominated deputies
CONTRACT REVIEW Frequency: Every three months	<u>Strategic Direction</u> Review the state of the relationship •Is the relationship still driving strategic benefits? What have been the major successes and or issues? •Where can the relationship improve to align to the Client strategy and apply consistency • think strategically. <u>Relationship Direction</u> •Improvements to the service	•Agenda / minutes of last meeting •Minutes of Client business units review meetings •Escalations •Suggested Contract improvements	•Minutes/ actions of meeting •Key messages for Client units	Primary Budget holder (Chair) (presently XX) Client Representative (presently XX) Procurement Business Partner (presently XX) Supplier Representative (presently XX) Or their nominated deputy

To be agreed with the FSA representative.

SCHEDULE 4

PRICING

This Schedule 4 specifies the Ordered Services to be provided to the Client by the Supplier in the services required for FS616035. Please see Schedule 4 – “Application form for an evidence gathering project with Food Standards Agency – Financials Template”

This Schedule will be completed by reference to the successful Tenderer's quotation.

1. INTRODUCTION

- 1.1 This Schedule 4 sets out the Basis of Charging that shall apply to this Contract and any attendant Purchase Orders.
- 1.1. Other than as provided in this schedule, or agreed in writing in a relevant Purchase Order no additional Charges shall be payable by the Client to the Supplier for any additional costs associated with the execution of the Services or the Deliverables, including, without limitation, administrative and overhead costs.

2. BASIC PRINCIPLES

- 2.1 In general, all prices charged by the Supplier to the Client for all services (Support and Development) throughout the duration of this agreement shall be calculated from the Charges Schedule:
- 2.2 In addition the Client will reimburse travel and subsistence expenses which are reasonable and agreed in advance as set out in the table below, **where Tenderers have indicated such expenses will be applicable within their Qualifications to Schedule 7, Charges:**

Expenses	Reimbursement
Rail travel	Standard class
Mileage	£0.45 per mile for the first 10,000 miles in a financial year £0.25 per mile for any mileage in excess of 10,000 miles in a financial year
Overnight hotel accommodation	Up to £85 per night outside London Up to £130 per night in London
Subsistence	Up to a maximum of £21 for a 24 hour period

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SCHEDULE 5

INVOICING PROCEDURE & NO PO/NO PAY

1. INVOICES SHALL SPECIFY:

- Trading Name of Supplier
- Supplier Address
- Supplier Tel Number/ E mail
- Unique Purchase Order Number – To be advised
- Invoice Number
- Detailed description of the Services provided
- Detailed description of any expenses and the amounts of such
- Location, date or time period of delivery of the Services and/or Deliverables
- Supplier's VAT number
- Amount due exclusive of VAT, other duty or early settlement discount, with the calculation for the charges clearly shown in terms of days and confirmed daily rate
- VAT rate
- Amount due inclusive of VAT and any other duty or early settlement discount
- Details of the Supplier's BACS details or other method of payment
- Date of the invoice.

2. INVOICE SUBMITTAL

Invoicing the FSA:

Please submit invoices to Accounts-Payable.fsa@sscl.gse.gov.uk for work with FSA.

Please include the referring FSA purchase order number in the email title and within the invoice to allow Invoice/Purchase Order matching.

Note that invoices that do not include reference to FSA Purchase Order number will be returned unpaid with a request for valid purchase order through email.

3. INVOICE PAYMENT

3.1 The Client shall pay all valid invoices submitted in accordance with the provisions of this Schedule 3 in accordance with the provisions of Clause 7.

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3.2 In the event of a disputed invoice, the Client shall make payment in respect of any undisputed amount in accordance with the provisions of Clause 7 and return the invoice to the Supplier within ten (10) Working Days of receipt with a covering statement proposing amendments to the invoice and/or the reason for any non-payment. The Supplier shall respond within ten (10) Working Days of receipt of the returned invoice stating whether or not the Supplier accepts the Client proposed amendments. If it does then the Supplier shall supply with the response a replacement valid invoice. If it does not then the matter shall be dealt with in accordance with the provisions of Clause 18.

3.3 NO PURCHASE ORDER, NO PAY.

The Food Standards Agency is currently moving purchasing activity to an electronic purchasing solution. This brings supplier organizations a number of benefits, including limiting purchasing to preferred suppliers and faster payment processing.

To implement the solution, the undernoted changes will be implemented with effect from the contract commencement date.

To prevent unauthorised individuals requesting goods and services only FSA branded Purchase Orders from these email addresses should be accepted as FSA commitment: SSDprocurementagencies@defra.gsi.gov.uk; OR Procurement@foodstandards.gov.uk. The FSA will not pay invoices that do not originate from Purchase Orders from these email addresses.

Any other requests for goods or services from the FSA should be referred to the Procurement Business Partner.

4. CORRESPONDENCE

Correspondence to the Client relating to this Contract (but not the invoice) shall be appropriately referenced and sent to the following address:

FOIA b01
[REDACTED]
Aviation House
125 Kingsway
London
WC2B 6NH

Correspondence to the Contractor relating to this Contract shall be appropriately referenced and sent to the following address:

FOIA b01
[REDACTED]
Queens Road
Teddington
England
TW11 0LY

SCHEDULE 6

DISPUTE RESOLUTION PROCEDURE

1. INTRODUCTION

- 1.1. In the event that a dispute cannot be resolved by the Client and Supplier representatives nominated under Clause 18.2 within a maximum of ten (10) Working Days after referral, the dispute shall be further referred to mediation in accordance with the provisions of Clause 18.4.
- 1.2. Subject always to the provisions of Clause 21, nothing in this dispute resolution procedure shall prevent the Client or the Supplier from seeking from any court of the competent jurisdiction an interim order restraining the other party from doing any act or compelling the other to do any act.

2. MEDIATION

- 2.1. The procedure for mediation pursuant to Clause 18 and consequential provisions relating to mediation shall be as follows:
 - 2.1.1. a neutral adviser or mediator ('the Mediator') shall be chosen by agreement between the Client and the Supplier or, if they are unable to agree upon the identity of the Mediator within ten (10) Working Days after a request by one party to the other (provided that there remains agreement for mediation), or if the 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 Mediator or within ten (10) Working Days of notice to either party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution ('CEDR') to appoint a Mediator;
 - 2.1.2. the Client and the Supplier shall within ten (10) Working Days of the appointment of the 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. The parties may at any stage seek assistance from the CEDR to provide guidance on a suitable procedure.
- 2.2. Unless otherwise agreed by the Client and the Supplier, 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.
- 2.3. In the event that the Client and the Supplier reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on both parties once it is signed by the Client's Head of Procurement and the Supplier.

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- 2.4. Failing agreement, either the Client or Supplier may invite the Mediator to provide a non-binding but informative opinion in writing.
- 2.5. The Client and the Supplier shall each bear their own costs in relation to any reference made to the Mediator and the fees and all other costs of the Mediator shall be borne jointly in equal proportions by both parties unless otherwise directed by the Mediator.
- 2.6. Work and activity to be carried out under this Contract shall not cease or be delayed during the mediation process.
- 2.7. In the event that the Client and the Supplier fail to reach agreement in the structured negotiations within forty (40) Working Days of the Mediator being appointed, or such longer period as may be agreed, then any dispute or difference between them may be referred to the Courts in accordance with the provisions of Clause 41.

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SCHEDULE 7

CONFIDENTIALITY UNDERTAKING

1. INTRODUCTION

- 1.1. This Schedule 7 contains the model confidentiality undertaking to be signed by Supplier in the event of Contract Award.

CONFIDENTIALITY UNDERTAKING

I *THE SUCCESSFUL TENDERER* HAVE BEEN INFORMED THAT I MAY BE ASSIGNED TO WORK AS A SUPPLIER IN PROVIDING SERVICES TO THE FOOD STANDARDS AGENCY.

I UNDERSTAND THAT INFORMATION IN THE POSSESSION OF THE CLIENT MUST BE TREATED AS CONFIDENTIAL.

I HEREBY GIVE A FORMAL UNDERTAKING TO THE CLIENT, THAT:

1. I WILL NOT COMMUNICATE ANY OF THAT INFORMATION, OR ANY OTHER KNOWLEDGE I ACQUIRE IN THE COURSE OF MY WORK FOR THE CLIENT TO ANYONE WHO IS NOT AUTHORISED TO RECEIVE IT IN CONNECTION WITH THAT WORK.
2. I WILL NOT MAKE USE OF ANY OF THAT INFORMATION OR KNOWLEDGE FOR ANY PURPOSE OUTSIDE THAT WORK.

I ACKNOWLEDGE THAT THIS APPLIES TO ALL INFORMATION WHICH IS NOT ALREADY A MATTER OF PUBLIC KNOWLEDGE AND THAT IT APPLIES TO BOTH WRITTEN AND ORAL INFORMATION.

I ALSO ACKNOWLEDGE THAT THIS UNDERTAKING WILL CONTINUE TO APPLY AT ALL TIMES IN THE FUTURE, EVEN WHEN THE WORK HAS FINISHED AND WHEN I HAVE LEFT MY EMPLOYMENT.

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I HAVE ALSO BEEN INFORMED THAT I WILL BE BOUND BY THE PROVISIONS OF THE OFFICIAL SECRETS ACTS OF 1911 AND 1989. I AM AWARE THAT UNDER THOSE PROVISIONS IT IS A CRIMINAL OFFENCE FOR ANY PERSON EMPLOYED BY A GOVERNMENT CONTRACTOR TO DISCLOSE ANY DOCUMENT OR INFORMATION WHICH IS LIKELY TO RESULT IN AN OFFENCE BEING COMMITTED, OR WHICH MIGHT PROVIDE ASSISTANCE IN AN ESCAPE FROM LEGAL CUSTODY OR ANY OTHER ACT AFFECTING THE DETENTION OF PEOPLE IN LEGAL CUSTODY. I AM AWARE THAT SERIOUS CONSEQUENCES MAY FOLLOW FROM ANY BREACH OF THAT ACT.

