

Dated *24th March* 2016

CARE QUALITY COMMISSION

and

REMPLOY LIMITED

CONTRACT
relating to the supply of
Experts by Experience Services
LOT 1 – NORTH REGION

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Between

- (1) **Care Quality Commission** of 151 Buckingham Palace Road, London SW1W 9SZ (**Authority**); and
- (2) **Remploy Limited** (Company number 09457025) whose registered office is at 18C Meridian East, Meridian Business Park, Leicester, LE19 1WZ (**Contractor**).

Recitals

- (A) The Authority is the independent regulator of health and adult social care in England. The Authority monitors, inspects and regulates services to make sure they meet fundamental standards of quality and safety.
- (B) The Authority uses a specialised inspection model which makes use of the knowledge, skills and experience of Experts by Experience.
- (C) The Authority wishes for the Contractor to provide the Services including without limitation the attraction, recruitment, training, management and deployment of Experts by Experience.
- (D) The Contractor agrees to provide the Services and the Authority shall pay the Contract Price for a specified period on the terms and conditions set out in this Contract.

It is agreed

A General Provisions

A1 Definitions and interpretation

- A1.1 In this Contract unless the context otherwise requires the following provisions shall have the meanings given to them below:

Actual Costs the actual cost incurred by the Contractor in carrying out the Services including without limitation the costs of procuring its supply chain, its Staff, the cost of goods, materials, office overheads and administrative costs reasonably and properly incurred in the provision of the Services but excluding any element of profit and the Pass Through Costs

Actual Variable Costs means the variable costs incurred at the rate per Event set out in the Pricing Schedule based on the number of actual Events occurring during the relevant Month

Approval means the written consent of the Authority

Breach of Security means the occurrence of:

- (a) any unauthorised access to or use or corruption of IT systems relating to the Services (to the extent that it is under the control of the Contractor) and/or any IT, information or data (including the Confidential Information) used in connection with this Contract and/or
- (b) the loss and/or unauthorised disclosure of any information or data (including Confidential Information), including any copies of such information or data, in connection with this Contract

Business Continuity and Disaster Recovery Plan means Schedule 8 containing plans and provisions for business continuity and disaster recovery

Cancellations Policy means the cancellations policy contained in Annex 2 of the Specification

Authority means the Care Quality Commission

Authority Data means

- (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:
 - (i) supplied to the Contractor by or on behalf of the Authority or
 - (ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract or
- (b) any Personal Data for which the Authority is the Data Controller

Commencement Date means 1st February 2016

Commercially Sensitive Information means the information (i) listed in the Commercially Sensitive Information schedule; or (ii) notified to the Authority in writing (prior to the commencement of this Contract) which has been clearly marked as Commercially Sensitive Information comprised of information:

- (a) which is provided by the Contractor to the Authority in confidence for the period set out in Schedule 5 or notification; and/or
- (b) that constitutes a trade secret.

Comprehensive Inspection Event means a comprehensive inspection that is planned in advance and covers all aspects of the health and care services being inspected by Experts by Experience

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

- (i) was public knowledge at the time of disclosure (otherwise than by breach of clause E3 (Confidential Information))
- (ii) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party
- (iii) is received from a third party (who lawfully acquired it) without restriction as to its disclosure or
- (iv) is independently developed without access to the Confidential Information

Contract means this written agreement between the Authority and the Contractor consisting of these clauses and any attached Schedules, but excluding the Tender Schedule which is included for information only, except such parts as are expressly referred to elsewhere within this Contract. In the case of any discrepancy among these documents these conditions shall prevail

Contracting Authority means any contracting authority as defined in the Public Contracts Regulations 2015

Contractor means the person, firm or company with whom the Authority enters into the Contract

Contract Period means the period from the Commencement Date to:

- (a) the date of expiry set out in clause A2 (Initial Contract Period) or
- (b) following an extension pursuant to clause F8 (Extension of Initial Contract Period), the date of expiry of the extended period

or such earlier date of termination or partial termination of the agreement in accordance with the Law or the provisions of the Contract

Contract Price means for each Month of the Contract Period:

- (a) 1/12th of the Fixed Costs and
- (b) the Actual Variable Costs incurred during the relevant Month

(inclusive of any applicable VAT) payable to the Contractor by the Authority under the Contract, as set out in the Pricing Schedule, for the full and proper performance by the Contractor of its obligations under the Contract

Contract Year means each yearly period commencing on the Commencement Date and subsequently on each anniversary of such date

Corrective Action Notice has the meaning given in clause F7.5

Corrective Action Notice Level means, in respect of any individual KPI or the Overall KPI Performance Score, the level set out in Column 7 of the KPI Schedule

Crown means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government and particular bodies and government agencies and government agencies and **Crown Body** is an emanation of the foregoing

Data Controller, Data Processor and Personal Data shall have the same meaning as set out in the Data Protection Act 1998

Default means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term or a default pursuant to clause F5.1 or clause F7.11) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject-matter of the Contract and in respect of which such Party is liable to the other

Deliverable means any document, plan, report, review or any other materials to be provided by or on behalf of the Contractor pursuant to the Services

Directive means Council Directive 23/2001 (as such directive is amended, consolidated or replaced from time to time in the United Kingdom)

Disaster means an event defined as a disaster in the Business Continuity and Disaster Recovery Provision

DPA means the Data Protection Act 1998 and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation

Employee Liability Information has the meaning given in Regulation 11 of TUPE

Environmental Information Regulations means the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations

Equality Legislation means the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof

Equipment means the Contractor's equipment, plant, materials and such other items supplied and used by the Contractor in the performance of its obligations under the Contract

Exit Management Strategy means Schedule 7 containing details of the exit management strategy

Existing Supplier means any of the third party suppliers appointed by the Authority who are engaged in the supply of services which are substantially similar to any of the Services immediately prior to the commencement of the Contract

Event means the sum of the activity carried out by one individual Expert by Experience performing an inspection, training or engagement event over a number of days

Experts by Experience means individuals employed or engaged by the Contractor or its Sub-Contractors (of any tier) to carry out Events as required in accordance with the Specification

Fees Regulations means the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004

Financial Year means the period from 1 April of any given year to 31 March of the subsequent year

Fixed Costs means an amount equal to the fixed costs in respect of the relevant Contract Year as set out in the Pricing Schedule

Focused Inspection Event means an unplanned short notice inspection which may take place if there are areas of concern that have been raised during an Comprehensive Inspection Event or through ongoing monitoring work

FOIA means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by

the Information Commissioner or relevant government department in relation to such legislation

Force Majeure means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding:

- (a) any industrial action occurring within the Contractor's or any Sub-Contractor's organisation or
- (b) the failure by any Sub-Contractor to perform its obligations under any sub-contract

Fraud means any offence under Laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud the Crown (including the Authority)

Good Industry Practice means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances

Half Year means each six (6) Month period of a Contract Year and the term **Half Yearly** shall be construed accordingly

Information has the meaning given under Section 84 of the FOIA

Initial Contract Period means the period from the Commencement Date to the date of expiry set out in clause A2 (Initial Contract Period), or such earlier date of termination of the Contract in accordance with the Law or the provisions of the Contract

Intellectual Property Rights means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off

Issued Property means all Authority property issued in connection with the Contract

Key Personnel means those persons named in the Specification and/or Tender as being key personnel

KPIs means the key performance indicators listed in the KPI Schedule and a **KPI** means shall mean any one of them

Law means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements or any Regulatory Body of which the Contractor is bound to comply

Loss means any losses, costs, charges, expenses, interest, fees (including legal fees), payments, demands, liabilities, claims, proceedings, actions, penalties, charges, fines,

damages, destruction, adverse judgments, orders or other sanctions and the term **Losses** shall be construed accordingly

Mobilisation Period means a period of three (3) Months from the Commencement Date

Mobilisation Plan means the mobilisation plan contained in Schedule 12 of this Contract

KPI Schedule means those KPIs contained in Schedule 4

Month means calendar month

Monthly Contract Management Meeting means a meeting between representatives the Authority and the Contractor held in accordance with clause F7

National Resource Planning System means the system referred to in Annex 3 of the Specification

Overall KPI Performance Score means the overall KPI score calculated in accordance with the methodology set out in row 15 of the KPI Schedule

Party means a party to the Contract

Pass Through Costs means any travel and subsistence costs and/or expenses reasonably incurred by Experts by Experience in relation to an Event

Performance Points means the performance points allocated to a KPI as set out in Column 5 of the KPI Schedule

Performance Target means the performance target in respect of each KPI or in respect of the Overall KPI Performance Score as set out in Column 4 of the KPI Schedule

Personal Injury includes sickness and death

Pre-Existing Intellectual Property Rights shall mean any Intellectual Property Rights vested in or licensed to the Authority or the Contractor prior to or independently of the performance by the Authority of the Contractor of their obligations under this Contract

Premises means the location(s) where the Services are to be supplied, as set out in the Specification or otherwise instructed by the Authority

Pricing Schedule means Schedule 3 containing details of the Contract Price

Project Specific Intellectual Property Rights means:

- (a) Intellectual Property Rights in items created by the Contractor (or by a third party on behalf of the Contractor) specifically for the purposes of this Contract including, any Deliverables and updates and amendments of these items and/or
- (b) Intellectual Property Rights arising as a result of the performance of the Contractor's obligations under this Contract

Property means the property, other than real property, issued or made available to the Contractor by the Authority in connection with the Contract

Quality Standards means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body, (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with, including without limitation those quality standards as further detailed in the Specification Schedule

Quarter means each three (3) Month period of a Contract Year and the term **Quarterly** shall be construed accordingly

Receipt means the physical or electronic arrival of the invoice at the address of the Authority detailed at clause A5.3 or at any other address given by the Authority to the Contractor for the submission of invoices

Regulatory Bodies means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Authority and **Regulatory Body** shall be construed accordingly

Relevant Convictions means a conviction that is relevant to the nature of the Services or as listed by the Authority and/or relevant to the work of the Authority

Remedial Plan has the meaning given in F7.7

Replacement Contractor means any third party service provider appointed by the Authority to supply any services which are substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the expiry, termination or partial termination of the Contract

Request for Information shall have the meaning set out in FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term **request** shall apply)

Required Action Notice has the meaning given in F7.7

Required Action Notice Level means, in respect of any individual KPI or the Overall KPI Performance Score, the level set out in Column 6 of the KPI Schedule

Retention Amount means 3% of the invoiced amount (excluding Pass Through Costs and any payment of Retention Amounts from preceding months) in respect of the relevant Month

Schedule means a schedule attached to, and forming part of, the Contract

Security Plan means the plan provided by the Contractor in Schedule 6 containing details of the Contractor's security plan

Security Policy means the Authority's security policy annexed to the Security Plan as updated from time to time

Services means the services to be supplied as specified in the Specification and Schedule 1 including any modified or alternative services

Service Transfer Date means the date on which any transfer of the Services (or any part thereof), for whatever reason, from the Contractor or any Sub-Contractor to the Authority or any Replacement Contractor takes effect

Specification means the description of the Services to be supplied under the Contract as set out in the Specification Schedule including, where appropriate, the Key Personnel, the Premises and the Quality Standards

Specification Schedule means Schedule 1 containing details of the Specification

Staff means all persons employed or engaged by the Contractor to perform its obligations under the Contract together with the Contractor's servants, agents, suppliers and Sub-Contractors used in the performance of its obligations under the Contract

Staff Vetting Procedure means the Authority's procedures for the vetting of personnel and as advised to the Contractor by the Authority

Sub-Contractor means any person, firm or company under the Contract to the Contractor (of any tier) to perform work or provide professional services and/or supply goods and includes any other person or persons taken as a partner or director by such person, firm or company during the currency of the Contract and the surviving member or members of any such firm or company

Tender means the document(s) submitted by the Contractor to the Authority in response to the Authority's invitation to suppliers for formal offers to supply it with the Services, as per Schedule 2 containing details of the Contractor's tender response

Tender Information means the Employee Liability Information along with any information as is reasonably requested by the Authority relating to the Staff at the relevant time

Termination Notice means a written notice delivered by the Authority to the Contractor indicating that it intends to terminate this Contract in accordance with its terms

Transferring Employee means those persons agreed by the Parties to be employed by the Contractor (and/or any Sub-Contractor) wholly or mainly in the supply of the Services immediately before the end of the Contract Period

Transitional Protection has the meaning given in Part A, clause 3 of Schedule 3

TUPE means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (246/2006) as amended from time to time or any other legislation enacted to give effect to the Directive into English law

Variation has the meaning given to it in clause F3.1 (Variation)

VAT means value added tax in accordance with the provisions of the Value Added Tax Act 1994

Working Day means a day (other than a Saturday or Sunday) on which banks are open for general business in the City of London

A1.2 The interpretation and construction of this Contract shall be subject to the following provisions:

- (a) words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- (b) words importing the masculine include the feminine and the neuter;
- (c) reference to a clause is a reference to the whole of that clause unless stated otherwise;
- (d) reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- (e) reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- (f) the words **include, includes and including** are to be construed as if they were immediately followed by the words **without limitation**;
- (g) headings are included in the Contract for ease of reference only and shall not affect the interpretation or construction of the Contract; and
- (h) in the event of any inconsistency the order of precedence of documentation shall be as follows (in descending order of precedence):
 - (i) the main body of this Contract;
 - (ii) the Specification Schedule;
 - (iii) any other Schedule to this Contract (excluding the Tender); and
 - (iv) the Tender.

A2 Initial Contract Period

The Contract shall take effect on the Commencement Date and shall expire automatically on the date which is eighteen (18) Months following the Commencement Date unless it is otherwise terminated in accordance with the provisions of the Contract, or otherwise lawfully terminated, or extended under clause F8 (Extension of Initial Contract Period).

A3 Contractor's Status

At all times during the Contract Period the Contractor shall be an independent contractor and nothing in the Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Contract.

A4 Authority's Obligations

Save as otherwise expressly provided, the obligations of the Authority under the Contract are obligations of the Authority in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation upon, or in any other way fetter or constrain the Authority in any other capacity, nor shall the exercise by the Authority of its duties and powers

in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Authority to the Contractor.

A5 Notices

A5.1 Except as otherwise expressly provided within the Contract, no notice or other communication from one Party to the other shall have any validity under the Contract unless made in writing by or on behalf of the Party concerned.

A5.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, first class post, recorded delivery or special delivery), or by facsimile transmission or electronic mail (confirmed in either case by letter). Such letters shall be addressed to the other Party in the manner referred to in clause A5.3. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given 2 Working Days after the day on which the letter was posted, or 4 hours, in the case of electronic mail or facsimile transmission or sooner where the other Party acknowledges receipt of such letters, facsimile transmission or item of electronic mail.

A5.3 For the purposes of clause A5.2, the address of each Party shall be:

(a) For the Authority:

151 Buckingham Palace Road
London
SW1W 9SZ

For the attention of: Chris Day, Director of Engagement (for operational matters)
Tel: 02074489307
Email: Chris.Day@cqc.org.uk

For the attention of: Annette Godwin, Head of Procurement (for commercial matters)
Tel: 07804033225
Email: Annette.Godwin@cqc.org.uk

(b) For the Contractor:

18c Meridian East
Meridian Business Park
Leicester
LE19 1WZ

For the attention of: Beth Carruthers – Chief Executive Remploy
Tel: 07977436385
Email: beth.carruthers@remploy.co.uk

For the attention of: Susan Bramley, Head of Contracts (for contractual matters)
Tel: 07500605416
Email: susan.bramley@remploy.co.uk

A5.4 Either Party may change its address for service by serving a notice in accordance with this clause.

A6 Mistakes in Information

The Contractor shall be responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Contractor in connection with the supply of the

Services and shall pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein.

A7 Conflicts of Interest

A7.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff is placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Authority under the provisions of the Contract. The Contractor will disclose to the Authority full particulars of any such conflict of interest which may arise.

A7.2 The Authority reserves the right to terminate the Contract immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Authority under the provisions of the Contract. The actions of the Authority pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

B Supply of Services

B1 The Services

B1.1 The Contractor shall supply the Services during the Contract Period in accordance with the Authority's requirements as set out in the Specification and the provisions of the Contract in consideration of the payment of the Contract Price. The Authority may inspect and examine the manner in which the Contractor supplies the Services at the Premises during normal business hours on reasonable notice.

B1.2 If the Authority informs the Contractor in writing that the Authority reasonably believes that any part of the Services does not meet the requirements of the Contract or differ in any way from those requirements, and this is other than as a result of a Default by the Authority, the Contractor shall at its own expense re-schedule and carry out the Services in accordance with the requirements of the Contract within such reasonable time as may be specified by the Authority.

B1.3 During the Mobilisation Period the Contractor shall implement the Mobilisation Plan in order to meet the Authority's requirements as set out in the Specification. KPI's shall apply during the Mobilisation Period however no Retention Amount will be applied during the Mobilisation Period or other period as agreed by the Authority and the Contractor.

B1.4 The Parties agree and commit to undertaking a cyclical review of the KPIs contained within Schedule 4 (KPIs). The Parties will jointly review the KPIs as part of the contract management process and refine where appropriate.

B1.5 The Authority shall assist the Contractor to enable remote access to the National Resource Planning System (or any interim system in place from time to time) through the development of an interface with the systems of the Contractor.

B2 Provision and Removal of Equipment

B2.1 The Contractor shall provide all the Equipment necessary for the supply of the Services.

B2.2 Where the Services are supplied from the Premises:

- (a) The Contractor shall not deliver any Equipment nor begin any work on the Premises without obtaining prior Approval.
- (b) All Equipment brought onto the Premises shall be at the Contractor's own risk and the Authority shall have no liability for any loss of or damage to any Equipment unless the Contractor is able to demonstrate that such loss or damage was caused or contributed to by the Authority's Default. The Contractor shall provide for the haulage or carriage thereof to the Premises and the removal of Equipment when no longer required at its sole cost. Unless otherwise agreed, Equipment brought onto the Premises will remain the property of the Contractor.
- (c) The Contractor shall maintain all items of Equipment within the Premises in a safe, serviceable and clean condition.
- (d) The Contractor shall, at the Authority's written request, at its own expense and as soon as reasonably practicable:
 - (i) remove from the Premises any Equipment which in the reasonable opinion of the Authority is either hazardous, noxious or not in accordance with the Contract; and
 - (ii) replace such item with a suitable substitute item of Equipment
- (e) On completion of the Services the Contractor shall remove the Equipment together with any other materials used by the Contractor to supply the Services and shall leave the Premises in a clean, safe and tidy condition. The Contractor is solely responsible for making good any damage to the Premises or any objects contained thereon, other than fair wear and tear, which is caused by the Contractor or any Staff.

B3 Manner of Carrying Out the Services

- B3.1 The Contractor shall at all times comply with the Quality Standards, and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body. To the extent that the standard of Services has not been specified in the Contract, the Contractor shall agree the relevant standard of the Services with the Authority prior to the supply of the Services and, in any event, the Contractor shall perform its obligations under the Contract in accordance with the Law and Good Industry Practice.
- B3.2 The Contractor shall ensure that all Staff supplying the Services shall do so in good faith with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services.

B4 Key Personnel

- B4.1 The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Services to the Authority. The Key Personnel shall be responsible as designated in the Specification Schedule and/or Tender.
- B4.2 The Contractor shall designate a Key Personnel to act on behalf of the Contract as the Contract manager to oversee the provision of the Services and liaise and report to the representatives of the Authority.

- B4.3** The Key Personnel shall not be released from supplying the Services without the agreement of the Authority, except by reason of long-term sickness, maternity leave, paternity leave or termination of employment and other extenuating circumstances.
- B4.4** Any replacements to the Key Personnel shall be subject to the agreement of the Authority. Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
- B4.5** The Authority shall not unreasonably withhold its agreement under clauses B4.3 or B4.4. Such agreement shall be conditional on appropriate arrangements being made by the Contractor to minimise any adverse impact on the Contract which could be caused by a change in Key Personnel.

B5 Contractor's Staff

B5.1 Where the Services are supplied from the Premises:

- (a) The Authority may refuse to admit onto, or withdraw permission to remain on, the Premises:
- (i) any member of the Staff; or
 - (ii) any person employed or engaged by any member of the Staff; or
 - (iii) any Experts by Experience
- whose admission or continued presence would, in the reasonable opinion of the Authority, be undesirable or if not suitably qualified to carry out the Services.
- (b) At the Authority's written request, the Contractor shall provide a list of the names and addresses of all persons who may require admission in connection with the Contract to the Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably request.
- (c) The Contractor's Staff, engaged within the boundaries of the Premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when at or outside the Premises.
- (d) The Contractor shall comply with Staff Vetting Procedures in respect of all persons employed or engaged in the provision of the Services. The Contractor confirms that all persons employed or engaged by the Contractor were vetted and recruited on a basis that is equivalent to and no less strict than the Staff Vetting Procedures.
- (e) The Authority may require the Contractor to ensure that any person employed in the provision of the Services has undertaken a Disclosure and Barring Services check as per the Staff Vetting Procedures. The Contractor shall ensure and shall procure that any Sub-Contractor shall, where any person has disclosed or has been identified from the DBS check, that he/she has a relevant conviction which may be deemed a risk to service user/participant, may not be employed or engaged in the provision or any part of the Service until a full risk assessment contained within Schedule 13 is carried out and signed off by following the guidance of the Disclose and Barring Services.

- (f) If the Contractor fails to comply with clause B5.1(b) within two 2 Months of the date of the request and in the reasonable opinion of the Authority, such failure may be prejudicial to the interests of the Authority, then the Authority may terminate the Contract, 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 Authority.
- (g) The decision of the Authority as to whether any person is to be refused access to the Premises and as to whether the Contractor has failed to comply with clause B5.1(b) shall be final and conclusive.

B5.2 The Contractor shall provide all necessary training on a continuing basis for all its Staff employed or engaged in the provision of the Services in compliance with the Specification, the Security Policy and the Security Plan.

B6 Welfare of Experts by Experience

When providing the Services the Contractor will ensure that all welfare arrangements in relation to the Experts by Experience are properly maintained pursuant to the requirements as set out in the Specification.

B7 Use of the Premises

B7.1 Where the Services are supplied from the Premises:

- (a) The Contractor shall limit access to the land or Premises to such Staff as is necessary to enable it to perform its obligations under the Contract and the Contractor shall co-operate (and ensure that its Staff co-operate) with such other persons working concurrently on such land or Premises as the Authority may reasonably request.
- (b) The Contractor shall (and shall ensure that its Staff shall) observe and comply with such rules and regulations as may be in force at any time for the use of such Premises as determined by the Authority, and the Contractor shall pay for the cost of making good any damage caused by the Contractor or its Staff other than fair wear and tear. For the avoidance of doubt, damage includes damage to the fabric of the buildings, plant, fixed equipment or fittings therein.
- (c) The Parties agree that there is no intention on the part of the Authority to create a tenancy of any nature whatsoever in favour of the Contractor or its Staff and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Contract.

B8 Property

B8.1 Where the Authority issues Property free of charge to the Contractor such Property shall be and remain the property of the Authority and the Contractor irrevocably licences the Authority and its agents to enter upon any premises of the Contractor during normal business hours on reasonable notice to recover any such Property. The Contractor shall not in any circumstances have a lien or any other interest on the Property and the Contractor shall at all times possess the Property as fiduciary agent and bailee of the Authority. The Contractor shall take all reasonable steps to ensure that the title of the Authority to the Property and the exclusion of any such lien or other interest are brought to the notice of all Sub-Contractors

and other appropriate persons and shall, at the Authority's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Authority.

- B8.2 The Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless the Contractor notifies the Authority otherwise within 5 Working Days of receipt.
- B8.3 The Contractor shall maintain the Property in good order and condition (excluding fair wear and tear), and shall use the Property solely in connection with the Contract and for no other purpose without prior Approval.
- B8.4 The Contractor shall ensure the security of all the Property whilst in its possession, either on the Premises or elsewhere during the supply of the Services, in accordance with the Authority's reasonable security requirements as required from time to time.
- B8.5 The Contractor shall be liable for all loss of, or damage to, the Property (excluding fair wear and tear), unless such loss or damage was caused by the Authority's Default. The Contractor shall inform the Authority within 2 Working Days of becoming aware of any defects appearing in, or losses or damage occurring to, the Property.

B9 Cyber Security

- B9.1 The Contractor shall, as an enduring obligation throughout the Contract Period, use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete malicious software and to prevent any Breach of Security.
- B9.2 If a Breach of Security or an attempted Breach of Security is identified, the parties shall cooperate to reduce the effect of the Breach of Security and, particularly if a Breach of Security causes loss of operational efficiency or loss or corruption of Authority Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency and the Contractor shall immediately take all reasonable steps necessary to:
- (a) minimise the extent of actual or potential harm caused by any Breach of Security;
 - (b) remedy such Breach of Security to the extent possible and protect the integrity of the Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
 - (c) prevent a further Breach of Security or attempted Breach of Security in the future exploiting the same root cause failure; and
 - (d) as soon as reasonably practicable provide the Authority with full details of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Authority.
- B9.3 The Contractor shall be liable for, and shall indemnify the Authority against all Losses suffered or incurred by the Authority and/or any third party arising from and/or in connection with any Breach of Security or attempted Breach of Security (to the extent that such Losses were not caused by any act or omission by the Authority).

B10 Offers of Employment

For the duration of the Contract and for a period of 12 months thereafter neither the Authority nor the Contractor shall employ or offer employment to any of the other Party's staff who have

been associated with the procurement and/or the contract management of the Services without that other Party's prior written consent.

C Payment and Contract Price

C1 Contract Price

C1.1 In consideration of the Contractor's performance of its obligations under the Contract, the Authority shall pay the Contract Price in accordance with clause C2 (Payment and VAT) and the Pricing Schedule.

C1.2 The Authority shall, in addition to the Contract Price and following Receipt of a valid VAT invoice, pay the Contractor:

- (a) the Pass Through Costs incurred during the relevant Month; and
- (b) a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Contract.

C1.3 The Contract Price is firm, and is not subject to indexation or escalation during the Contract Period.

C2 Payment and VAT

C2.1 Unless otherwise stated in this Contract payments shall be claimed once a month in arrears. Itemised claims shall set out (without limitation):

- (a) 1/12th of the Fixed Costs in respect of the Fixed Costs relating to the relevant Contract Year as set out in the Pricing Schedule;
- (b) the Actual Variable Costs in respect of the preceding Month; and
- (c) the Pass Through Costs in respect of the preceding Month,

accompanied by all necessary documentation reasonably required by the Authority, shall be submitted to the Authority for scrutiny and approval. Payment shall be made within 30 days of receipt of invoices for work completed to the satisfaction of the Authority, subject to any payment disputes being resolved within an acceptable timescale.