SIGNED:

FOIA b(7)
[Redacted Signature]

NAME:

FOIA b(7)
[Redacted Name]

DATE OF SIGNATURE:

7/4/2017

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Schedule 8 – Staff Transfer – “TUPE”

Not applicable

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Schedule 9 – Commercially Sensitive Information

None identified

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Schedule 10 – Variation Notice – Request for Variation

1 General principles of the Variation Procedure

- 1.1 This Schedule sets out the procedure for instruction and evaluation of Variations to the Framework.
- 1.2 Under this Variation procedure:
 - 1.2.1 Either party may seek to vary the Service(s) at any time during the Term of the Framework. Each party will do its utmost to give the other reasonable notice of any major changes, preferably a minimum of 3 months notice, and to respond within the timeframe stated in Clause 24.
 - 1.2.2 Variation requests are to be submitted using the format at Appendix A.
 - 1.2.3 Where a Variation is proposed, the Supplier will provide an estimate of the financial/resource implications to the Client, with an estimated timetable for implementation, for the Client's approval.
 - 1.2.4 The evaluation of any Variation is the responsibility of the relevant Director and Head of Procurement, in consultation with the Supplier, in the context of the Review Meetings described in Governance contained in the Framework. The date of implementation of any consequent amendment to the services, and/or payment to the Supplier, will be confirmed in writing by the Client within seven days of the evaluation using the Variation Form at Appendix B.
 - 1.2.5 The Client shall have the right to request amendments to a Variation Request (prior to approval); approve it or reject it. The Supplier shall be under no obligation to make such amendments to the Variation Request; however the Supplier shall not unreasonably refuse such a request. In the event that the Client chooses to reject a Variation Request made by the Supplier the Client shall accept responsibility for the outcome.
- 1.3 Any discussions, negotiations or other communications which may take place between the Client and the Supplier in connection with any proposed variation shall be without prejudice to each party's other rights under this Framework.

2 Costs

- 2.1 Each party shall bear its own costs in relation to the preparation and agreement of each Variation.

3 Change Authorisation

- 3.1 Any Variation and/or amendment to payment arising from a Variation will be executed by the Client's Head of Procurement and confirmed in writing to the Supplier.
- 3.2 The variation shall not be deemed effective until the Variation form at Appendix B has been signed by both parties.

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Schedule 11 – Exit Management

None Identified



APPENDIX A VARIATION REQUEST FORM

Variation Request No:	
Date:	
Project Title :	
Project Ref No:	
Raised By:	
Action Proposed:	
Full Description of Variation Request:	
Area(s) impacted (<i>Optional</i>)	
Signed By:	
Full Name:	
Date:	
Supplier Contact Details	
Supplier Name	:
Contact Name	:
Contact Address	:
	:
	:
	:
Telephone No	:
Email Address	:



APPENDIX B VARIATION FORM

PROJECT TITLE:

DATE:

VARIATION No:

BETWEEN:

The Food Standards Agency (hereinafter called "the Client") & LGC Limited (hereinafter called "the Supplier")

1. The Contract is varied as follows:

Contract

x

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

SIGNED:

For: The Client

For: The Supplier

By:

By:

Full Name:

Full Name:

Position:

Title:

Date:

Date:

APPENDIX C TABLE OF POLICIES

Table of Policies

Policy	Description	Includes:
Acceptable Use of Computers and Networks	The Food Standards Agency provides networks and equipment to its staff to be used as a source of business information which supports the work of the Agency. Inappropriate use of the Agency's networks exposes the Food Standards Agency to risks including virus attacks, compromise of network systems and services, and legal issues. The Acceptable Use Policy sets out the ways in which the network and systems may be used, safeguarding the FSA and its employees against potential legal action and protecting the security of the Agency's IT infrastructure. It is vital in informing the agency's employees of the behaviour expected of them as users of our Information Technology systems.	- Use of Internet and Intranet - Working Remotely - Personal Web Logs and Websites
Data Protection	The Data Protection Act defines UK law on the processing of data about living people. In order to process personal data and sensitive personal data the Food Standards Agency must comply with the Principles of the Act. Failure to comply could result in the Agency or the individual involved having criminal or civil proceedings brought against them. The Food Standards Agency is committed to protecting personal data and as such the Data Protection Policy was created to safeguard the Agency and its employees by informing staff of their responsibilities and rights when handling personal data.	- Processing Personal Data - Sensitive Personal Data - Failure to Comply - Data Subject
Information and Records Management Policy	Food Standards Agency information and records are valuable assets that play a vital role in documenting the policy making and inspection activities of the Agency. Best practice in records management is vital in supporting the Agency to deliver its strategic plan, document business intelligence, demonstrate accountability and protect its interests. The Information and Records Management Policy informs users of their responsibilities when handling information and records and allows the Agency to maintain a framework of standards to maintain compliance with the Public Records Act 1958, Freedom of Information Act and ISO 27001.	- Organisational Records Management Requirements - Records Standards - Registration Records Management process and System Requirements - Technical specification of records - Access to records - Security of records - Preservation of records
Electronic Communications	The Food Standards Agency provides and encourages the use of its Electronic Communication Systems to its employees for the purposes of business communication. This policy has been developed to ensure the Electronic Communications Systems are safeguarded for the efficient exchange of business information within the Food Standards	- Electronic Mail (Email) - Personal Use - Use of Instant Messaging

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	Agency and to ensure that all employees are made aware of their responsibilities and adhere to the relevant legislations.	
Users ICT Security Policy (for all staff)	Security is required to counter threats from external penetration, internal users and environmental events beyond FSA control. Appropriate measures must be in place to control access, preserve the confidentiality, integrity and availability of data and protect each ICT system. In addition the Agency must ensure security standards are maintained to satisfy the requirements of legislation, the HMG Security Policy Framework and industry standards such as ISO27001. This policy defines the FSA security principles and measures to ensure employees understand their responsibilities, managers can identify what is expected of staff and auditors can ascertain that the correct measures are being applied.	- Passwords -Mobile Computing and Remote Access -Virtual Private Networks - Secure Data Storage -Data Backup and Recovery -Workstation Security -Encryption -Software Movements - Security of Equipment Off-Premises -Removal of Property -Secure Equipment Storage and Access
ICT Security Policy (for IT staff ONLY)	This policy is for ISTED staff only The purpose of the policy is as above but with greater detail and extended content in recognition of the increased system access ISTED staff require, and to ensure standards in the development/support/maintenance of our systems are met. It was recognised that detailing the principles that apply to both users and ISTED staff within one length security policy confused the key issues and areas of responsibility and alienated the user audience.	-Mobile Computing and Remote Access -Passwords -Network Security - Perimeter Management -Secure Data Storage -Data Backup and Recovery -Encryption -Agency Software -Software Rollout - Software & Hardware Disposal -Software Movements -Software Audit -Patch Management - Equipment Security -Supporting Utilities -Cabling Security -Equipment Maintenance -Security of Equipment Off-Premises -Removal of Property -Secure Equipment Storage and Access -ICT Systems Security -Control of Development Environments -Change Control -Design and Acceptance of Development -Contingency Planning -Technical Compliance Checking -Technical Review of Operating System Changes
Mobile Voice and Data Policy	The FSA did not have policy for the supply of mobile voice and data tools for Agency staff e.g. Laptops and Blackberries. A policy was needed to allow potential suppliers to give an accurate quote for services, driving better value for money for the FSA. The policy was developed to maximise the efficiency of the mobile voice and data contracts by ensuring that the right people have the right equipment to fulfil their roles. The policy sets out criteria by which these tools are issued together with the a principle that each user will be issued with only one mobile data contract.	-Definition of FSA Remote working tools -Connectivity options - Computer Equipment -Who is eligible -Roles & responsibilities

SPECIFICATION

Specification Reference and Title

THE PROVISION OF SERVICES FOR THE NATIONAL REFERENCE LABORATORIES IN THE UK FOR:
FS616035 NATIONAL REFERENCE LABORATORY for Feed Additives – Authorisation and Control
FS616029 NATIONAL REFERENCE LABORATORY for Genetically modified organisms in feed and food

Contract Duration

Two Years for the period 1st April 2017 to 31st March 2019 with a possible extension for a maximum of two years.

This specification, which forms part of the Invitation to Tender (ITT), comprises of three individual sections: -

- A. SPECIFICATION:** An outline of the requirement
- B. PROCUREMENT TIMETABLE:** An estimated timetable for the procurement of the proposed requirement
- C. TENDER REQUIREMENTS AND EVALUATION CRITERIA:** Provides guidance to applicants on the information that should be included within tenders and on the evaluation criteria and weightings used by appraisers when assessing and scoring tenders

Tenders for FSA funded projects must be submitted through the FSA E-sourcing and contract management system, ECMS, using the following link: <https://food.bravosolution.co.uk/web/login.html>. Failure to do so may result in the tender response not being processed by the system or the response being automatically disqualified during the evaluation stage of the tender process.

THE SPECIFICATION, INCLUDING PROJECT TIMETABLE AND EVALUATION OF TENDERS

GENERAL INTRODUCTION

The Food Standards Agency is a non-ministerial government department governed by a Board appointed to act in the public interest, with the task of protecting consumers in relation to food. It is a UK-wide body with offices in London, Cardiff, Belfast and York.

The Agency is committed to openness, transparency and equality of treatment to all suppliers. As well as these principles, for science projects the final project report will be published on the Food Standards Agency website (www.food.gov.uk). For science projects we will encourage contractors to publish their work in peer reviewed scientific publications wherever possible. Also, in line with the Government's Transparency Agenda which aims to encourage more open access to data held by government, the Agency is developing a policy on the release of underpinning data from all of its science- and evidence-gathering projects. Underpinning data should also be published in an open, accessible, and re-usable format, such that the data can be made available to future researchers and the maximum benefit is derived from it. The Agency has established the key principles for release of underpinning data that will be applied to all new science- and evidence-gathering projects which we would expect contractors to comply with. These can be found at <http://www.food.gov.uk/about-us/data-and-policies/underpinning-data>

The National Reference Laboratory service is aligned to the FSA strategies on 'food is safe and what it says it is'. NRLs provide technical and scientific support for the official control framework. NRLs are responsible for setting up EU-wide standards for routine procedures and reliable testing methods in the areas of feed and food and animal health. The Strategic Priority of NRLs is to strengthen the delivery of official controls by ensuring that Official Control Laboratories (OCLs) across the EU are working in a harmonised manner.

The NRL service is currently a statutory service under EU legislation. This call is for another 2 year contract initially (with a possibility to extend) for all the NRL work areas in this tender.

BACKGROUND

The UK has a legal obligation (through adopting the Official Food and Feed Controls Regulations 2009) to appoint National Reference Laboratories (NRLs) to aid the

SPECIFICATION

work of the EU Reference Laboratories (EURLs). The work of the NRLs is driven by the programme of the respective EURLs. It is a statutory requirement to have NRLs for the corresponding EURL work areas. Core functions and duties of the appointed NRLs are cited in Article 33 of the EC Regulation 882/2004. It is also the role of the NRLs to provide advice and support to the enforcement laboratories and the Competent Authorities to ensure a harmonised approach to food enforcement in the EU.

A laboratory may be appointed as the NRL for more than one area. The Agency encourages submissions from laboratories with appropriate expertise, e.g., a single NRL contract, with annexes for individual areas, covering the analysis of contaminants in food and feed.