C2.2 Subject to clause B1.3, the Authority shall be entitled to withhold or deduct the Retention Amount for each Month from any payment submitted to the Authority pursuant to clause C2.1 (a) and (b). The Authority shall pay the Retention Amount relating to the preceding Month to the Contractor at the same time as its payment of the next Month's invoice unless the Authority is entitled to withhold or retain the Retention Amount relating to the preceding Month pursuant to clause 4 of Schedule 3, the Pricing Schedule, and clause F7 of the Contract. On expiry or termination of this Contract, any Retention Amount being withheld by the Authority shall be paid to the Contractor except any Retention Amount which the Authority is entitled to retain pursuant to clause 4 of Schedule 3, the Pricing Schedule, and clause F7 of the Contract.

C2.3 Any invoice or other request for payment of moneys due to the Contractor under the Contract shall, if he is a taxable person, be in the same form and contain the same information as if the same were a tax invoice for the purposes of Regulations made under the Finance Act 1972.

- C2.4 Where the Contractor enters into a sub-contract with a Sub-Contractor for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Contractor to the Sub-Contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.
- C2.5 The Contract Price shall be inclusive of VAT and no VAT shall be added to the Contract Price.
- C2.6 The Contractor shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred which is levied, demanded or assessed on the Authority at any time in respect of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under the Contract. Any amounts due under this clause C2.6 shall be paid by the Contractor to the Authority not less than 5 Working Days before the date upon which the tax or other liability is payable by the Authority.
- C2.7 The Contractor shall not suspend the supply of the Services unless the Contractor is entitled to terminate the Contract under clause H2.3 (Termination on Default) for failure to pay undisputed sums of money. Interest shall be payable by the Authority on the late payment of any undisputed sums of money properly invoiced in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- C2.8 The Authority and the Contractor agree that the Cancellations Policy shall apply and the Contract Price shall be adjusted accordingly which shall be reflected in any invoice submitted in accordance with this Agreement.
- C2.9 Invoices for payment must be submitted to:

SBS, T70 Payables F175,
Phoenix House, Topcliffe Lane,
Wakefield,
West Yorkshire
WF3 WE

C3 Recovery of Sums Due

- C3.1 Wherever under the Contract any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Authority in respect of any breach of the Contract), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Contract or under any other agreement or contract with the Authority.
- C3.2 Any overpayment by either Party, whether of the Contract Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment. For the avoidance of doubt the sum of money is not deductible by the Contractor from any sum then due, or which later time may become due to the Authority under the Contract or under any other agreement or contract with the Contractor.
- C3.3 The Contractor shall make all payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Contractor.

C3.4 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

C4 Price on extension of the Initial Contract Period

C4.1 The Contract Price shall apply for the Contract Period. In the event that the Authority agrees to extend the Initial Contract Period pursuant to clause F8 (Extension of Initial Contract Period) the Contract Price shall remain as set out in the Pricing Schedule for the remainder of the Contract Period.

C5 Euro

C5.1 Any requirement of Law to account for the Services in Euro, (or to prepare for such accounting) instead of and/or in addition to sterling, shall be implemented by the Contractor free of charge to the Authority.

C5.2 The Authority shall provide all reasonable assistance to facilitate compliance with clause C5.1 by the Contractor.

C6 Provision of Accounts and Annual Cap

C6.1 The Contractor shall keep and shall procure that its Sub-Contractors keep detailed records and accounts of the Actual Costs and Pass Through Costs incurred in performing the Services on an "open book" basis, i.e. on the basis that the records of costs are maintained in a fully auditable manner and are made available to the Authority whenever reasonably required for purposes of verification in connection with the Services.

C6.2 The Contractor shall provide the Authority on expiry of the first Contract Year (and on the expiry of each subsequent Contract Year) a statement of its margin and its Actual Costs and Pass Through Costs in providing the Services with a breakdown showing how it is made up together with any additional information reasonably requested. Such statement shall also be provided to the Authority within 10 days following expiry or termination of the Contract.

C6.3 In the event that the Fixed Costs in providing the Services (when comparing the Fixed Costs set out in Table 1 of Schedule 3 (Pricing Schedule) against the Actual Costs incurred (excluding any Variable Costs) during a Contract Year are less than the Fixed Costs as set out in Table 1 of Schedule 3 (payable during that Contract Year) then the Authority shall be entitled to retain or deduct 50% of this amount from the next invoice to be paid and the Contractor shall be entitled to retain the remaining 50%.

D Statutory Obligations and Regulations

D1 Anti-Bribery and Anti-Corruption

D1.1 The Contractor shall not offer or give, or agree to give, to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other contract with the Authority or any other public body, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any such contract.

D1.2 The Contractor warrants that it has not paid commission or agreed to pay commission to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body in connection with the Contract.

D1.3 If the Contractor, its Staff or anyone acting on the Contractor's behalf, fails to comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 or engages in conduct prohibited by clauses D1.1 or D1.2, the Authority may:

- (a) terminate the Contract and recover from the Contractor the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Services and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period; or
- (b) recover in full from the Contractor any other loss sustained by the Authority in consequence of any breach of those clauses.

D1.4 In any dispute, difference or question arising in respect of this clause D1

- (a) the interpretation (except so far as the same may relate to the amount recoverable from the Contractor under clause D1.3 in respect of any loss resulting from such termination of the Contract); or
- (b) the right of the Authority to terminate the Contract; or
- (c) the amount of value of any such gift, consideration or commission; the decision of the Authority shall be final and conclusive.

D2 Prevention of Fraud

D2.1 The Contractor shall take all reasonable steps, in accordance with Good Industry Practice, to prevent Fraud by Staff and the Contractor (including its shareholders, members, directors) in connection with the receipt of monies from the Authority.

D2.2 The Contractor shall notify the Authority immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.

D2.3 If the Contractor or its Staff commits Fraud in relation to this or any other contract with the Crown (including the Authority) the Authority may:

- (a) terminate the Contract and recover from the Contractor the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Services and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period; or
- (b) recover in full from the Contractor any other loss sustained by the Authority in consequence of any breach of this clause.

D3 Staff

D3.1 The Contractor shall ensure that:

- (a) it does not, whether as employer or as provider of the Services, engage in any act or omission that would contravene the Equality Legislation; and
- (b) it complies with all its obligations as an employer or provider of the Services as set out in the Equality Legislation and take reasonable endeavours to ensure its Staff do not unlawfully discriminate within the meaning of the Equality Legislation or the Human Rights Act 1998 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

D3.2 The Contractor shall take all reasonable steps to secure the observance of clause D3.1 by all Staff and meet reasonable requests by the Authority for information evidencing the Contractors' compliance with the provisions of Clause D3.1.

D3.3 The Parties shall comply with the provisions of Schedule 10 (TUPE).

D4 The Contracts (Rights of Third Parties) Act 1999

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

D5 Environmental Requirements

The Contractor shall, when working on the Premises, perform its obligations under the Contract in accordance with the Authority's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

D6 Health and Safety

D6.1 The Contractor shall promptly notify the Authority of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract. The Authority shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Premises and which may affect the Contractor in the performance of its obligations under the Contract.

D6.2 While on the Premises, the Contractor shall comply with any health and safety measures implemented by the Authority in respect of Staff and other persons working there.

D6.3 The Contractor shall notify the Authority immediately in the event of any incident occurring in the performance of its obligations under the Contract on the Premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

D6.4 The Contractor shall 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 Staff and other persons working on the Premises in the performance of its obligations under the Contract.

D6.5 The Contractor shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Authority on request.

E Protection of Information

E1 Data Protection Act

E1.1 For the purposes of this clause E1, the terms **Data Controller, Data Processor, Data Subject, Personal Data, Process and Processing** shall have the meaning prescribed under the DPA.

E1.2 The Contractor shall (and shall ensure that all of its Staff) comply with any notification requirements under the DPA and both Parties will duly observe all their obligations under the DPA which arise in connection with the Contract.

E1.3 Notwithstanding the general obligation in clause E1.2, where the Contractor is processing Personal Data (as defined by the DPA) as a Data Processor for the Authority the Contractor shall:

- (a) Process the Personal Data only in accordance with instructions from the Authority (which may be specific instructions or instructions of a general nature) as set out in this Contract or as otherwise notified by the Contracting Authority;
- (b) comply with all applicable laws;
- (c) Process the Personal Data only to the extent; and in such manner as is necessary for the provision of the Contractor's obligations under this Contract or as is required by Law or any Regulatory Body;
- (d) 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;
- (e) take reasonable steps to ensure the reliability of its staff and agents who may have access to the Personal Data;
- (f) obtain prior written consent from the Contracting Authority in order to transfer the Personal Data to any Sub-Contractor for the provision of the Services;
- (g) not cause or permit the Personal Data to be transferred outside of the European Economic Area without the prior consent of the Authority;
- (h) ensure that all staff and agents 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 E1;
- (i) ensure that none of the staff and agents publish disclose or divulge any of the Personal Data to any third parties unless directed in writing to do so by the Authority

not disclose Personal Data to any third parties in any circumstances other than with the written consent of the Authority or in compliance with a legal obligation imposed upon the Authority; and

E1.4 notify the Authority (within five Working Days) if it receives:

- (a) a request from a Data Subject to have access to that person's Personal Data; or
 - (b) a complaint or request relating to the Authority's obligations under the DPA;
- E1.5 The Contractor shall fully indemnify the Authority against the costs of dealing with any claims made in respect of any information subject to the Data Protection Act 1998, which claims would not have arisen but for some act, omission or negligence on the part of the Contractor, its Sub-contractors, agents or staff.
- E1.6 The provision of this clause E1 shall apply during the Contract Period and indefinitely after its expiry.
- E2 Official Secrets Acts 1911 to 1989, S182 of the Finance Act 1989**
- E2.1 The Contractor shall comply with, and shall ensure that its Staff comply with, the provisions of:
- (a) the Official Secrets Acts 1911 to 1989; and
 - (b) Section 182 of the Finance Act 1989.
- E2.2 The Contractor shall not remove from the Authority's premises any classified or privacy marked material without the Authority's express agreement. The Contractor must keep any such material so removed under conditions approved by the Authority for the housing of such classified or privacy marked material.
- E2.3 In the event that the Contractor or its Staff fail to comply with this clause, the Authority reserves the right to terminate the Contract by giving notice in writing to the Contractor.
- E3 Confidential Information**
- E3.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Authority shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- E3.2 Notwithstanding any other term of this Contract, the Contractor hereby gives his consent for the Authority to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.
- E3.3 The Authority may consult with the Contractor to inform its decision regarding any redactions but the Authority shall have the final decision in its absolute discretion.
- E3.4 The Contractor shall assist and cooperate with the Authority to enable the Authority to publish this Contract.
- E3.5 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each Party shall:
- (a) treat the other party's Confidential Information as confidential and safeguard it accordingly; and
 - (b) not disclose the other party's Confidential Information to any other person without the owner's prior written consent.

E3.6 Clause E3.5 shall not apply to the extent that:

- (a) such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to clause E4 (Freedom of Information);
- (b) such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
- (c) such information was obtained from a third party without obligation of confidentiality;
- (d) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
- (e) it is independently developed without access to the other party's Confidential Information.

E3.7 The Contractor may only disclose the Authority's Confidential Information to the Staff who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.

E3.8 The Contractor shall not, and shall procure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of this Contract.

E3.9 At the written request of the Authority, the Contractor shall procure that those members of the Staff identified in the Authority's notice signs a confidentiality undertaking prior to commencing any work in accordance with this Contract.

E3.10 Nothing in this Contract shall prevent the Authority from disclosing the Contractor's Confidential Information:

- (a) to any Crown Body or any other Contracting Authority. All Crown Bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the 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 Authority;
- (b) to any consultant, contractor or other person engaged by the Authority or any person conducting an Office of Government Commerce gateway review;
- (c) for the purpose of the examination and certification of the Authority's accounts; or
- (d) for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources.

E3.11 The Authority shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-Contractor to whom the Contractor's Confidential Information is disclosed pursuant to clause E3.7 is made aware of the Authority's obligations of confidentiality.

E3.12 Nothing in this clause E3 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.

E4 Freedom of Information

E4.1 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Authority to enable the Authority to comply with its Information disclosure obligations.

E4.2 The Contractor shall ensure that it has a system in place for dealing with any Requests for Information and the Contractor shall and shall procure that any Sub-Contractors shall transfer to the Authority 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 and the Contractor shall and shall procure the any Sub-Contractors shall;

(a) provide the Authority with a copy of all Information in its possession, or power in the form that the Authority requires within five Working Days (or such other period as the Authority may specify) of the Authority's request; and

(b) provide all necessary assistance as reasonably requested by the Authority to enable the Authority 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.

E4.3 The Authority shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.

E4.4 In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Authority.

E4.5 The Contractor acknowledges that (notwithstanding the provisions of clause E4) the Authority may, acting in accordance with the Secretary of State for Constitutional Affairs Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 (Code), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Services in certain circumstances:

(a) without consulting the Contractor; or

(b) following consultation with the Contractor and having taken their views into account;

provided always that where E4.5(a) applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.

E4.6 The Contractor shall ensure that all Information is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.

E4.7 The Contractor acknowledges that the Commercially Sensitive Information listed in the Commercially Sensitive Information Schedule is of indicative value only and that the Authority may be obliged to disclose it in accordance with this clause E4.