A laboratory appointed as a National Reference Laboratory must comply with the requirements of Regulation (EC) 882/2004, Article 33 for its specific areas of responsibility. The Agency may only designate laboratories as an NRL if they are accredited in accordance with Regulation (EC) 882/2004, Article 12 (para 2 and 3):

- EN ISO/IEC 17025:2005 "General requirements for the competence of testing and calibration laboratories";
- EN ISO/IEC 17011:2004 "Conformity assessment - General requirements for accreditation bodies accrediting conformity assessment bodies."

The Food Standards Agency is designated as a Competent Authority in the UK for the purposes of Regulation (EC) 882/2004 on Official Feed and Food Controls. In particular, the Agency has responsibility for the designation of National Reference Laboratories (NRLs) for the analysis or examination of feed and food.

SCOPE OF SERVICES

Basic duties of the National Reference Laboratories according to Article 33 of Reg. (EC) 882/2004 are:

- a) to collaborate with the European Union Reference Laboratories (EU-RLs) in their area of competence including participation in activities organised by the EURL;
- b) to co-ordinate, for their area of competence, the activities of official laboratories responsible for the analysis of samples in accordance with Article 11;
- c) where appropriate, organise comparative tests between the official laboratories and ensure an appropriate follow-up of such comparative testing;
- d) to ensure the dissemination to the Competent Authority and official national laboratories of information that the EU-RL supplies;

SPECIFICATION

- e) to provide scientific and technical assistance to the Competent Authority for the implementation of co-ordinated control plans adopted in accordance with Article 53; and,
- f) to be responsible for carrying out other specific duties provided for in accordance with the procedure referred to in Article 62(3), without prejudice to existing additional national duties.

The laboratory will be required to:

- provide staff with a high level of scientific expertise and experience in the area of Official Control and to have access to laboratory facilities as necessary;
- provide impartial expert advice, support and technical assistance to the Agency as required (eg. during EU and Third Country audits);
- provide impartial expert advice and guidance to Official Control Laboratories (OCLs) and other relevant laboratories, including comprehensive advice and guidance on methodology and relevant sampling and analysis legislation;
- have links with OCLs and other relevant laboratories to enable dissemination and exchange of information;
- be familiar with the enforcement system in operation in the UK;
- maintain a list of the accreditation for the relevant OCLs;
- have experience of, and be able to operate in accordance with, the relevant sampling and analysis legislation, including maintaining specific UKAS accreditation (or equivalent) for the relevant analytes, and satisfactory performance in proficiency test schemes.

The duties of the NRL are grouped according to its core functions as follows:

A. Secretariat services

- a) Disseminating information/advice supplied by the EURL and its working groups to the FSA, OCLs and other relevant laboratories in a timely and effective manner.
- b) Co-ordinating the activities of OCLs and other relevant laboratories in food in relation to the core functions described below.
- c) Creating and maintaining an efficient two-way channel of communication with OCLs and relevant laboratories and the EURL, including disseminating information on analytical methods and EU Regulations to OCLs and feedback of comments from OCLs to the EURL.
- d) Providing regular updates to the FSA on NRL activities, and up-to-date information on UK OCLs and other relevant laboratories to the FSA as requested.
- e) Creation and maintenance of a dedicated website for communication of the work of the NRL including provision of advice and support to OCLs, information on methods of analyses, SOPs, latest developments and other background information.

B. Advice and representation within the UK/EU

- a) Providing impartial expert advice as requested to the FSA, OCLs and other relevant laboratories on analytical methodology in the context of Official Controls.

SPECIFICATION

- b) Representing the UK at relevant EURL meetings, and its working-groups, consulting the FSA on objectives and requirements before each meeting and providing the FSA with an internal report of the meeting within two weeks of each meeting.
- c) Participating in activities organised by the EURL and contributing to the scientific input at EURL meetings and in manner which supports UK policy based on best available scientific knowledge.
- d) Advising the FSA, OCLs and other relevant laboratories on best scientific practice in testing for Official Controls and undertaking activities (including training for OCLs) in consultation with the FSA that facilitate and promote their application in the UK within the policy aims of the FSA.
- e) Keeping abreast of developments for the sampling, testing and detection of analytes and advising the FSA, OCLs and other relevant laboratories accordingly.
- f) Identifying and informing the FSA, OCLs and other relevant laboratories of emerging analytical issues or developments at a national, European or international level and recommending action to address them.

C. Production of standard operating procedures, codes of practice and guidance documents

- a) Contributing to the development of standardised operating procedures, relevant codes of practice and guidance documents for use by OCLs and other relevant laboratories, as requested by the FSA.

D. Compliance assessment via audits and ring trials

- a) Ensuring consistency and quality of testing approaches applied by UK OCLs and other relevant laboratories, including advising on corrective action following adverse reports on OCLs from UKAS;
- b) Planning proficiency tests for UK OCLs and other relevant laboratories as appropriate (taking into account the number of relevant laboratories), analysing and evaluating the outcome, informing the FSA and OCLs of the results and advising on further action;
- c) Coordinating the participation of UK OCLs and other relevant laboratories in EURL method validation studies and other initiatives, informing the FSA, EURL and OCLs of the results and advising on further action.
- d) Participating in proficiency tests and method validation studies organised by the EURL, informing the FSA of the results and implementing any corrective measures required;

SPECIFICATION

e) Co-ordinating training exercises to promote best laboratory practice in respect of analysis.

E. Co-ordination within the UK of EURL initiatives

a) Co-ordinating the implementation of EURL recommendations related to the standardisation of testing methods across the EU.

F. Communication of results and data use

- a) The Contractor shall ensure that the FSA receives regular updates of any developments related to the core functions of the NRL.
- b) The Contractor shall notify the FSA immediately by email of any deviations which may affect the cost, specifications and timing of the annual work programme.
- c) The Contractor shall notify the FSA immediately by email of any unusual occurrences resulting from any of the core functions of the NRL.
- d) The Contractor shall provide interim reports during the annual work programme.
- e) Provide an internal report of meetings with other organisations (such as Official Control Laboratories, the EU-RL and ENGL) within 10 working days.
- f) Any results or reports arising from the work of the NRL will not be communicated to any external parties without the written permission of the FSA.
- g) The use of the data for presentations and / or papers will not be permitted unless written permission has been sought and given by the FSA.
- h) The Contractor will maintain records for a period of 3 years from the end of the contract.
- i) In other work related to the core functions of the NRL the specified deadlines agreed between the FSA and the Contractor should be met.
- j) If necessary, at the end of the Contract all information and data gained from, and required for, NRL function over the course of the Contract will be handed over to the FSA. This will include assisting with transfer of archived reference materials.
- k) The Contractor will keep the NRL website up to date on developments, relevant information (especially to the OCLs) and the work of the NRL.

The Agency is committed to openness and transparency. NRL Annual reports are to be published on the relevant NRL website. As well as publishing information on the NRL website, we encourage Contractors to publish their work in peer reviewed scientific publications wherever possible. Also, in line with the Government's Transparency Agenda which aims to encourage more open access to data held by government, underpinning data should also be published in an open, accessible, and re-usable format, such that the data can be made available to future researchers and the maximum benefit is derived from it. The Agency has established the key principles for release of underpinning data that will be applied to all new science- and evidence-gathering projects which we would expect Contractors to comply with.

A laboratory appointed as a National Reference Laboratory must comply with the requirements of Regulation (EC) 882/2004, Article 33 for its specific areas of responsibility. The Agency may only designate laboratories as an NRL if they are accredited in accordance with Regulation (EC) 882/2004, Article 12 (para 2 and 3):

SPECIFICATION

- EN ISO/IEC 17025:2005 "General requirements for the competence of testing and calibration laboratories";
- EN ISO/IEC 17011:2004 "Conformity assessment - General requirements for accreditation bodies accrediting conformity assessment bodies."

Where possible, NRLs are expected to have UKAS accreditation for the relevant and appropriate methods of the NRL work area.

B. PROCUREMENT TIMETABLE

Table 1 details an **estimated** project timetable for the project. Tenderers should however be aware that the Agency needs to acquire the evidence outlined in this ITT in a timely manner and you should justify your timings in your work plan.

TABLE 1. ESTIMATED PROJECT TIMETABLE	
EXPECTED DATE	INVITATION TO (ITT) TENDER
15 th December 2016	Invitation to Tender (ITT) issued by the Agency
Immediately as above	ITT Clarification period opens*
12 th January 2016	ITT Clarification period closes**
26 th January 2016	Closing date for submission of ITT responses***
27 th January 2016	Evaluation of ITT responses
3 rd February 2016	Tenderers contacted with points raised by appraisers for clarification on their tender, with 10 days to respond
22 nd February 2016	Appraisal panel meeting held to consider clarified ITT responses
w/c 27th February 2016	Tenderers notified of outcome of appraisal and preferred Tenderer (or Tenderers) identified
w/c 13 th March 2016	Contract awarded and signed
As soon as possible following contract award	Project initiation meeting takes place and project commences

* If a Tenderer wishes to raise any points of clarification over the procurement process, the actual project objectives or any other query these must be raised through the ECMS by the date specified.

** Queries will not be answered after this date.

*** Submissions must be uploaded onto the ECMS before the closing date and time.

§ These stages are optional

SPECIFICATION

Further Information

For any technical queries or issues regarding the use of ECMS please contact the eSourcing Helpdesk:

Phone: 0800 368 4850

Email: help@bravosolution.co.uk .

For any points of clarification regarding this specification or the FSA's procurement procedures please submit through ECMS.

Closing Date

Tenders should be submitted on ECMS by the date specified on ECMS.

Tenders received after this time will not be considered or evaluated. Please allow sufficient time to upload your tender and all supporting evidence before the closing date.

Notification of Submission of Tender

On successfully submitting your tender you should see a popup box appear on the screen indicating that your tender has been successfully submitted. In addition you will receive an automatic email from ECMS with a reference code.

C. EVALUATION OF TENDERS

The Tenderers Application consists of the:

- Technical envelope (70% of overall value), in which applicants should detail the approach, the work plan and their ability to undertake the work, and
- Financial envelope (30% of overall value), in which applicants should outline all costs to conduct the proposed work, and
- Any other relevant supporting information

Tenders will be evaluated by FSA internal appraisers and external experts using a numerical system. The table below shows the weightings that have been allocated to each section of the application form and these will be used by the appraisers:

SPECIFICATION**TABLE 2. EVALUATION CRITERIA FOR SELECTION OF SUCCESSFUL TENDERER**

CRITERIA	PERCENTAGE WEIGHTINGS
TECHNICAL CRITERIA – 70% overall Value	Made up of
1. Tender summary and objectives	5%
2. The approach/scope of work, including innovation	15%
3. The plan and deliverables	5%
4. Organisational experience, expertise and staff effort	20%
5. Project management	10%
6. Risk management	5%
7. Quality management, ethics, data protection, dissemination and sustainability	10%
FINANCIAL CRITERIA – 30% overall value	30%

The Technical Envelope

The Technical envelope is split in to 7 sections for evaluation. Guidance on how to complete each section is provided within the actual application form.