E5 Publicity, Media and Official Enquiries

E5.1 The Contractor shall not make any press announcement or publicise the Contract or any part thereof in any way, except with the written consent of the Authority.

E5.2 The Contractor shall take reasonable steps to ensure that his servants, employees, agents, Sub-Contractors, suppliers, professional advisors and consultants comply with clause E5.1.

E6 Security

E6.1 The Authority shall be responsible for maintaining the security of the Premises in accordance with its standard security requirements. The Contractor shall comply with all security requirements of the Authority while on the Premises, and shall ensure that all Staff comply with such requirements.

E6.2 The Contractor shall ensure that the Security Plan produced by the Contractor fully complies with the Security Policy.

E6.3 The Contractor shall comply, and shall procure the compliance of its Staff, with the Security Plan and the Security Policy.

E6.4 The Authority shall notify the Contractor of any changes or proposed changes to the Security Policy. Any changes shall be agreed in accordance with the procedure in clause F3.

E6.5 Until and/or unless a change to the Contract Price is agreed by the Authority the Contractor shall continue to perform the Services in accordance with its existing obligations.

E7 Intellectual Property Rights

E7.1 Save as granted elsewhere under this Contract, neither the Authority nor the Contractor shall acquire any right, title or interest in the other's Pre-Existing Intellectual Property Rights.

E7.2 All Intellectual Property Rights in any guidance, specifications instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or any other materials furnished to or made available to the Contractor by or on behalf of the Authority (**Authority Background Rights**) shall remain the property of the Authority.

E7.3 The Contractor shall not, and shall procure that the Staff shall not, (except when necessary for the performance of the Contract) without prior Approval, use or disclose any Authority Background Rights or Project Specific Intellectual Property Rights to any third party.

E7.4 All title to and all rights and interest in the Project Specific Intellectual Property Rights shall vest in the Authority. The Contractor hereby assigns to the Authority with full title guarantee, title to and all rights and interest in the Project Specific Intellectual Property Rights and/or shall procure that the first owner of the Project Specific Intellectual Property Rights also does so. The assignment shall either take effect on the date of the Contract or as a present assignment of future rights that will take effect immediately on the coming into existence of the relevant Project Specific Intellectual Property Rights, as appropriate.

E7.5 The Contractor shall waive or procure a waiver of any moral rights in any copyright works assigned to the Authority under this Contract.

E7.6 If requested to do so by the Authority, the Contractor shall without charge to the Authority execute all documents and do all such further acts as the Authority may require to perfect the

assignment under clause E7.4 or shall procure that the owner of the Project Specific Intellectual Property Rights does so on the same basis.

- E7.7 The Authority hereby grants to the Contractor a non-exclusive, revocable, non-assignable licence to use the Authority Background Rights and the Project Specific Intellectual Property Rights during the Contract Period for the sole purpose of enabling the Contractor to provide the Services.
- E7.8 To the extent only this is necessary to enable the Authority to obtain the full benefits of ownership of the Project Specific Intellectual Property Rights, the Contractor hereby grants to the Authority and shall procure that any relevant third party licensor shall grant to the Authority a perpetual, irrevocable, non-exclusive, assignable, royalty-free and global licence to use, sub-license and/or commercially exploit any Contract Pre-Existing Intellectual Property Rights or Intellectual Property Rights owned by a third party that are embedded in or which are an integral part of the Project Specific Intellectual Property Rights.
- E7.9 The Contractor shall not infringe any Intellectual Property Rights of any third party in supplying the Services and the Contractor shall, during and after the Contract Period, indemnify and keep indemnified and hold the Authority and the Crown harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority or the Crown may suffer or incur as a result of the performance by the Contractor of the Services and/or the possession of use by the Authority of the Deliverables except where any such claim arises from:
- (a) items or materials based upon designs supplied by the Authority; or
 - (b) the use of data supplied by the Authority which is not required to be verified by the Contractor under any provision of the Contract.
- E7.10 The Authority shall notify the Contractor in writing of any claim or demand brought against the Authority for infringement or alleged infringement of any third party Intellectual Property Rights. The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim for breach of Intellectual Property Rights provided always that the Contractor:
- (a) shall consult the Authority on all substantive issues which arise during the conduct of such litigation and negotiations;
 - (b) shall take due and proper account of the interests of the Authority; and
 - (c) shall not settle or compromise any claim without the Authority's prior written consent (not to be unreasonably withheld or delayed).
- E7.11 The Authority shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the Authority or the Contractor for infringement or alleged infringement of any Intellectual Property Right in connection with the performance of the Contractor's obligations under the Contract and the Contractor shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements incurred in doing so). Such costs and expenses shall not be repaid where they are incurred in relation to a claim, demand or action which relates to the matters in clause E7.9(a) or E7.9(b).
- E7.12 The Authority shall not make any admissions which may be prejudicial to the defence or settlement of any claim, demand or action for infringement or alleged infringement of any

Intellectual Property Right by the Authority or the Contractor in connection with the performance of its obligations under the Contract.

E7.13 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Right is made in connection with the Contract or in the reasonable opinion of the Contractor is likely to be made, the Contractor shall notify the Authority and, at its own expense and subject to the consent of the Authority (not to be unreasonably withheld or delayed), use its best endeavours to:

- (a) modify the relevant part of the Services or the Deliverables without reducing the performance or functionality of the same, or substitute alternative Services or Deliverables of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that the provisions herein shall apply with any necessary changes to such modified Services or Deliverables or to the substitute Services or Deliverables; or
- (b) procure a licence to use and supply the Services or the Deliverables, which are the subject of the alleged infringement, on terms which are acceptable to the Authority, and in the event that the Contractor is unable to comply with clauses E7.13(a) or E7.13(b) within 20 Working Days of receipt of the Contractor's notification the Authority may terminate the Contract with immediate effect by notice in writing.

E8 Use of Documents and Information

E8.1 Except with the consent in writing of the Authority, the Contractor shall not disclose the Contract or any provision thereof to any person other than a person employed by the Contractor in the carrying out of the Contract or any other person concerned with the same. Such disclosure shall be made in confidence and extend so far only as may be necessary for the purposes of the Contract.

E8.2 Except with the consent in writing of the Authority the Contractor shall not make use of the Contract or information issued or furnished by or on behalf of the Authority otherwise than for the purpose of the Contract.

E8.3 Any specifications, plans, drawings, or any other documents issued by or on behalf of the Authority for the purposes of the Contract remain the property of the Authority and must be returned on completion of the Contract.

E8.4 The Contractor shall not delete or remove any proprietary notices contained within or relating to the Authority Data.

E8.5 The Contractor shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Contractor of its obligations under this Contract or as otherwise expressly authorised in writing by the Authority.

E8.6 To the extent that Authority Data is held and/or processed by the Contractor the Contractor shall supply that Authority Data to the Authority as requested by the Authority in the format specified in the Specification Schedule and/or the Exit Management Strategy.

E8.7 The Contractor shall take responsibility for preserving the integrity of Authority Data and preventing the corruption or loss of Authority Data.

E8.8 The Contractor shall perform secure back-ups of all Authority 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 Contractor shall ensure that such back-ups are available to the Authority at all times upon request and are delivered to the Authority at no less than three monthly intervals.

E8.9 The contractor shall ensure that any system on which the Contractor holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy.

E8.10 If the Authority Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Authority may:

(a) require the Contractor (at the Contractor's expense) to restore or procure the restoration of Authority Data to the extent and in accordance with the requirements specified in the Business Continuity and Disaster Recovery Plan and the Contractor shall do so as soon as practicable but not later than ten calendar days; and/or

(b) itself restore or procure the restoration of Authority Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in the Business Continuity and Disaster Recovery Plan.

E8.11 If at any time the Contractor suspects or has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.

E9 Audit

The Contractor shall keep and maintain until 6 years after the end of the Contract Period, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services supplied under it, all expenditure reimbursed by the Authority, and all payments made by the Authority. The Contractor shall on request afford the Authority or the Authority's representatives such access to those records as may be requested by the Authority in connection with the Contract.

F Control of the Contract

F1 Transfer and Sub-Contracting

F1.1 Except where F1.4 and F1.5 applies, the Contractor shall not assign, sub-contract or in any other way dispose of the Contract or any part of it without prior Approval. Sub-contracting any part of the Contract shall not relieve the Contractor of any of its obligations or duties under the Contract.

F1.2 The Contractor shall be responsible for the acts and omissions of its Sub-Contractors as though they are its own and the Contractor shall make all sub-contractors aware of the Contractor's obligations under this Contract.

F1.3 Where the Authority has consented to the placing of sub-contracts, copies of each sub-contract shall, at the request of the Authority, be sent by the Contractor to the Authority as soon as reasonably practicable. Any sub-contract shall include (as a minimum) the key terms contained in Schedule 11.

F1.4 Notwithstanding clause F1.1, the Contractor may assign to a third party (**Assignee**) the right to receive payment of the Contract Price or any part thereof due to the Contractor under this

Contract (including any interest which the Authority incurs under clause C2.7). Any assignment under this clause F1.4 shall be subject to:

- (a) reduction of any sums in respect of which the Authority exercises its right of recovery under clause C3 (Recovery of Sums Due);
- (b) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
- (c) the Authority receiving notification under both clauses F1.5 and F1.6.

F1.5 In the event that the Contractor assigns the right to receive the Contract Price under clause F1.4, the Contractor or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

F1.6 The Contractor shall ensure that the Assignee notifies the Authority of the Assignee's contact information and bank account details to which the Authority shall make payment at least 5 Working Days prior to submission of the relevant invoice.

F1.7 The provisions of clause C2 (Payment and VAT) shall continue to apply in all other respects after the assignment and shall not be amended without the Approval of the Authority.

F1.8 Subject to clause F1.10, the Authority may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

- (a) any Contracting Authority; or
- (b) any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
- (c) any private sector body which substantially performs the functions of the Authority,

provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor's obligations under the Contract.

F1.9 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to clause F1.8, affect the validity of the Contract. In such circumstances, the Contract shall bind and inure to the benefit of any successor body to the Authority.

F1.10 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause F1.6 to a body which is not a Contracting Authority or if there is a change in the legal status of the Authority such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the **Transferee**):

- (a) the rights of termination of the Authority in clauses H1 (Termination on insolvency and change of control) and H2 (Termination on Default);
- (b) shall be available to the Contractor in the event of respectively, the bankruptcy or insolvency, or Default of the Transferee; and
- (c) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior consent in writing of the Contractor.

- F1.11 The Authority may disclose to any Transferee any Confidential Information of the Contractor which relates to the performance of the Contractor's obligations under the Contract. In such circumstances the Authority shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Contractor's obligations under the Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.
- F1.12 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other party the full benefit of the provisions of the Contract.

F2 Waiver

- F2.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.
- F2.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause A5 (Notices).
- F2.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

F3 Variation

- F3.1 Subject to the provisions of this clause F3, the Authority may request a variation to the Specification provided that such variation does not amount to a material change to the Specification. Such a change is hereinafter called a "Variation".
- F3.2 The Authority may request a Variation by notifying the Contractor in writing of the "Variation" and giving the Contractor sufficient information to assess the extent of the Variation and consider whether any change to the Contract Price is required in order to implement the Variation. The Authority shall specify a time limit within which the Contractor shall respond to the request for a Variation. Such time limits shall be reasonable having regard to the nature of the Variation. If the Contractor accepts the Variation it shall confirm the same in writing.
- F3.3 In the event that the Contractor is unable to accept the Variation to the Specification or where the Parties are unable to agree a change to the Contract Price, the Authority may;
- (a) allow the Contractor to fulfil its obligations under the Contract without the variation to the Specification;
 - (b) terminate the Contract with immediate effect, except where the Contractor has already delivered all or part of the Services or where the Contractor can show evidence of substantial work being carried out to fulfil the requirements of the Specification; and in such case the Parties shall attempt to agree upon a resolution to the matter.
- F3.4 Where a resolution cannot be reached and prior to the Authority exercising its right of termination under F.3.3(b), the matter shall be dealt with under the Dispute Resolution procedure detailed at clause I2.

F3.5 In addition to the above clauses the Authority and the Contractor may agree to a Variation subject to the provisions of clause 6 of Part A of Schedule 3 (Pricing Schedule) or subject to the provisions of clause B1.4 of this Contract.

F4 Severability

If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Contract shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

F5 Step-in right in the event of inadequate performance

F5.1 Where a complaint is received about the standard of Services or about the manner in which any Services have been supplied or work has been performed or about the materials or procedures used or about any other matter connected with the performance of the Contractor's obligations under the Contract, then the Authority shall notify the Contractor, and where considered appropriate by the Authority, the Authority shall investigate the complaint. The Authority may, in its sole discretion, uphold the complaint and take further action as the Authority considers appropriate up to and including termination in accordance with clause H2 (Termination on Default) of the Contract.

F5.2 In the event that the Authority is of the reasonable opinion that there has been a material breach of the Contract by the Contractor (including without limitation where there has been an abandonment or failure by the Contractor to provide the Services or a failure to implement a Remedial Plan), then the Authority may, without prejudice to its rights under clause H2 (Termination on Default), do any of the following:

(a) without terminating the Contract, itself supply or procure the supply of all or part of the Services until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the Authority that the Contractor will once more be able to supply all or such part of the Services in accordance with the Contract; or

(b) terminate, in accordance with clause H2 (Termination on Default), the Contract.

F5.3 When the Authority exercises any of its rights under clause F5.2, the Contractor shall give reasonable assistance to the Authority.