A numerical appraisal scoring system will be used to assess the information given in the Technical envelope of the tender. Appraisers will allocate a score of 0, 30, 60, 80 or 100 to each part of the Technical envelope, depending on the quality and relevance of evidence provided. The scores will then be subjected to the weightings given in Table 2.

All technical criteria will be evaluated as follows:

SCORE	DESCRIPTION FOR SCORE OF EACH CRITERIA
100	Tender fully meets the criteria set
80	Tender would require minor modification but almost fully meets the criteria with only a few gaps in the evidence remaining
60	Tender would require some modification but addresses most of the criteria, but may not be detailed enough and/or has several gaps remaining

SPECIFICATION

30	Tender would require significant modification due to significant gaps
0	Tender does not meet the specification or policy

If the applicant does not reach a minimum score of 30 in the technical evaluation they will be automatically eliminated from the process.

The Financial Envelope

The Financial envelope is split in to 5 sections. Guidance on how to complete each section is provided within the actual application form.

A numerical appraisal scoring system will be used to assess the information given in the financial envelope of the tender. Appraisers will allocate a score of 0, 30, 60, 80 or 100 to the financial envelope, depending on the quality and relevance of evidence provided. The scores will then be subjected to the weighting given in Table 2.

Requirement for the financial envelope

Please complete the Finance template provided. Costs should be quoted excluding VAT for the purpose of comparison of tenders. The Agency's financial year runs from 1 April to 31 March. All costings should be recorded in line with this timescale.

Evaluation of the financial envelope**Financial criteria will be evaluated as follows:**

SCORE	DESCRIPTION FOR SCORE OF THE CRITERIA
100	There is full justification for the costs and the overall resources are appropriate. The tender is the best value for money for the work proposed to meet the specific evidence requirement advertised
80	There is some justification for the costs and the overall resources requested. The tender is reasonable value for money for the work proposed to meet the specific evidence requirement advertised.
60	Limited rational is given for the resources requested and/or the tender does not offer very good value for money, but is not poor value
30	The tender is relatively poor value for money with little/no justification for costs or resources requested.
0	The tender costs are not considered value for money and the applicant provided no rationale for costs or resources requested

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Tender Application form for a project with the Food Standards Agency



- Applicants should complete each part of this application as fully and as clearly as possible
- Brief instructions are given in the grey boxes at the start of each section.
- Please submit the application through the Agency's Electronic Contract Management System (ECMS) by the deadline set in the specification document.

LEAD APPLICANT'S DETAILS

Surname	[FOIA s40]	First Name	[FOIA s40]	Initial	M	Title	Miss
Organisation	LGC Limited	Department	Environment, Safety and Foods				
Street Address	[FOIA s40]						
Town/City	[FOIA s40]	Country	United Kingdom	Postcode	[FOIA s40]	OLY	
Telephone No	+44 [FOIA s40] 09	E-mail Address	[FOIA s40]@lgcgroup.com				
Is your organisation is a small and medium enterprise . (EU recommendation 2003/361/EC refers http://www.hmrc.gov.uk/manuals/cirdmanual/cird92800.htm)					No		

TENDER SUMMARY

TENDER TITLE

The provision of services for the National Reference laboratory in the UK for Feed Additives – Authorisation and Control

TENDER REFERENCE FS616035

PROPOSED START DATE [01/04/2017] **PROPOSED END DATE** [31/03/2019]

1: TENDER SUMMARY AND OBJECTIVES

A. TENDER SUMMARY

Please give a brief summary of the proposed work in no more than 400 words.

Commission Regulation (EC) 882/2004 was introduced to improve the consistency and effectiveness of controls across the EU. To help fulfill this objective, Article 33 of the Regulation describes the requirements for National Reference laboratories as follows:

- To collaborate with the European Union Reference laboratory
- To coordinate, with regard to methods of sampling and analysis, the activities of official laboratories
- Where appropriate, organise comparative tests between the official national laboratories
- To ensure the dissemination to the competent authority and official national laboratories of information that the EURL supplies.
- To provide scientific and technical assistance to the competent authority and
- To be responsible for carrying out other specific duties provided for in accordance with the procedure referred to in Article 62(3).

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B. OBJECTIVES AND RELEVANCE OF THE PROPOSED WORK TO THE FSA TENDER REQUIREMENT

OBJECTIVES

Please detail how your proposed work can assist the agency in meeting its stated objectives and policy needs. Please number the objectives and add a short description. Please add more lines as necessary.

OBJECTIVE NUMBER

OBJECTIVE DESCRIPTION

01

02

03

04

05

06

2: DESCRIPTION OF APPROACH/SCOPE OF WORK

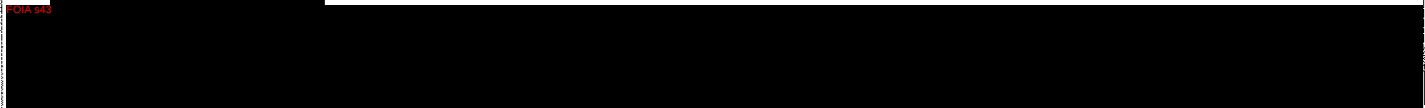
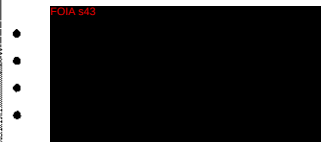
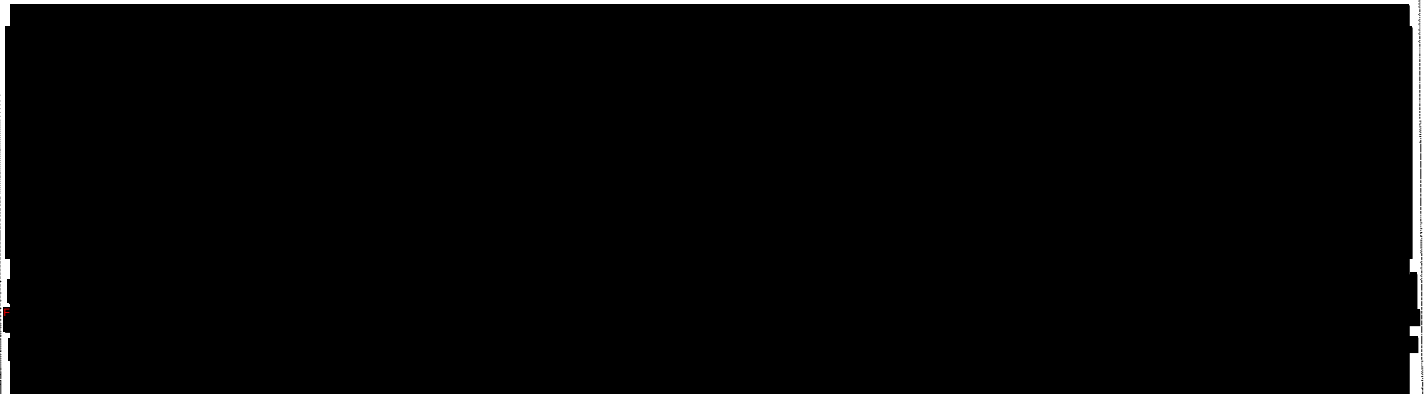
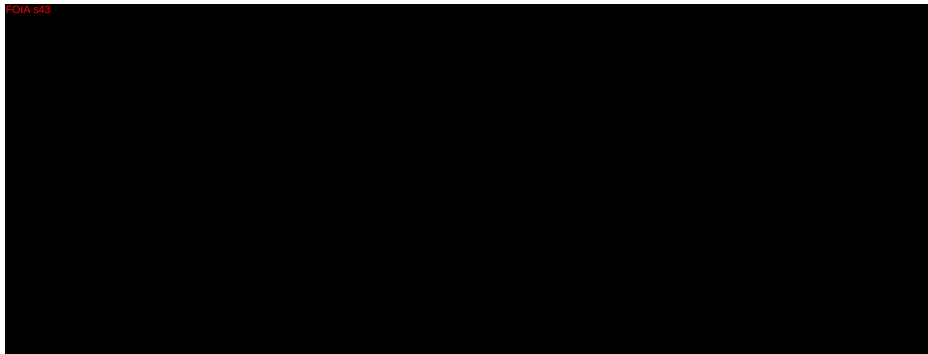
A. APPROACH/SCOPE OF WORK

Please describe how you will meet our specification and summarise how you will deliver your solution. You must explain the approach for the proposed work. Describe and justify the approach, methodology and study design, where applicable, that will be used to address the specific requirements and realise the objectives outlined above. Where relevant (e.g. for an analytical survey), please also provide details of the sampling plan.

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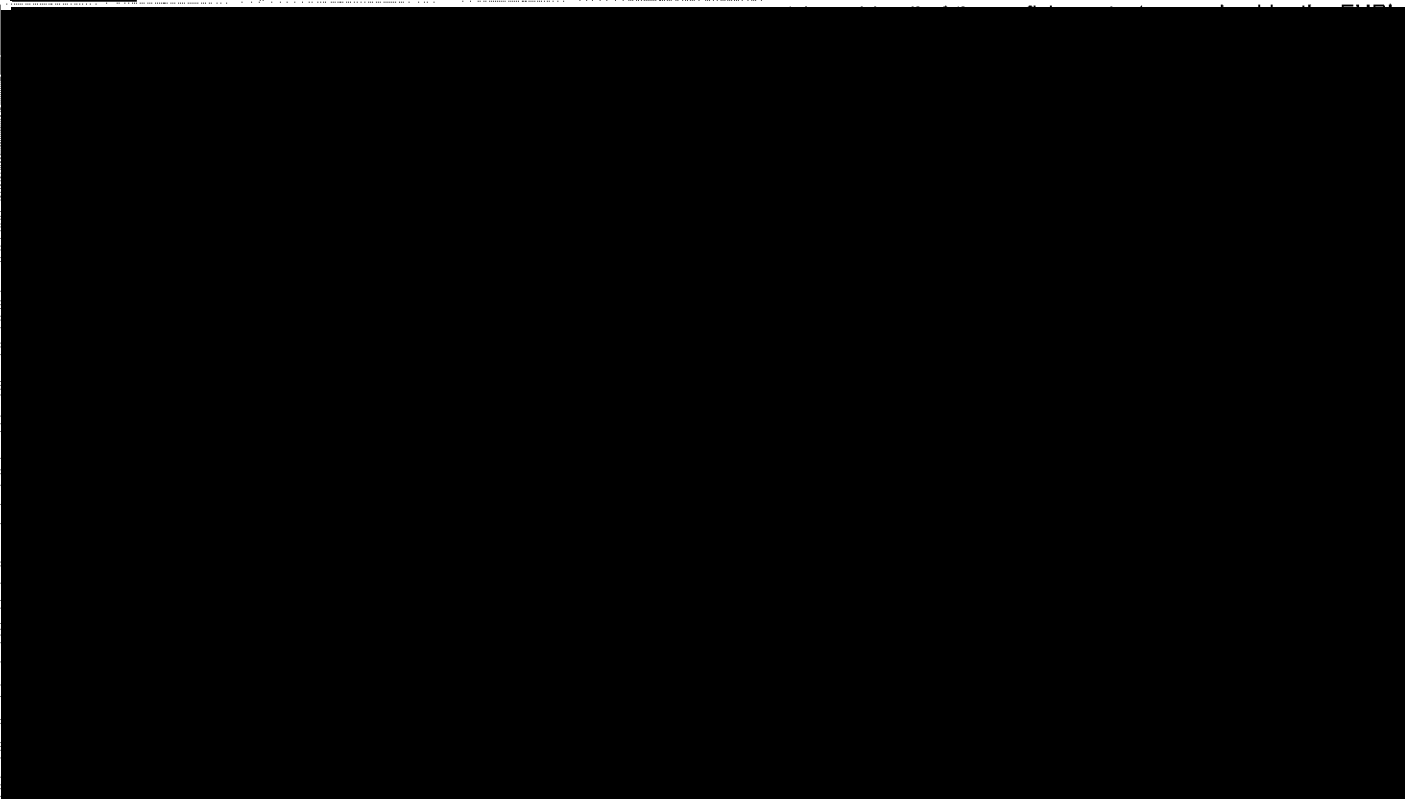
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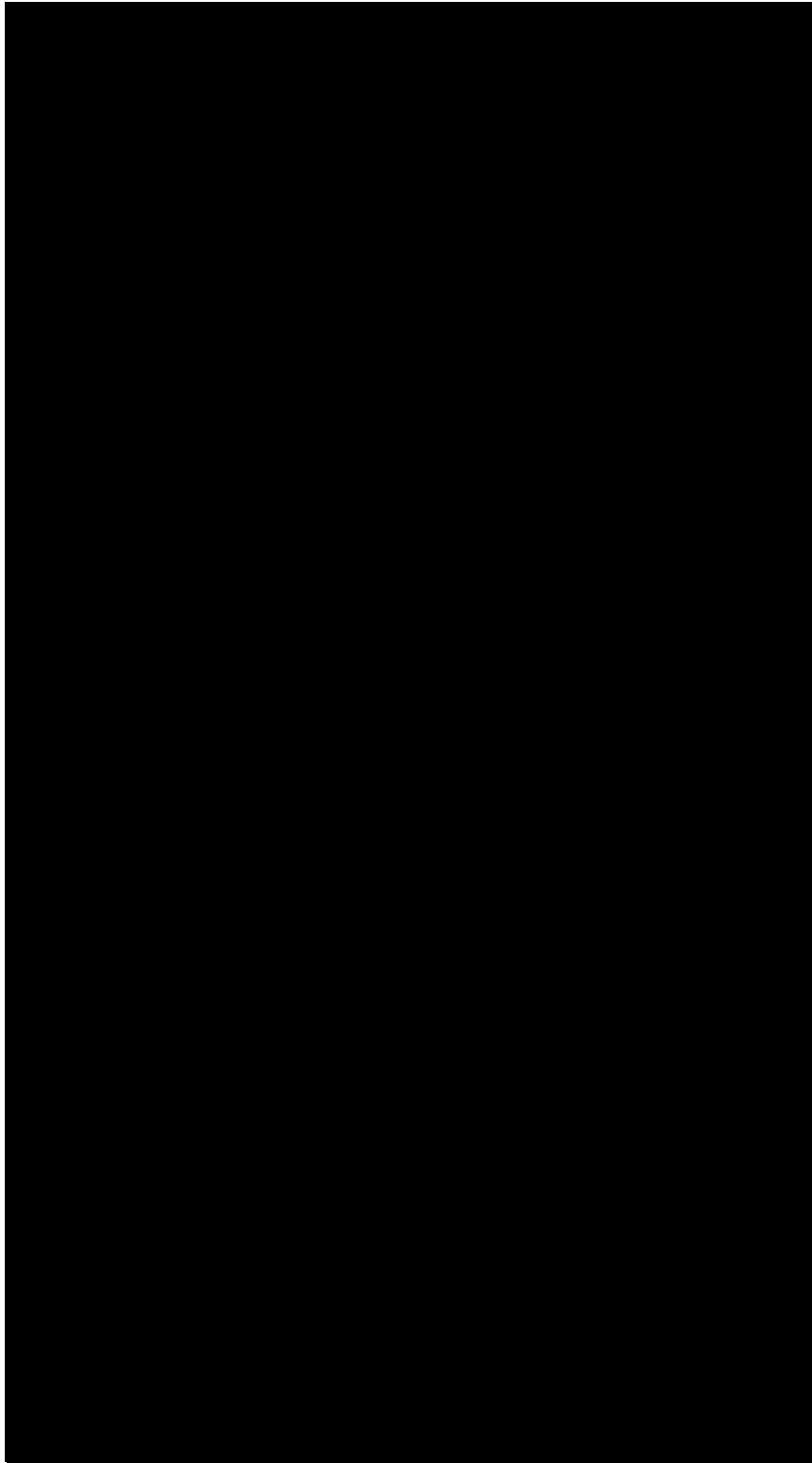
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[REDACTED]

B. INNOVATION

Please provide details of any aspect of the proposed work which are considered innovative in design and/or application? E.g. Introduction of new or significant improved products, services, methods, processes, markets and forms of organization.

[REDACTED]

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[REDACTED]

3: THE PROJECT PLAN AND DELIVERABLES

A. THE RESEARCH PLAN

Please provide a detailed project plan including, the tasks and sub-tasks required to realise the objectives (detailed in Part 1). The tasks should be numbered in the same way as the objectives and should be clearly linked to each of the objectives. Please also attach a flow chart illustrating the proposed plan.

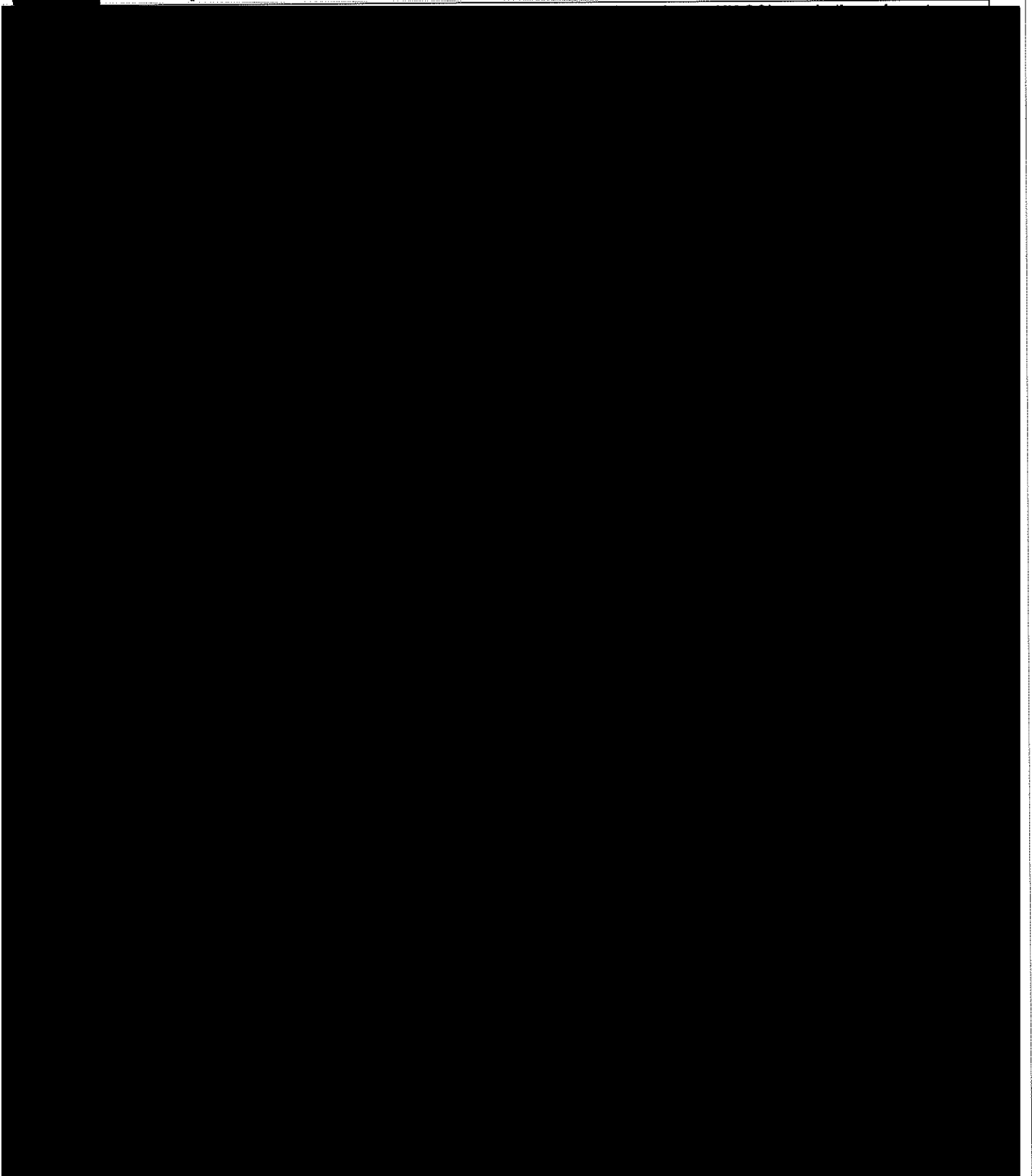
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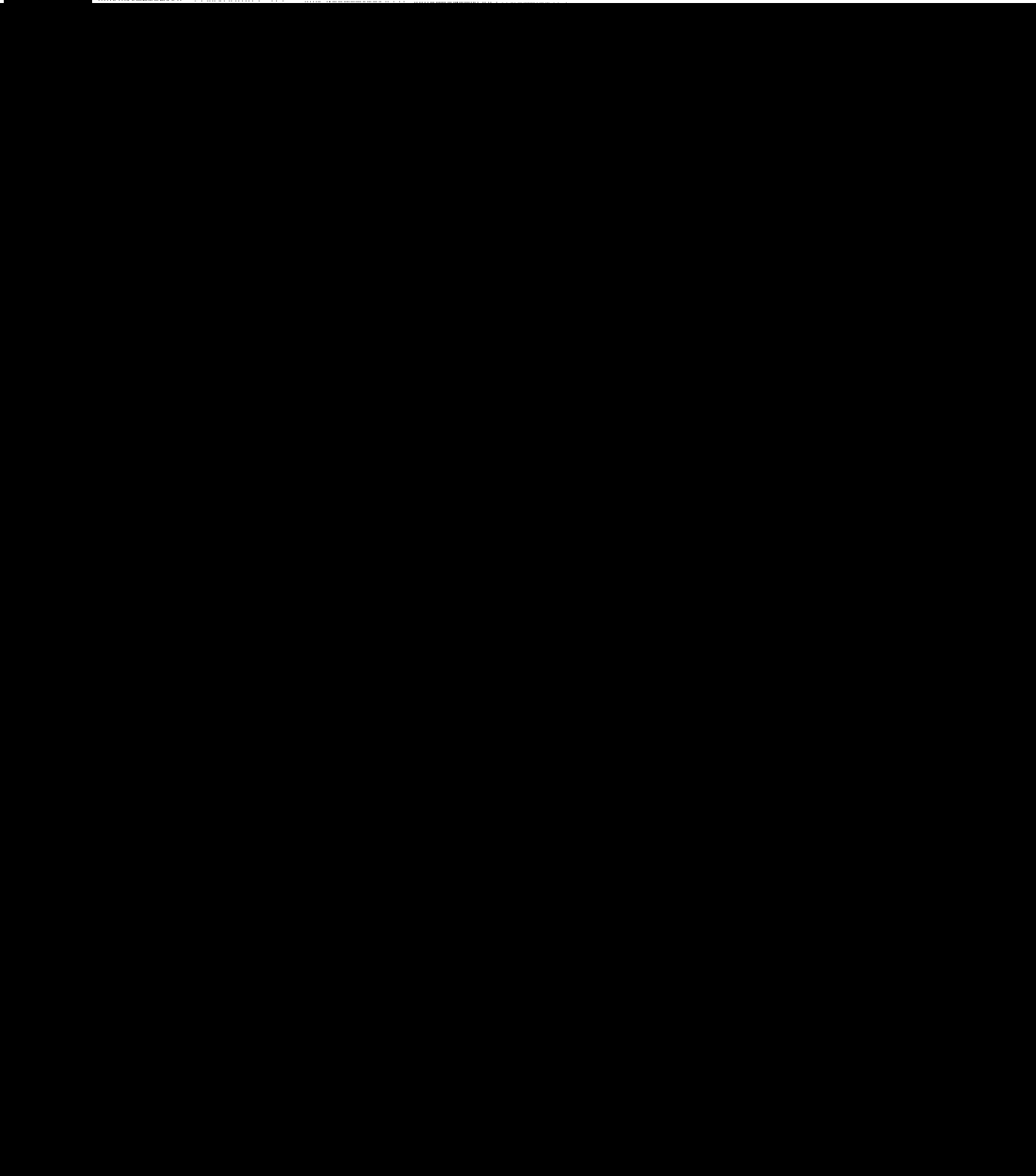