F5.4 Without prejudice to its right under clause C3 (Recovery of Sums Due), the Authority may charge the Contractor for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Authority or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Contractor for such part of the Services and provided that the Authority uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Services.

F5.5 If:

(a) the Contractor fails to supply any of the Services in accordance with the provisions of the Contract and such failure is capable of remedy; and/or

(b) a Corrective Action Notice is served in accordance with clause F7.5,

then the Authority shall instruct the Contractor to remedy the failure and the Contractor shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within five (5) Working Days or such other period of time as the Authority may direct.

F5.6 In the event that:

- (a) the Contractor fails to comply with clause F5.5 above and the failure is materially adverse to the interests of the Authority or prevents the Authority from discharging a statutory duty; or
- (b) the Contractor persistently fails to comply with clause F5.5 above,

the Authority may terminate the Contract with immediate effect by notice in writing.

F6 Remedies Cumulative

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

F7 Monitoring of Contract Performance

F7.1 The Contractor shall comply with the monitoring arrangements set out in the KPI Schedule and the Specification including, but not limited to:

- (c) reporting performance of the Services against the KPIs;
- (d) providing all management and reporting information listed in the Specification at such intervals as specified; and
- (e) providing such other performance data and information as the Contractor may be required to produce by the Authority under the Specification or otherwise under the Contract from time to time.

F7.2 The Contractor shall measure its performance against the KPIs, and within 7 days of submitting of its claim for payment each Month, the Contractor shall provide the Authority with a performance report setting out the Contractor's performance against all KPIs and the Overall KPI Performance Score in respect of the immediately preceding Month. Where KPI's are only measured Quarterly or Half Yearly they shall be reported in the Month immediately following the relevant Quarterly or Half Yearly performance report date.

F7.3 The Authority may verify the information provided by the Contractor pursuant to clause F7.2. In the event of any discrepancy between the information provided by the Contractor pursuant to clause F7.2. and information held by the Authority, the information held by the Authority shall take precedence provided that either party shall be entitled to refer a decision under this clause F7 for dispute resolution in accordance with clause I2 (Dispute Resolution).

F7.4 Representatives of the Authority and the Contractor shall attend the Monthly Contract Management Meeting within 14 days of the end of the preceding Month during the Contract Period to discuss and review the Contractor's performance against the KPIs and the Overall KPI Performance Score within the preceding Month.

F7.5 In the event that the Contractor is within the Corrective Action Notice Level in respect of the Overall KPI Performance Score or in respect of any individual KPI, the Authority may serve

notice on the Contractor (a **Corrective Action Notice**), and the terms of clause F5.5(b) shall apply.

F7.6 In the event that the Contractor:

- (a) is within the **Corrective Action Notice Level** in respect of the **Overall KPI Performance Score**; or
- (b) has failed to achieve 90% of the **Comprehensive Inspection Events** in the preceding **Month**; or
- (c) is within the **Corrective Action Notice Level** in relation to failing to pay its **Sub-Contractors** or the **Experts by Experience** within a specified period not exceeding 30 days from the receipt of a valid invoice; or
- (d) is within the **Required Action Notice Level**:
 - (i) in respect of the **Overall KPI Performance Score** in any three (3) consecutive **Months**; or
 - (ii) in respect of any individual KPI with a **Performance Points** allocation of 2 or above (as set out in column 5 of the **KPI Schedule**) within any three (3) consecutive performance reports submitted for that KPI,

then the Authority shall be entitled to retain, and shall have no obligation to pay the Contractor at any time, the **Retention Amount** relating to the preceding **Month**.

F7.7 In the event that in respect of any KPI, the performance against such KPI is equal or lower than the **Required Action Notice Level** for that KPI in any given **Month**, the Authority may serve a notice (**Required Action Notice**) on the Contractor requiring the Contractor to prepare and submit to the Authority a draft plan setting out proposed actions for remedying the poor performance of the **Services** or breach and ensuring that such poor performance or breach does not occur again (a **Remedial Plan**) within ten **Working Days** of receipt of the **Corrective Action Notice**

F7.8 The Authority shall within five **Working Days** of receipt of the draft **Remedial Plan** either:

- (a) agree the draft **Remedial Plan**; or
- (b) reject the draft **Remedial Plan** by giving written notice to the Contractor together with reasons for such rejection;

F7.9 Where the Authority rejects the draft **Remedial Plan**, the Contractor shall:

- (a) use reasonable endeavours to accommodate the matters raised by the Authority by making amendments to the draft **Remedial Plan**; and
- (b) within five (5) **Working Days** of such notice of rejection, submit a revised draft **Remedial Plan** to the Authority.

F7.10 If the Authority still does not agree the revised **Remedial Plan**, as soon as practicable after delivery of the revised **Remedial Plan**, the parties shall meet to discuss and agree the revised draft **Remedial Plan** provided that either party may refer the matter to dispute resolution.

F7.11 Where the parties agree the Remedial Plan, or it is determined in accordance with clause I2 (Dispute Resolution), the Contractor shall, at its own cost, implement the Remedial Plan in accordance with its terms. Where the Contractor fails to implement the Remedial Plan this shall be deemed to be a Default and the provisions of clause H2 shall apply.

F8 Extension of Initial Contract Period

The Authority may, by giving written notice to the Contractor not less than the three (3) Months prior to the last day of the Initial Contract Period, extend the Contract for further periods of up to a further eighteen (18) Months. Any such period shall not exceed a maximum extension of eighteen (18) Months. The provisions of the Contract will apply throughout any such extended period.

F9 Entire Agreement

F9.1 This Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause shall not exclude liability in respect of any Fraud or fraudulent misrepresentation.

F9.2 In the event of, and only to the extent of, any conflict between the clauses of the Contract, any document referred to in those clauses and the Schedules, the conflict shall be resolved in accordance with the following order of precedence:

- (a) the clauses of the Contract;
- (b) the Schedules; and
- (c) any other document referred to in the clauses of the Contract.

F10 Counterparts

This Contract may be executed in counterparts, each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

G Liabilities

G1 Liability, Indemnity and Insurance

G1.1 Neither Party excludes or limits liability to the other Party for:

- (a) death or personal injury caused by its negligence; or
- (b) Fraud; or
- (c) fraudulent misrepresentation; or
- (d) any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982.

G1.2 The Contractor shall be liable to the Authority for, and shall indemnify and keep the Authority indemnified against any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings in respect of:

- (a) any injury or allegation of injury to any person, including injury resulting in death;
- (b) any loss of or damage to property (whether real or personal);
- (c) any breach of clause E7 (Intellectual Property Rights);
- (d) any claims, demands or proceedings brought against the Authority by any third party (including without limitation any defamation claims);
- (e) any failure by the Contractor to commence the delivery of the Services,

that arise directly or indirectly as result of any act or omission (including negligence) of the Contractor or its subcontractors or breach of contract in connection with the performance or non-performance of this Contract including the provision of the Services, except to the extent that such loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings have been caused by any act or omission by, or on behalf of, or in accordance with the instructions of, the Authority.

G1.3 Liability under clauses E1.5, G1.2(a) and G1.2(c) shall be unlimited. Liability under clauses G1.2(b), G1.2(d), G1.2(e) shall be subject to the limitation of liability set out in clause G1.4.

G1.4 Subject to clauses G1.1, G1.2 and G1.3 the total liability of the Contractor under or in connection with this Contract whether arising in contract, tort, negligence, breach of statutory duty or otherwise shall be limited in aggregate to the greater of: (a) five million GBP (£5,000,000); or (b) one hundred and twenty five percent (125%) of the total Contract Price paid or payable by the Authority to the Contractor for the Services.

G1.5 There shall be no right to claim losses, damages and/or other costs and expenses under or in connection with this Contract whether arising in contract (to include, without limitation, under any relevant indemnity), tort, negligence, breach of statutory duty or otherwise to the extent that any losses, damages and/or other costs and expenses claimed are in respect of loss of production, loss of business opportunity or are in respect of indirect loss of any nature suffered or alleged. For the avoidance of doubt, without limitation, the Parties agree that for the purposes of this Contract the following costs, expenses and/or loss of income shall be direct recoverable losses (to include under any relevant indemnity) provided such costs, expenses and/or loss of income are properly evidenced by the claiming Party:

- (a) additional costs incurred purchasing replacement or alternative services of the Services;
- (b) additional operational, administrative costs and/or expenses or wasted expenditure

in each case to the extent to which such costs, expenses and/or loss of income arise or result from the other Party's breach of contract, negligent act or omission, breach of statutory duty, and/or other liability under or in connection with this Contract.

G1.6 Each Party shall at all times take all reasonable steps to minimise and mitigate any loss for which that Party is entitled to bring a claim against the other pursuant to this Contract.

G1.7 The Contractor shall put in place and/or maintain in force at its own cost with a reputable commercial insurer, insurance arrangements in accordance with Good Industry Practice in respect of:

- (a) employer's liability insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor;

- (b) public liability with the minimum cover per claim of five million pounds (£5,000,000); and
- (c) professional indemnity with the minimum cover per claim of five million pounds (£5,000,000),

or any sum as required by Law unless otherwise agreed with the Authority in writing. Such insurance shall be maintained for the duration of the Contract Period and for a minimum of 6 (six) years following the expiration or earlier termination of the Contract.

- G1.8 The Contractor shall give the Authority, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- G1.9 If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required by the provisions of the Contract the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.
- G1.10 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract. It shall be the responsibility of the Contractor to determine the amount of insurance cover that will be adequate to enable the Contractor to satisfy any liability referred to in clause G1.2.

G2 Warranties and Representations

The Contractor warrants and represents that:

- (a) it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Contract and that the Contract is executed by a duly authorised representative of the Contractor;
- (b) in entering the Contract it has not committed any Fraud;
- (c) as at the Commencement Date, all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract;
- (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
- (e) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- (f) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue;
- (g) it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;

- (h) in the three 3 years prior to the date of the Contract:
 - (i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - (ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - (iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract.
- (i) (if an individual) he is regarded by HM Revenue & Customs as self-employed and accordingly shall indemnify the Authority against tax, national insurance contributions or similar impost for which the Authority may be liable in respect of the Contractor by reason of this Contract.

G3 Guarantee

Within 10 Working Days of receipt of a written request from the Authority, the Contractor shall provide to the Authority a bond or guarantee in terms of the draft contained in Schedule 9 (or such other terms as the Authority may have approved) executed as a deed and delivered by a parent company or financial institute approved by the Authority.

H Default, Disruption and Termination

H1 Termination on insolvency and change of control

H1.1 The Authority may terminate the Contract with immediate effect by serving a Termination Notice on the Contractor where the Contractor is a company and in respect of the Contractor:

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
- (b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
- (c) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to Section 98 of the Insolvency Act 1986; or
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
- (e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
- (f) it is or becomes insolvent within the meaning of Section 123 of the Insolvency Act 1986; or

- (g) being a "small company" within the meaning of Section 382 of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- (h) any event similar to those listed in H1.1(a) - H1.1(g) occurs under the law of any other jurisdiction.

H1.2 The Authority may terminate the Contract with immediate effect by serving a Termination Notice on the Contractor where the Contractor is an individual and:

- (a) an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Contractor's creditors; or
- (b) a petition is presented and not dismissed within 14 days or order made for the Contractor's bankruptcy; or
- (c) a receiver, or similar officer is appointed over the whole or any part of the Contractor's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets; or
- (d) the Contractor is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of Section 268 of the Insolvency Act 1986; or
- (e) a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Contractor's assets and such attachment or process is not discharged within 14 days; or
- (f) he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005; or
- (g) he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business.

H1.3 The Authority may terminate the Contract with immediate effect by notice in writing where the Contractor is a partnership and:

- (a) a proposal is made for voluntary arrangement within Article 4 of the Insolvent Partnership Order 1994 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors; or
- (b) it is for any reason dissolved; or
- (c) a petition is presented for its winding up or for the making of any administration order, or an application is made for the appointment of a provisional liquidator; or
- (d) a receiver, or similar officer is appointed over the whole or any part of its assets; or
- (e) the partnership is deemed unable to pay its debts within the meaning of Section 222 or 223 of the Insolvency Act 1986 as applied and modified by the Insolvent Partnerships Order 1994; or
- (f) any of the following occurs in relation to any of its partners:

- (i) a petition is presented for his bankruptcy; or
- (ii) a receiver, or similar officer is appointed over the whole or any part of his assets.

H1.4

- (a) The Authority may terminate the Contract with immediate effect by serving a Termination Notice on the Contractor where the Contractor is a limited liability partnership and:
 - (i) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors; or
 - (ii) it is for any reason dissolved; or
 - (iii) an application is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given with Part II of the Insolvency Act 1986; or
 - (iv) any step is taken with a view to it being determined that it be wound up (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation) within Part IV of the Insolvency Act 1986; or
 - (v) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator within Part IV of the Insolvency Act 1986; or
 - (vi) a receiver or similar officer is appointed over the whole of any part of its assets; or
 - (vii) it is or becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or
 - (viii) a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986.
- (b) References to the Insolvency Act 1986 in clause H1.4(a) shall be construed as being references to that Act as applied under the Limited Liability Partnerships Act 2000 subordinate legislation.

H1.5 The Contractor shall notify the Authority immediately if the Contractor undergoes a change of control within the meaning of Section 416 of the Income and Corporation Taxes Act 1988 (change of control). The Authority may terminate the Contract by serving a Termination Notice on the Contractor with immediate effect within six months of:

- (a) being notified that a change of control has occurred; or
- (b) where no notification has been made, the date that the Authority becomes aware of the change of control,

but shall not be permitted to terminate where an Approval was granted prior to the change of control.