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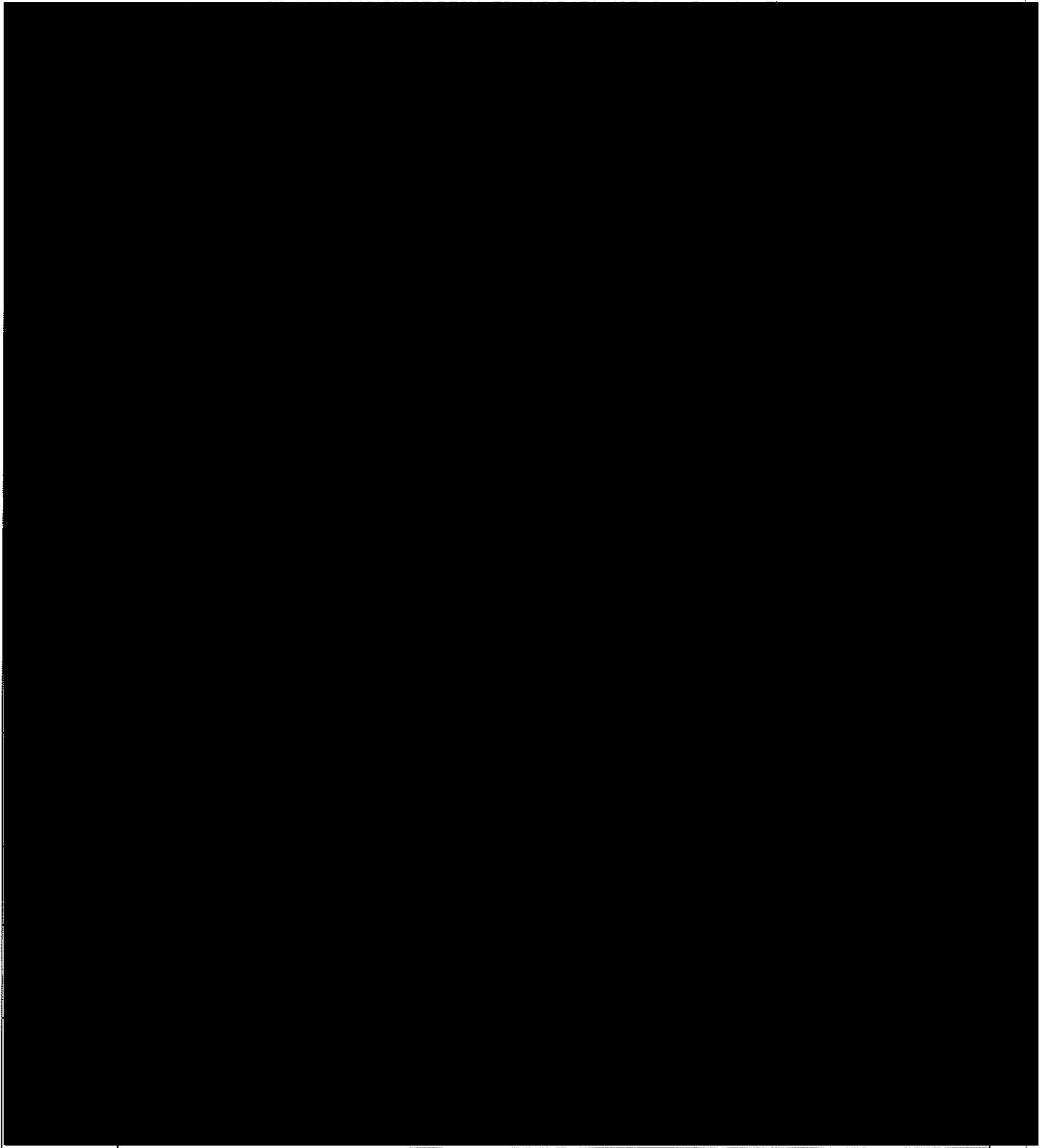


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B. DELIVERABLES

Please outline the proposed project milestones and deliverables. Please provide a timetable of key dates or significant events for the project (for example fieldwork dates, dates for provision of research materials, draft and final reporting). Deliverables must be linked to the objectives.

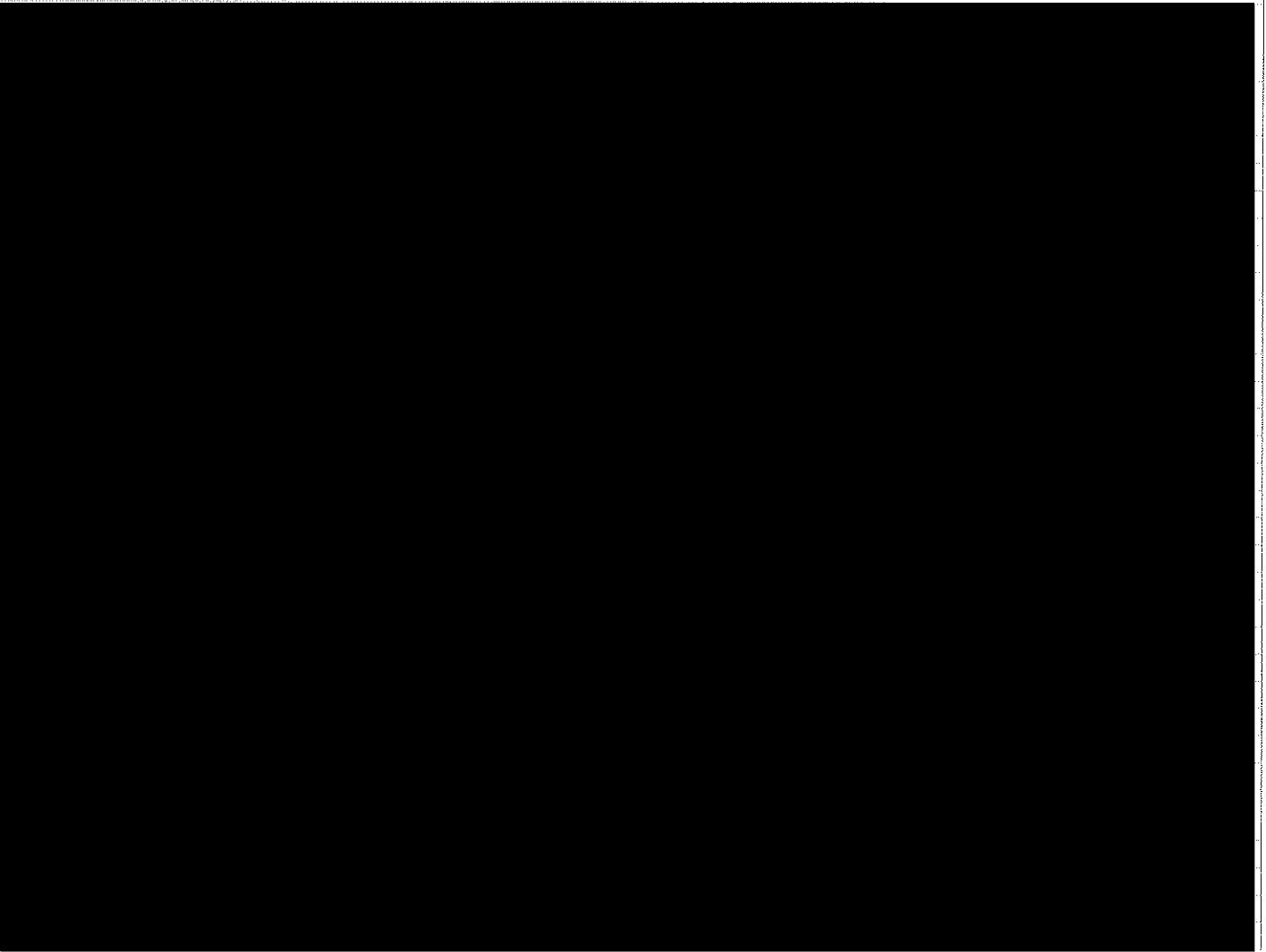
For larger or more complex projects please insert as many deliverables /milestones as required.