H2 Termination on Default

H2.1 The Authority may terminate the Contract by serving a Termination Notice on the Contractor with immediate effect if the Contractor commits a Default and if:

- (a) the Contractor has not remedied the Default to the satisfaction of the Authority within 10 Working Days, or such other period as may be specified by the Authority, after issue of a written notice specifying the Default and requesting it to be remedied; or
- (b) the Default is not, in the opinion of the Authority, capable of remedy; or
- (c) the Default is a material breach of the Contract.

H2.2 In the event that through any Default of the Contractor, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Contractor shall be liable for the cost of reconstitution of that data and shall reimburse the Authority in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

H2.3 If the Authority fails to pay the Contractor undisputed sums of money when due, the Contractor shall notify the Authority in writing of such failure to pay. If the Authority fails to pay such undisputed sums within 90 Working Days of the date of such written notice, the Contractor may terminate the Contract in writing with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Authority exercising its rights under clause C3.1 (Recovery of Sums Due).

H3 Non Default Termination

H3.1 The Authority may terminate the Contract by giving to the Contractor at least six (6) months' notice in writing where there is change in government policy or a change in Law which means that, in the opinion of the Authority acting reasonably, the Services are no longer required or are no longer affordable to the Authority.

H4 Consequences of Termination or Expiry

H4.1 Where the Authority terminates the Contract under clause H2 (Termination on Default) and then makes other arrangements for the supply of Services, the Authority may recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period. The Authority shall take all reasonable steps to mitigate such additional expenditure. Where the Contract is terminated under clause H2 (Termination on Default), no further payments shall be payable by the Authority to the Contractor (for Services supplied by the Contractor prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of making the other arrangements envisaged under this clause.

H4.2 Where the Authority terminates the Contract under clause H3 (Non Default Termination), no compensation or other amounts shall be payable by either Party as a consequence of such termination.

H4.3 Save as otherwise expressly provided in the Contract:

- (a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and

nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and

- (b) termination of the Contract shall not affect the continuing rights, remedies or obligations of the Authority or the Contractor under clauses C2 (Payment and VAT), C3 (Recovery of Sums Due), E1 (Data Protection Act), E2 (Official Secrets Acts 1911 to 1989, S182 of the Finance Act 1989), E3 (Confidential Information), E4 (Freedom of Information), E7 (Intellectual Property Rights), E9 (Audit), F6 (Remedies Cumulative), G1 (Liability, Indemnity and Insurance (Liability, Indemnity and Insurance)), H4 (Consequences of Expiry or Termination), H6 (Recovery upon Termination) and I1 (Governing Law and Jurisdiction).

H5 Disruption

- H5.1 The Contractor shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.
- H5.2 The Contractor shall immediately inform the Authority of any actual or potential industrial action, whether such action be by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- H5.3 In the event of industrial action by the Staff, the Contractor shall seek Approval to its proposals to continue to perform its obligations under the Contract.
- H5.4 If the Contractor's proposals referred to in clause H5.3 are considered insufficient or unacceptable by the Authority acting reasonably, then the Contract may be terminated with immediate effect by the Authority by notice in writing.
- H5.5 If the Contractor is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business of the Authority, the Contractor may request a reasonable allowance of time and in addition, the Authority will reimburse any additional expense reasonably incurred by the Contractor as a direct result of such disruption.

H6 Recovery upon Termination

- H6.1 On expiry or termination of the Contract for any reason, the Contractor shall:
 - (a) immediately return to the Authority all Confidential Information, Personal Data and IP Materials in its possession or in the possession or under the control of any permitted suppliers or Sub-Contractors, which was obtained or produced in the course of providing the Services;
 - (b) immediately deliver to the Authority all Property (including materials, documents, information and access keys) provided to the Contractor by the Authority. Such property shall be handed back in good working order (allowance shall be made for reasonable wear and tear);
 - (c) assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to the Replacement Contractor and/or the completion of any work in progress.
 - (d) promptly provide all information concerning the provision of the Services which may reasonably be requested by the Authority for the purposes of adequately

understanding the manner in which the Services have been provided or for the purpose of allowing the Authority or the Replacement Contractor to conduct due diligence.

H6.2 If the Contractor fails to comply with clause H5.1(a) and H5.1(b), the Authority may recover possession thereof and the Contractor grants a licence to the Authority or its appointed agents to enter (for the purposes of such recovery) any premises of the Contractor or its permitted suppliers or Sub-Contractors where any such items may be held.

H6.3 Where the end of the Contract Period arises due to the Contractor's Default, the Contractor shall provide all assistance under clause H5.1(c) and H5.1(d) free of charge. Otherwise, the Authority shall pay the Contractor's reasonable costs of providing the assistance and the Contractor shall take all reasonable steps to mitigate such costs.

H7 Exit Management

H7.1 The Contractor shall use all reasonable endeavours so as to facilitate the smooth transfer of responsibility for the Services to a replacement contractor or to the Authority, as the case may be, and the Contractor shall take no action at any time which is calculated or intended, directly or indirectly, to prejudice or frustrate or make more difficult such transfer.

H7.2 Within ninety (90) days of the Commencement Date, the Contractor shall provide a draft Exit Management Strategy and within ten (10) Business Days of provision of such Exit Management Strategy, the Parties shall meet and use all reasonable endeavours to agree the contents of the Exit Management Strategy, which must provide for the orderly transition of the Services from the Contractor to the Authority and/or any replacement contractor in the event of any termination (in whole or in part) or expiry of this Contract and allow for the Contractor to comply with its obligations under clause H6 and H7. If the Parties are unable to agree the contents of the Exit Management Strategy within a 20 Business Day period, either Party may refer the dispute for resolution in accordance with clause I2. The Exit Management Strategy as agreed or determined shall be the Exit Management Strategy.

H7.3 The Contractor shall keep the Exit Management Strategy under continuous review and include any proposed updates to the Exit Management Strategy in each Monthly Contract Management Meeting.

H7.4 In addition, within ten (10) days after service of a Termination Notice by either Party or six (6) months prior to the end of the expiry of the Contract, the Contractor shall update the Exit Management Strategy into a final form that could be implemented immediately and provides for a transition to and is compatible with any mobilisation plan of any replacement contractor or the Authority (as the case may be) and in doing so, provide as much detail as is appropriate given the nature of the termination or expiry and the timing of termination, so that such Exit Management Strategy can be submitted to the Authority for review and approval. The Parties shall meet and use their respective reasonable endeavours to agree the contents of such Exit Management Strategy.

H7.5 During the final six (6) months prior to the expiry of the Contract or following the service of a Termination Notice, and in either case for a reasonable period thereafter, the Contractor shall co-operate fully with the transfer of responsibility for the Service (or any part of the Service) to the Authority or any replacement contractor, and the Contractor shall:

- (a) assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to the replacement contractor and/or the completion of any work in progress;

- (b) implement the Exit Management Strategy;
- (c) liaise with the Authority and/or any replacement contractor, and provide reasonable assistance and advice concerning the Services and their transfer to the Authority or to such replacement contractor

and in all instances, shall be in accordance with timescales reasonably stipulated by the Authority.

I Disputes and Law

I1 Governing Law and Jurisdiction

Subject to the provisions of clause I2, the Authority and the Contractor accept the exclusive jurisdiction of the English courts and agree that the Contract and all non-contractual obligations and other matters arising from or connected with it are to be governed and construed according to English Law.

I2 Dispute Resolution

- I2.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the [finance director (or equivalent)] of each Party.
- I2.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- I2.3 If the dispute cannot be resolved by the Parties pursuant to clause I2.1 the Parties shall refer it to mediation pursuant to the procedure set out in clause I2.5 unless (a) the Authority considers that the dispute is not suitable for resolution by mediation; or (b) the Contractor does not agree to mediation.
- I2.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Contractor and the Staff shall comply fully with the requirements of the Contract at all times.
- I2.5 The procedure for mediation and consequential provisions relating to mediation are as follows:
 - (a) a neutral adviser or mediator (**Mediator**) shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to Centre for Effective Dispute Resolution to appoint a Mediator.
 - (b) The Parties shall within 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. If considered appropriate, the Parties may at any stage seek assistance from Centre for Effective Dispute Resolution to provide guidance on a suitable procedure.

- (c) Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
- (d) If the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives.
- (e) If the Parties fail to reach agreement in the structured negotiations within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts [unless the dispute is referred to arbitration pursuant to the procedures set out in clause 12.6].

12.6 Subject to clause 12.2, the Parties shall not institute court proceedings until the procedures set out in clauses 12.1 and 12.3 have been completed save that:

- (a) the Authority may at any time before court proceedings are commenced, serve a notice on the Contractor requiring the dispute to be referred to and resolved by arbitration in accordance with clause 12.7.
- (b) if the Contractor intends to commence court proceedings, it shall serve written notice on the Authority of its intentions and the Authority shall have 21 days following receipt of such notice to serve a reply on the Contractor requiring the dispute to be referred to and resolved by arbitration in accordance with clause 12.7.
- (c) the Contractor may request by notice in writing to the Authority that any dispute be referred and resolved by arbitration in accordance with clause 12.7, to which the Authority may consent as it sees fit.

12.7 In the event that any arbitration proceedings are commenced pursuant to clause 12.6:

- (a) the arbitration shall be governed by the provisions of the Arbitration Act 1996;
- (b) the Authority shall give a written notice of arbitration to the Contractor (**Arbitration Notice**) stating:
 - (i) that the dispute is referred to arbitration; and
 - (ii) providing details of the issues to be resolved;
- (c) the London Court of International Arbitration (**LCIA**) procedural rules in force at the date that the dispute was referred to arbitration in accordance with 12.7(b) shall be applied and are deemed to be incorporated by reference to the Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
- (d) the tribunal shall consist of a sole arbitrator to be agreed by the Parties;
- (e) if the Parties fail to agree the appointment of the arbitrator within 10 days of the Arbitration Notice being issued by the Authority under clause 12.7(b) or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- (f) the arbitration proceedings shall take place in London and in the English language; and

(g) the arbitration proceedings shall be governed by, and interpreted in accordance with, English law.

Executed as a deed by the parties or their duly authorised representatives on the date of this Deed.

The corporate seal of
CARE QUALITY COMMISSION hereunto
affixed to this deed is authenticated by:

Name:

Authorised by the Care Quality Commission

EXECUTED as a Deed by

REMPLOY LIMITED

acting by:

Name of Director:

a director,

in the presence of

Signature of witness:

Witness Name:

Witness Address:

Witness Occupation:

(g) the arbitration proceedings shall be governed by, and interpreted in accordance with, English law.

Executed as a deed by the parties or their duly authorised representatives on the date of this Deed.



David Behan

The corporate seal of
CARE QUALITY COMMISSION hereunto
affixed to this deed is authenticated by:

Name: **DAVID BEHAN**

Authorised by the Care Quality Commission

EXECUTED as a Deed by

REMPLOY LIMITED

acting by:

Name of Director: **BETH CARRUTHERS**

a director,

in the presence of

Signature of witness: *Thomas Hicks*

Witness Name: **THOMAS HICKS**

Witness Address: **35D MILDWAY PARK, LONDON, N1 4NA**

Witness Occupation: **HEAD OF POLICY, REMPLOY.**

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SCHEDULES

SCHEDULE 1

SPECIFICATION



20150629 Ex by Ex 20150629 Ex by Ex 20150626 Annex 1 20150626 Annex 2
ITT Part A Final.docx ITT Part B Final.docx Volumes of Events for Complaints and Canc



20150626 Annex 3 - 20150626 Annex 4 - 20150626 Annex 7 - 20150626 Annex 5 20150626 Annex 6 -
National Resource Plan Events and Breakdown Sample per portrait of Minimum Skill Set and Current Diversity prof

**INVITATION TO TENDER FOR THE PROVISION OF:
EXPERTS BY EXPERIENCE**

Deadline: Noon 21st July 2015

Reference: CQC PSO 20

PART A – Instructions

Glossary

Term	Definition
Authority	Means the Care Quality Commission
Contract(s)	<p>Means:</p> <ul style="list-style-type: none"> • Part A, Section Two: Conditions of Contract; and • Part B: all applicable Schedules, Annexes and Appendices to the Contract • Information contained in an accepted Tenderers' Response.
Expert by Experience	ExE means the Experts by Experience which will be used to provide the required services
Event	<p>There are two main types of ExE events, these are:</p> <ul style="list-style-type: none"> • EXE Inspection Events; and • EXE CQC Employee Training and Engagement Events
Inspection Event	<p>There are 2 types of Inspection Events: 1) Comprehensive; and 2) Focused</p> <p>Where the ExE undertakes activities in line with Part B of the ITT, at the volumes in Annex 1 and as described in Annex 4.</p>
ITT	Means Part A and Part B of this Invitation to Tender and associated schedules and appendices
Light Touch Regime	Means the specific set of rules for certain service contracts. A list of the relevant services (in relation to those service contracts) is contained in Schedule 3 of the Public Contracts Regulations 2015 (Annex A) and the rules are set out in regulations 74 to 77 of the Public Contracts Regulations 2015

Lot	Means one of the four lots each consisting of a geographical region in England (those regions being North of England, Central England, London and South of England) in relation to which the ExE services will be provided
Multi-Lot Tender Response	Means a single Tender Response in relation to more than 1 lot
the National Resource Planning System portal (NRPS)	Means an online platform that will be the core tool for providing information to the contractor(s) on requirements and for resource allocation responses from the contractor(s) in allocating ExE to Events.
Post Event Evaluation	Means the evaluation of the performance of an ExE following an Inspection Event
Requirements	Means the services required by the Authority as described in Part B of the ITT, and all annexes to this I
Standstill Period	The period between the notification of the intended award of the Contracts and the actual award of those Contracts.
Suitability Assessment	Means the assessment (at gate C of the evaluation process as set out in Section 3 below) of the Tenderer's operational capability based on past performance
Support Worker	An individual who enables an ExE to carry out their role as identified in Part B of the ITT, paragraph 4.27 and 4.28
Tenderer	An organisation responding to the ITT by way of a Tender Response
Tender Response	A response by a Tenderer to the total requirements of the ITT
Training and Engagement Events	<p>An Engagement Event is attended by the ExE to develop the Authority's strategy, policy, methodologies and information by providing insights from their expertise and experience</p> <p>A Training Event is attended by the ExE to deliver training to the employees of the Authority</p>

INTRODUCTION: Invitation to Tender

The Care Quality Commission is issuing this Invitation to Tender ("ITT") in connection with a competitive procurement conducted in accordance with the Light Touch Regime under the Public Contracts Regulations 2015. Tenderers are invited to provide proposals for the Experts by Experience service as advertised in the Official Journal of the European Union (OJEU) in the Prior Information Notice 2015/5 64-112761 and additional information published in Prior Information Notice 2015/5 086-155480.

This document sets out an explanation of the procurement process and the conditions applying to the submission of tenders. It also contains the materials the **Authority** will use to form the basis of any contract that may be awarded.

This ITT consists of:

Part A

Introduction to Invitation to Tender;

Section One: Instructions to Tenderers;
Section Two: Conditions of Contract; and
Section Three: Evaluation Methodology and Criteria.

Part B

Schedule One: Specification and Annexes 1 – 8 as set out below:

- Annex 1: Volumes of events
- Annex 2: Cancellations and Complaints
- Annex 3: Specification of the National Resource Planning System (NRPS)
- Annex 4: Events and breakdown of activities
- Annex 5: Minimum Skill Set
- Annex 6: Diversity profiles of current ExE resource pool
- Annex 7: Sample pen portrait
- Annex 8: Key Performance Indicators

Other relevant and important Schedules

Schedule One (a): Tenderer Response;
Schedule Two: Pricing Schedule;
Schedule Three: Contract Management
Schedule Four: Confidential & Commercially Sensitive Information;
Schedule Five: Administrative Instructions;
Schedule Six: Form of Tender;
Appendix A: Sub-Contractors; and
Appendix B: Guarantee(s).

The Authority is using its electronic tendering portal, the Delta System (<https://www.delta-esourcing.com/delta>), to carry out the tender process. If you need any technical assistance using the Delta system technically please contact the helpdesk on 0845 270 7050 or email helpdesk@delta-esourcing.com between 08.30 and 5.30pm.

- 1.1 Any clarification questions regarding this ITT must be sent in writing to the Authority using DELTA (online messages). All questions must be received by the deadline for questions of 14th July 2015 5pm. Any clarification questions received after the above deadline will not be answered.

The Authority will copy all answers to questions to all Tenderers, but the Authority reserves the right not to disclose information where it believes there is a legal obligation not to do so via DELTA and the Authority will not respond to questions received after the above deadline.

Important to Note

As part of the Tender Response, Tenderers must complete all relevant sections in Part B of the ITT. All tenders must be returned no later than the deadline for receipt of tenders **Noon 21st July 2015** and must be submitted via DELTA. Late tenders will not be accepted.

IMPORTANT NOTE

The information and/or documents for this opportunity are available on <https://www.delta-esourcing.com/delta>. You are already registered so you will not need to register again, simply use your existing username and password. Please note there is a password reminder link on the homepage.

Tenderers must log in, go to your Response Manager and add the following **Access Code: QAU65E6C4R**. Please ensure you follow any instruction provided to you here.

SECTION ONE: Instructions to Tenderers

1. TENDER DOCUMENTS

- 1.1 Tenders shall be submitted in accordance with the following instructions and those contained within paragraph 11 (Submission of Tenders) below. It is important that all the information requested is provided in the format and order specified. If the Tenderer does not provide all of the information the Authority has requested within the ITT, the Authority may reject the tender as non-compliant.
- 1.2 The Tenderer is expected to examine, and where necessary respond to, all of the documents that comprise the ITT. Tenderers should acquaint themselves fully with the extent and nature of the requirement and the contractual obligations.
- 1.3 Tenderers must obtain for themselves, at their own responsibility and expense, all information necessary for the preparation of their Tender Response. Tenderers are solely responsible for any costs and expenses in connection with the preparation and submission of their Tender Response, and all other stages of the selection and evaluation process. Under no circumstances will the Authority, or its advisers, be liable for any costs or expenses Tenderers, their sub-contractors, suppliers or advisers incur in this process (whether or not the Tenderer is successful).
- 1.4 Tenderers are solely responsible for obtaining the information that they consider is necessary in order to prepare the content of their Tender Response and to undertake any investigations they consider necessary in order to verify any information the Authority provides during the procurement process.
- 1.5 Tenderers should assume that the Authority has no prior knowledge of your proposals. If information is relevant to more than one question or criteria you should repeat it, or as a minimum cross reference it.
- 1.6 All pages of the Tender Response should be sequentially numbered (including any forms to be completed and returned). Except the Pricing Schedule 2 that can be submitted as an individual document.
- 1.7 Tenderers should submit completed letters of undertaking with each sub-contractor within their proposed supply chain.
- 1.8 All specifications, plans, drawings, samples and patterns and anything else that the Authority issues in connection with this ITT and all intellectual property, remains the property of the Authority and are to be used solely for the purpose of tendering.
- 1.9 All Tenderers must submit their Tender Responses in PDF format

2. AMENDMENTS TO TENDER DOCUMENTATION AND TERMINATION BY THE AUTHORITY

- 2.1 The Authority reserves the right to issue amendments or modifications to the ITT documentation during the period available to Tenderers for developing their Tender Response. Any such amendments or modifications will be issued in writing to all Tenderers simultaneously and the Authority will issue appropriate instructions as to how Tender Responses should take into account any such amendments and/or modifications.
- 2.2 The Authority (at its sole discretion) may extend the deadline for receipt of Tender Responses.
- 2.3 The Authority reserves the right to modify or to discontinue the whole of, or any part of, this tendering process at any time and accepts no obligation whatsoever to award a contract.

3. TIMETABLE

- 3.1 The timetable for this procurement is contained in Table 1 below. This timetable is intended as a guide. Tenderers should note that the Authority reserves the right to amend the timetable or extend any time period as it sees fit at any time.

- 3.2 The Authority has set aside dates for accommodating potential Tenderer presentations (as set out in the evaluation section of this document).

Table 1: Indicative timetable

KEY ACTIONS	DATES
Invitation to Tender document issued	26 th June 2015
End of clarification question period	14 th July 2015 5pm
Tender Response to be received by the Authority by	21 st July 2015 Noon
Tenderer presentations	27 th August to 3 rd September 2015
Notification to unsuccessful and preferred Tenderers	5 th October 2015
End of standstill period	16 th October 2015
Expected Contract Start date	1 st December 2015

4. STRUCTURE AND AWARD OF LOTS

- 4.1 The Authority is procuring the services in the following 4 regional "Lots":
- 4.1.1 Lot 1: North;
 - 4.1.2 Lot 2: Central;
 - 4.1.3 Lot 3: London ; and
 - 4.1.4 Lot 4: South.

Map of CQC Geographic Areas

- 4.2 The scope of each Lot is described in more detail in Part B of the ITT, Annexes 1(volumes) and 4 (Ex by Ex activities). Tenderers are invited to submit a Tender Response in relation to one, two, three or all four of the Lots identified above. Each Tender Response for each Lot must be submitted as a separate and individual Tender Response and must clearly identify to which Lot the Tender Response corresponds.
- 4.3 Tenderers can bid a maximum combination of 3 Lots. Any combination of Lots should not have a total Event volume of greater than 70% of the overall Event volumes detailed in the Volumes at Annex 1 Part B of the ITT.
- 4.4 Tenderers must submit individual responses to quality criteria by Lot when submitting a multiple tender for more than 1 lot.
- 4.5 The Authority may award contracts in respect of more than one Lot to a single Tenderer (up to a maximum of three Lots where this does not exceed 70% of the total Event Volumes (as detailed in Part B, Annex 1), provided that each such tender is the most economically advantageous tender (MEAT) in respect of each such Lot.
- 4.6 Where only one Tenderer remains in the competition (whether as a consequence of other Tenderers being disqualified and/or deselected under the procedures outlined in Section 3 (Evaluation Methodology) of this document or withdrawing from the competition), the Authority

reserves the right to award all 4 Lots to the remaining Tenderer as the Authority (in its sole discretion) considers appropriate in the circumstances.

4.7 The Authority will not expect any supplier within the supply chain to be tied to a particular Tenderer on an exclusive basis. This is to ensure that suppliers within the supply chain are able to work without restrictions within the same Lot or across Lots.

5. NATIONAL RESOURCE PLANNING SYSTEM

5.1 For the purpose of bidding, suppliers need to assume that the National Resource Planning System portal (NRPS) (please see Annex 3 of Part B of the ITT for further details) will be in place at contract start date. If there is a delay to the implementation of the system and not at contract start date, the Authority will seek to confirm remedial actions and agree an interim solution.

6. FORM OF TENDER

6.1 Part B, Schedule Six (Form of Tender) must be returned with your Tender Response.

7. FORM OF CONTRACT

7.1 The Form of Contract to be entered into by each successful Tenderer will consist of the following:

- Part A, Section Two: Conditions of Contract; and
- Part B: all applicable Schedules, Annexes and Appendices to the Contract
- Information contained in the accepted Tenderers' Response.

8. TENDER INFORMATION

8.1 The Authority acts in good faith at all times. However, Tenderers must satisfy themselves as to the accuracy of information the Authority provides. The Authority accepts no liability for any loss or damage of whatever kind or howsoever caused arising from Tenderers use of such information, unless such information has been supplied fraudulently by the Authority (where the meaning of fraudulently is "the making of false representation knowingly, or without belief in its truth, or recklessly").

8.2 This invitation and its accompanying documents shall remain the property of the Authority and must be returned on demand.

9. CROSS GOVERNMENT REPORTING

9.1 All Central government departments and their executive agencies and non-departmental public bodies are subject to control and reporting within government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further, the Cabinet Office has a cross-Government role delivering overall government policy on public procurement – including ensuring value for money and related aspects of good procurement practice.

9.2 For these purposes, the Authority may disclose within government any of the Tenderer's documentation/information (including any that the Tenderer considers to be confidential and/or commercially sensitive such as specific bid information) submitted by the Tenderer to the Authority during this Procurement. The information will not be disclosed outside government. Tenderers taking part in this competition consent to these terms as part of the competition process.

10. FREEDOM OF INFORMATION ACT 2000

10.1 As a non-departmental public body, the Authority is subject to, and must comply, with the, Freedom of Information Act 2000 ("FOIA").

- 10.2 In accordance with the obligations and duties placed upon public authorities by the FOIA and the Environmental Information Regulations 2004 ("EIR") the Authority may be required to disclose information submitted by the Tenderer.
- 10.3 In respect of any information submitted by a Tenderer that it considers to be commercially sensitive the Tenderer should:
- 10.3.1 clearly identify such information as commercially sensitive;
 - 10.3.2 explain its reasons why disclosure of such information would be likely to prejudice or would cause actual prejudice to its commercial interests; and
 - 10.3.3 Provide a reasoned estimate of the period of time during which the Tenderer believes that such information will remain commercially sensitive.
 - 10.3.4 This information must be listed in Schedule Four, shown as either Confidential information or Commercially Sensitive information (please see the Conditions of Contract for definitions).
 - 10.3.5 Where a Tenderer identifies information as commercially sensitive, the Authority will take those views into account. Tenderers should note, however, that, even where information is identified as commercially sensitive, the Authority may require disclosure of such information in accordance with the FOIA or the EIR. It is the sole responsibility of the Authority to decide whether the information might be exempt from disclosure under the FOIA or the EIR and whether the public interest favours disclosure or not. Accordingly, the Authority cannot guarantee that any information marked 'confidential' or "commercially sensitive" will not be disclosed.
 - 10.3.6 Where a Tenderer receives a request for information under the FOIA or the EIR connected to this procurement process, the Authority requires the Tenderer to consult with it to establish if the request is for the Authority.