Each deliverable should be:

- i. no more 100 characters in length
- ii. self-explanatory
- iii. cross referenced with objective numbers i.e. deliverables for Objective 1 01/01, 01/02 Objective 2 02/01, 02/02 etc

Please insert additional rows to the table below as required.

A final deliverable pertaining to a retention fee of 20 % of the total value of the proposed work will automatically be calculated on the financial template.



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Note: All other Tasks are ongoing throughout the term of the contract.

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4: ORGANISATIONAL EXPERIENCE, EXPERTISE and STAFF EFFORT

A. PARTICIPATING ORGANISATIONS' PAST PERFORMANCE

Please provide evidence of up to three similar projects that the project lead applicant and/or members of the project team are currently undertaking or have recently completed. Please include:

- The start date (and if applicable) the end date of the project/(s)
- Name of the client who commissioned the project?
- Details of any collaborative partners and their contribution
- The value
- A brief description of the work carried out.
- How the example(s) demonstrate the relevant skills and/or expertise.
- What skills the team used to ensure the project (s) were successfully delivered.

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Schedule 3

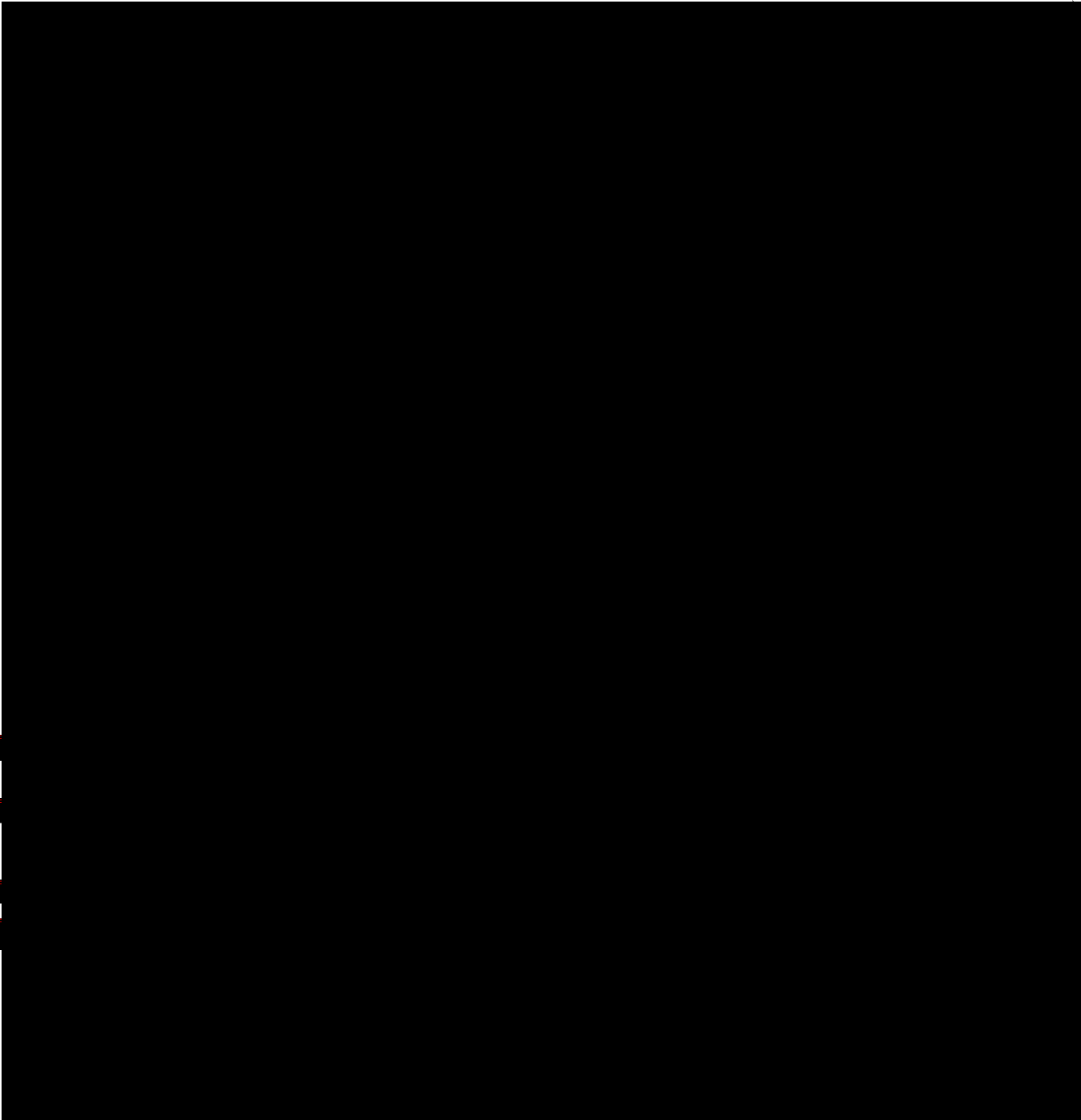
[Kirstin Gray, LGC Limited]

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B. NAMED STAFF MEMBERS AND DETAILS OF THEIR SPECIALISM AND EXPERTISE

For each participating organisation on the project team please list:- the names and grades of all staff who will work on the project together with details of their specialism and expertise, their role in the project and details of up to 4 of their most recent, relevant published peer reviewed papers (where applicable). If new staff will be hired to deliver the project, please detail their grade, area(s) of specialism and their role in the project team.

Lead Applicant	LGC Limited
Named staff members, details of specialism and expertise.	

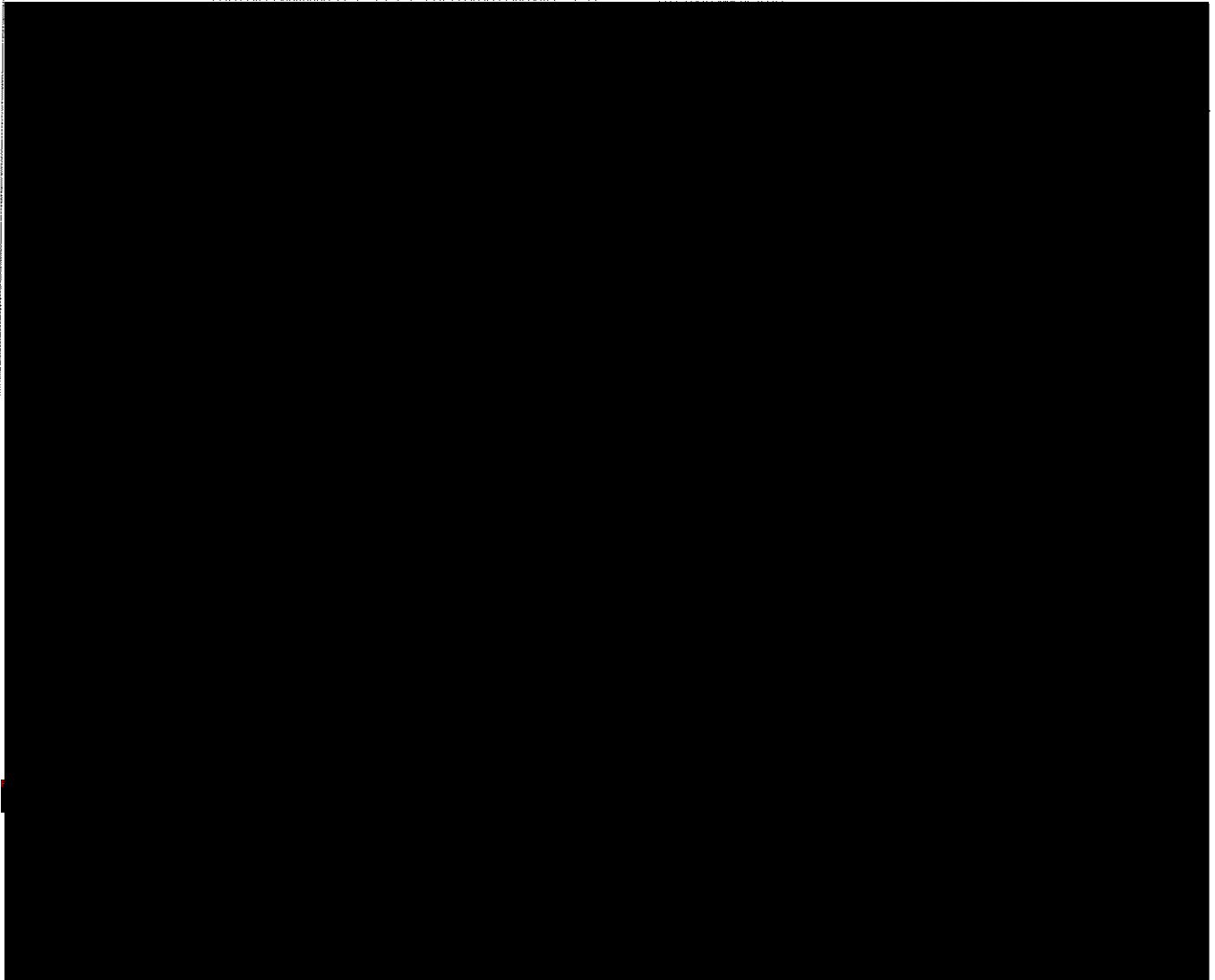


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Participant Organisation 1

Named staff members, details of specialism and expertise.

Participant Organisation 2

Named staff members, details of specialism and expertise.

Participant Organisation 3

Named staff members, details of specialism and expertise.

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C. STAFF EFFORT

In the table below, please detail the staff time to be spent on the project (for every person named in section above) and their role in delivering the proposal. If new staff will be hired in order to deliver the project please include their grade, name and the staff effort required.

Name and Role of Person where known/ Role of person to be recruited	Working hours per staff member on this project
[REDACTED]	

D. 5: PROJECT MANAGEMENT

Please fully describe how the project will be managed to ensure that objectives and deliverables will be achieved on time and on budget. Please describe how different organisations/staff will interact to deliver the desired outcomes. Highlight any in-house or external accreditation for the project management system and how this relates to this project.

[REDACTED]

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6. RISK MANAGEMENT

In the table provided, please identify all relevant risks in delivering this project on time and to budget. Briefly outline what steps will be taken to minimise these risks and how they will be managed by the project team. Please add more lines as required

Identified risk	Likelihood of risk (high, medium, low)	Impact of Risk (high, medium, low)	Risk management strategy
[Redacted]	[Redacted]	[Redacted]	[Redacted]

Each team within LGC has a business continuity and disaster recovery plan which details the actions to be taken in the event of an incident and to help mitigate the risks to any projects being undertaken.

7. QUALITY MANAGEMENT

A. QUALITY MANAGEMENT

Please provide details of the measures that will be taken to manage and assure the quality of work. You should upload your Quality Assurance policy in the supporting documents section of your application.

This should include information on the quality assurance (QA) systems, which have been implemented or are planned, and should be appropriate to the work concerned. All QA systems and procedures should be clear and auditable, and may include compliance with internationally accepted quality standards specified in the ITT e.g. ISO 9001 and ISO17025.

Specific to science projects and where relevant, applicants must indicate whether they would comply with the Joint Code of Practice for Research (JCoPR). If applicants do not already fully comply with the JCoPR please provide a statement to this effect to provide an explanation of how these requirements will be met. The FSA reserves the right to audit projects against the code and other quality standards

The lead principle investigator is responsible for all work carried out in the project; (including work supplied by sub-contractors) and should therefore ensure that the project is carried out in accordance with the Joint Code of Practice

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B. ETHICS

Please identify the key ethical issues for this project and how these will be managed. Please respond to any issues raised in the Specification document

Please describe the ethical issues of any involvement of people, human samples, animal research or personal data in this part. In addition, please describe the ethical review and governance arrangements that would apply to the work done.

Applicants are reminded that, where appropriate, the need to obtain clearance for the proposed project from their local ethics committee. This is the responsibility of the project Lead Applicant. However, if a sub-contractor requires such clearance the project Lead Applicant should ensure that all relevant procedures have been followed. If there are no ethical issues please state this

C. DATA PROTECTION

Please identify any specific data protection issues for this project and how these will be managed. Please respond to any specific issues raised in the Specification document.

Please note that the successful Applicant will be expected to comply with the Data Protection Act (DPA) 1998 and ensure that any information collected, processed and transferred on behalf of the FSA, will be held and transferred securely.

In this part please provide details of the practices and systems which are in place for handling data securely including transmission between the field and head office and then to the FSA. Plans for how data will be deposited (i.e. within a community or institutional database/archive) and/or procedures for the destruction of physical and system data should also be included in this part (this is particularly relevant for survey data and personal data collected from clinical research trials). The project Lead Applicant will be responsible for ensuring that they and any sub-contractor who processes or handles information on behalf of the FSA are conducted securely.

D. DISSEMINATION AND EXPLOITATION

Where applicable please indicate how you intend to disseminate the results of this project, including written and verbal communication routes if appropriate. Applicants are advised to think carefully about how their research aligns with the FSA strategy, what is the impact that their research has on public health/ consumers and decide how the results can best be communicated to the relevant and appropriate people and organisations in as cost-effective manner as possible. Please provide as much detail as possible on what will be delivered. Any costs associated with this must be documented in the Financial Template.

The applicant should describe plans for the dissemination of the results for the project team as a whole and for individual participants. Details should include anticipated numbers of publications in refereed journals, articles in trade journals etc., presentations or demonstrations to the scientific community, trade organisations and internal reports or publications. Plans to make any information and/or reports available on the internet with the FSA's permission are also useful, however, this does not remove the requirement for Tenderers to think how best to target the output to relevant groups.

If a final report is part of the requirement, please make sure, as part of the executive summary, that aims and results are clear to the general audience and that the impact of the research on public health/consumers and it's alignment to FSA priorities is clearly stated.

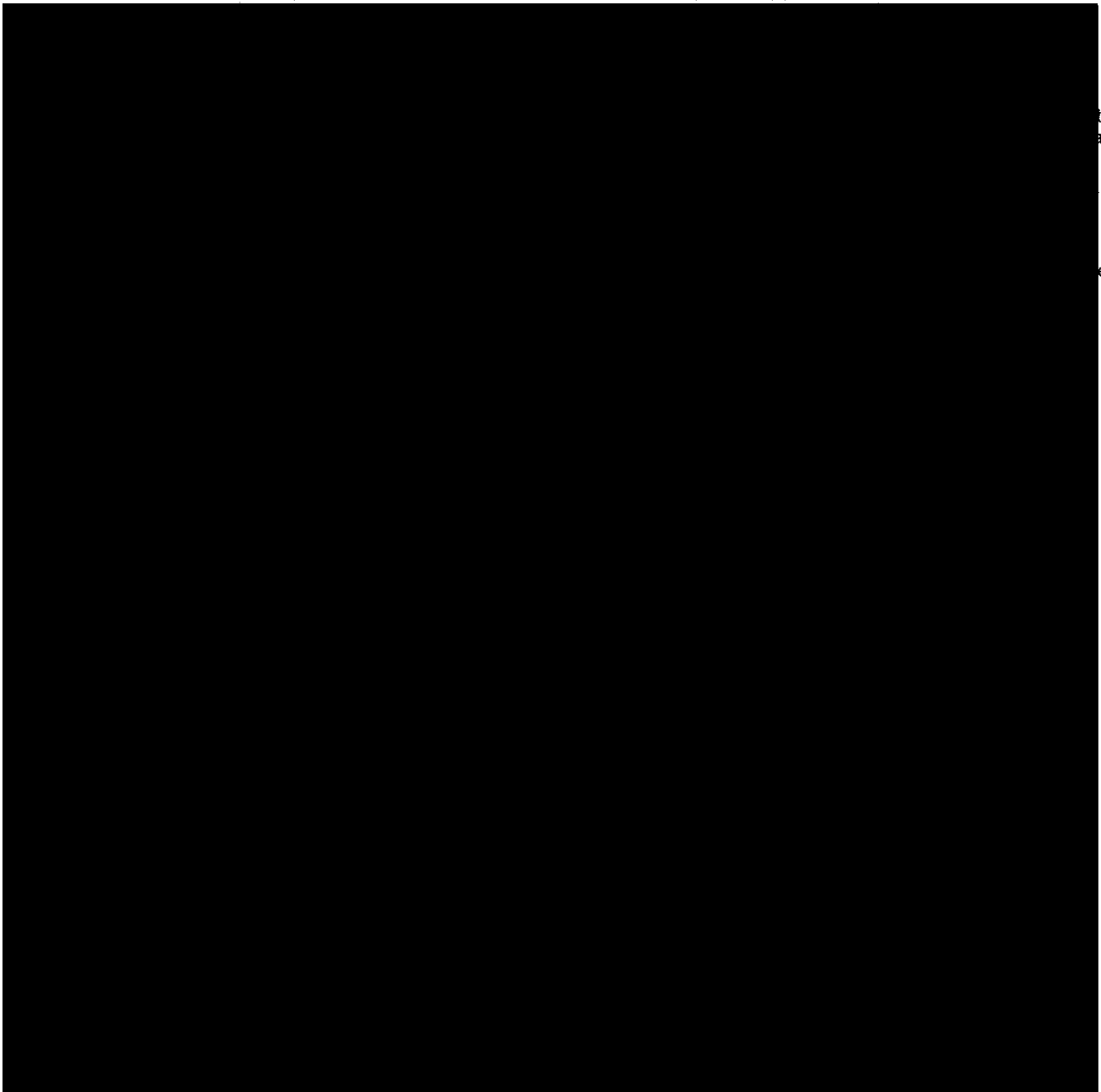
Schedule 3

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Please note that permission to publish or to present findings from work supported by the FSA must be sought in advance from the relevant FSA Project Officer. The financial support of the FSA must also be acknowledged.



E. SUSTAINABILITY

The Food Standards Agency is committed to improving sustainability in the management of operations. Procurement looks to its suppliers to help achieve this goal. You will need to demonstrate your approach to sustainability, in particular how you will apply it to this project taking into account economic, environmental and social aspects. This will be considered as part of our selection process and you must upload your organisations sustainability policies into the eligibility criteria in Bravo.

Please state what (if any) environmental certification you hold or briefly describe your current Environmental Management System (EMS).

Schedule 3

FOIA b(4)

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ADDITIONAL SUPPORTING DOCUMENTS

Please note that any additional documents in support of the on-line application, as well as the Gant/PERT charts requested for the Project Plan section, should be zipped into a single file (using WinZip). These should then be uploaded to Bravo in to the *Supporting Documents* section of the technical envelope. Each supporting document should be clearly marked with the following details:

- the tender reference number,
- the tender title,
- the name of the lead applicant submitting the proposal and
- the part number and title to which the supporting evidence appertains (e.g. Part 3 Deliverables)

Application form for a project with the Food Standards Agency Financials Template

Applicants should complete each part of this application as fully and as clearly as possible

Brief instructions are given in the boxes at the start of each section.
Some boxes have blue text and this indicates that the value is calculated automatically
Some boxes are shaded red and these boxes **must** be completed

Guidance notes on completion of fields can be removed from view by pressing the ESC key

Please submit the application through the Agency's electronic Public Procurement System (Bravo) by the deadline detailed on the Bravo system

This form should be completed by the project lead applicant and must include the collated costs for all participating organisations applying for the project work

Please note that once the cost for a project has been agreed by FSA and an agreement signed, no increase in cost for the specified work will be considered

All costs should be exclusive of VAT for the purpose of comparison of tenders.

Tender Reference FS616035

Tender Title Provision of services for the National Reference Laboratory in the UK for Feed Additives - Authorisation and Control

Main contact phone 020 FOIA 543

Will you charge the Agency VAT on this proposal?

Yes

Please state your VAT registration number:

674 056 721

Project Costs Summary Breakdown by Participating Organisations

Please include only the cost to the FSA.

Organisation	VAT Code*	Total (£)
LGC Ltd	Standard	£ 104,281.60
Insert name of Organisation 2	Please select	£ -
Insert name of Organisation 3	Please select	£ -
Insert name of Organisation 4	Please select	£ -
Insert name of Organisation 5	Please select	£ -
		£ -
		£ -
		£ -

Total Project Costs (excluding VAT) ** £ 104,281.60

* Please indicate zero, exempt or standard rate. VAT charges not identified above will not be paid by the FSA

** The total cost figure should be the same as the total cost shown below and in the Schedule of payments tab.

Project Costs Summary (Automatically calculated)

Staff Costs	£ FOIA 543
Overhead Costs	£ FOIA 543
Consumables and Other Costs	£ FOIA 543
Travel and Subsistence Costs	£ FOIA 543
Other Costs - Part 1	£ FOIA 543
Other Costs - Part 2	£ -
Other Costs - Part 3	£ -
Other Costs - Part 4	£ -

Other Costs - Part 5	£	-
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Total Project Costs	£	104,281.60
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COST OR VOLUME DISCOUNTS - INNOVATION		
The Food Standards Agency collaborates with our suppliers to improve efficiency and performance to save the taxpayer money. A tenderer should include in his tender the extent of any discounts or rebates offered against their normal day rates or other costs during each year of the contract. Please provide full details below:		
SIGNATURE		
NAME	FOIA 510	
DATE	28-Mar-2017	
REVISION DATE	28-Mar-2017	Enter the effective date if this version of the template replaces an earlier version

Travel and Subsistence Costs

Please provide a breakdown of the travel and subsistence costs you expect to incur during the project

[illegible]

Total Travel and Subsistence Costs	
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