11. SUBMISSION OF TENDERS

- 11.1 Tenderers must submit Tender Responses using DELTA (<https://www.delta-esourcing.com/delta>). Tenderers must ensure that they leave plenty of time to upload the Tender Response, particularly where there are large documents. If Tenderers have any technical problems with DELTA, they must contact the technical helpdesk on 0845 270 7050 or email helpdesk@delta-esourcing.com between 08.30 and 5.30pm prior to the return time.
- 11.2 The helpdesk is open Monday to Friday between 08.30am and 5.30pm excluding public and bank holidays. It is important to note that the Authority is **not obliged** to accept any tender that is submitted after the deadline for the receipt of tenders has passed.
- 11.3 Tenderers must submit a single copy of their Tender Response.
- 11.4 Tenderers are requested not to provide any extraneous information that has not been specifically requested in the ITT including, for example, sales literature or Tenderers' standard terms and conditions etc., as these will not be considered as part of the tender evaluation.
- 11.5 Tenderers shall note that any contract awarded under this procurement shall be on the Authority's terms and conditions of contract, the Authority is not inviting mark-ups of the contract. Please raise any queries on the Contract as a clarification.
- 11.6 The Authority reserves the right to reject any Tender Response if the Tenderer has failed to complete and return any necessary parts of the ITT; or fails to provide the information requested in this Invitation to Tender; or the Tenderer has submitted any modification; or the Tenderer has submitted any qualifications to their tender

12. MODIFICATION AND WITHDRAWAL OF TENDERS

- 12.1 The Tenderer may modify the Tender Response prior to the deadline for receipt of tenders. Any tenderer wishing to submit a new Tender Response using DELTA prior to the tender deadline should contact the DELTA helpdesk to advise that a replacement Tender Response is being

submitted. It is the Tenderer's responsibility to contact the DELTA helpdesk to resolve any problems with the electronic submission of the Tender Response.

12.2 No Tender Response may be modified after the deadline for their receipt.

12.3 Tender Responses may be withdrawn at any time before the deadline for their receipt. New tenders may be submitted up until the deadline for receipt of Tender Responses, providing such intention is notified to the Authority using DELTA

13. THE TENDERER MAY WITHDRAW A TENDER RESPONSE AFTER THE DEADLINE FOR RECEIPT OF TENDERS, PROVIDING SUCH INTENTION IS NOTIFIED TO THE AUTHORITY USING DELTA.

14. TENDER RESPONSE QUALIFICATIONS

14.1 Tender Responses must not contain any qualifications to the conditions of Contract. Tender Responses must be submitted strictly in accordance with the ITT. Tender Responses must not be accompanied by statements that could be construed as rendering the Tender Response equivocal and/or placing it on a different footing from other Tender Responses.

14.2 Only Tender Responses submitted without qualification, strictly in accordance with the ITT as issued (or subsequently amended by the Authority) will be accepted for consideration. The Authority's decision on whether or not a Tender Response is acceptable will be final and the Tenderer concerned will not be consulted. **Qualified Tender Responses will be excluded from further consideration**

15. NOTIFICATION OF AWARD OF CONTRACT

15.1 The Authority is conducting this procurement in accordance with the Light Touch Regime., However there will be a minimum 10 calendar days Standstill Period, between communicating the contract award decision and the conclusion of the contract award.

15.2 Tenderers should note that, the Authority will be required to publish a contract award notice (including the name and address of the successful Tenderer(s) in the Official Journal of the European Union and notify the same details to unsuccessful Tenderers). Acceptance of the contract in these circumstances is deemed to be formal authorisation to publish these details.

16. PRICE

16.1 The Authority is always looking for solutions that are both sustainable and offer value for money. Tenderers are encouraged to offer discounts, efficiencies and sustainable solutions within their Tender Response. This should not be construed as an invitation to negotiate and the Authority will base its award decision solely on the Tender Response.

16.2 Tenderers must submit all financial bids in accordance with Schedule 2 the Pricing Schedule. All prices submitted must be quoted in pounds sterling inclusive of Value Added Tax (VAT) with the price firm for the duration of the Contract (except where the Tenderer is offering a decrease in prices over the contract period) and not be subject to any variation unless provided for in the Conditions of Contract.

16.3 The tenderer should submit their price on the basis that there is no indexation applied over the life of the contract.

16.4 The basis of the price should include all the costs for delivery to the address (es) the Authority requires.

16.5 Should a manifest error be discovered in the Tenderer's pricing during the evaluation period, the Tenderer will be given the opportunity of confirming its offer or amending it to correct the error the this to be determined by the Authority at its sole discretion.

17. SMALL AND MEDIUM SIZED ENTERPRISES

- 17.1 The Authority is fully committed to supporting the Government's small and medium-sized enterprise¹ (SME) initiative; including the aspiration that 25% of central government spend goes to SME's by 2015. All Tenderers, as potential suppliers to the Authority, will also be expected to support this initiative both directly and through their supply chains.
- 17.2 The Authority, when appropriate, will ask for proposals as part of this ITT on how Tenderers are intending to support the SME initiative.
- 17.3 The Authority will expect that any suppliers within the supply chain are paid promptly. The Authority reserves the right to validate that prompt payment is taking place.
- 17.4 Tenderers must also be aware that every public contract awarded by the Authority in relation to this tender must contain clauses which require that a) any payment due from the Authority to the contractor under the contract is to be made no later than 30 days from the date on which an invoice, submitted by a contractor, is regarded as valid and undisputed; and b) any invoices submitted by a contractor must be considered and verified by the Authority in a timely fashion.
- 17.5 In turn, any subcontract awarded by a contractor must contain provisions which impose, as between the parties to the subcontract, requirements as to the same effect as those set out at a) and b) in paragraph 17.4 above; and a requirement for the subcontractor to include in any subcontract which it in turn awards suitable provisions to impose, as between the parties to that subcontract, requirements to the same effect as those required under this paragraph 17.5.
- 17.6 Suppliers to the Authority must make their own commitment on prompt payment by registering with the Prompt Payment Code².

18. TRANSPARENCY

- 18.1 In accordance with the Government's policy on transparency, Tenderers should be aware that the Authority intends to make the ITT and any subsequent Contract publicly available, by publishing it on the Government portal: Contracts Finder³.
- 18.2 The Tenderer gives permission for the Authority to publish the awarded Contract in its entirety, including any agreed changes from time to time to the Contract (e.g.. variation orders), to the general public.
- 18.3 The Authority shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure, in accordance with the provisions of the FOIA or the EIR; also taking into account the Data Protection Act 1998. If the Tender Response is submitted as a PDF the awarded supplier will be requested to provide the Tender Response in an editable format (such as Microsoft Word) in order to allow the Authority to redact any information deemed sensitive or confidential.
- 18.4 Tenderers should note that in submitting a Tender Response it agrees that the Authority may disclose the Tender Response or information relating to the Tender Response to its directors, officers, employees, agents or advisers.

19. TUPE

- 19.1 TUPE (Transfer of Undertakings (Protection of Employment) Regulations 2006) may apply to this Contract and the Tenderer must satisfy itself of the obligations and responsibilities it will be acquiring. The Authority is committed to ensuring compliance with:-

19.2

19.2.1 TUPE;

¹ http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/index_en.htm

² <http://www.promptpaymentcode.org.uk>

³ <http://www.businesslink.gov.uk/contractsfinder>

19.3 Tenderers are required to commit to accepting a TUPE transfer of those eligible employees in the event that TUPE applies to any eligible employees.

19.4 The Authority does not make any warranty in respect of the following:-

19.4.1 the adequacy of the skills, experience or training of any employees transferring under TUPE;

19.4.2 Those employees are willing to transfer to a successful Tenderer.

19.5 Tenderers deemed to be aware of their obligations under TUPE and shall make appropriate provision for:-

19.5.1 appropriate consultation with relevant recognised trade unions and employees' representatives;

19.5.2 maintaining existing rates of pay and terms and conditions of employment (and suitable pension provision); and

19.5.3 assuming liability in respect of any claims for redundancy, unfair dismissal and all other claims that may relate to the transferring employees.

19.6 Tenderers should take their own independent legal advice on the implications of TUPE and pensions. Tenderers should note paragraph 3.4 in part B of the ITT.

20. CONFLICTS OF INTEREST

20.1 The Authority requires that all actual or potential conflicts of interest are to be disclosed as outlined in Part B, Appendix C. Failure to declare such conflicts and/or failure to address such conflicts to the reasonable satisfaction of the council concerned may result in a Tenderer being disqualified.

20.2 Tenderers shall notify the Authority as soon as possible if there are any material changes to their corporate structure, or such Tenderer enters into a significant contract which has the potential to give rise to a conflict of interest with the Authority (in respect of the provision of the services or otherwise).

21. NON-COLLUSION BETWEEN TENDERERS

21.1 Every Tenderer submitting a Tender Response in respect of this ITT shall do so in accordance with the following conditions:

21.1.1 the Tender Response shall be a bona fide Tender Response and shall not be fixed or adjusted by or in accordance with any agreement or arrangement with any other person;

21.1.2 the Tenderer shall not communicate to any person the amount, or approximate amount, of the Tender Response, or proposed Tender Response, except where the disclosure in confidence of the approximate amount of the Tender Response is necessary to obtain insurance premium or bond quotations required for the purpose of the Tender Response;

21.1.3 the Tenderer shall not enter into any agreement or arrangement with any other person so that the other person shall refrain from tendering or as to the amount of any other tender to be submitted; and

21.1.4 the Tenderer shall not offer to pay or agree to pay or give any sum of money or consideration directly or indirectly to any person for doing or having done or causing in relation to the Tender Response any act or thing of a nature described in the preceding conditions

21.2 In the event of any non-compliance with the above, the Authority shall be entitled at its discretion to disqualify the Tenderer(s) from any further participation in the process or (as the case may be)

to terminate any contract or agreement made pursuant to the Tender Response and to claim damages from the Tenderer.

22. LANGUAGE

22.1 Tender Responses, all documents and all correspondence relating to the Tender Response must be written in English.

SECTION TWO: Conditions of Contract

Please Note: This is embedded below



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Conditions of Contract

SECTION THREE: Evaluation Methodology & Criteria

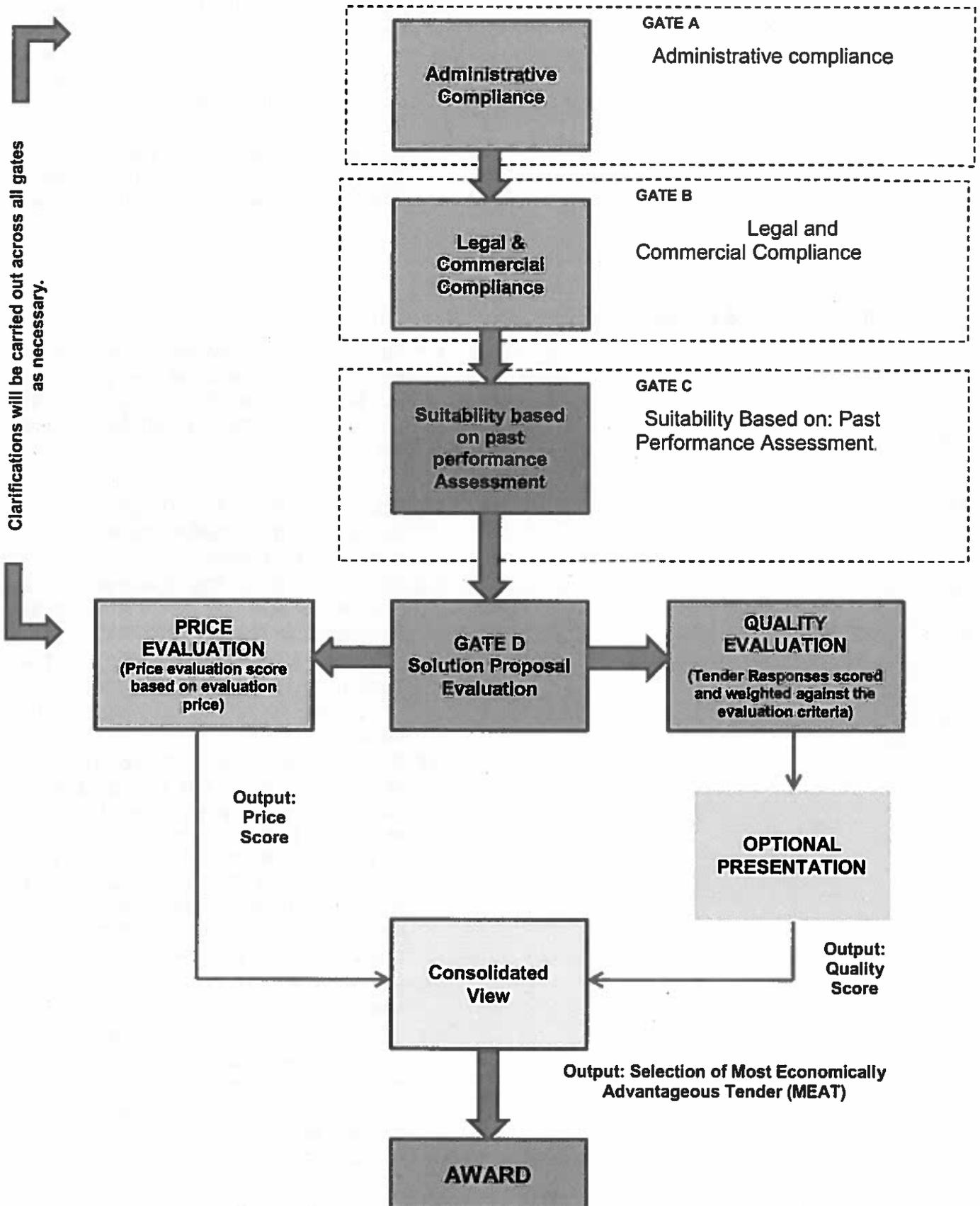
1. OVERVIEW

- 1.1. In the interests of an open, fair and transparent assessment, this document sets out how the Authority intends to evaluate Tender Responses. It outlines the evaluation criteria and respective weightings, as well as the evaluation methodology to be applied.
- 1.2. In evaluating the Tender Responses, the Authority will seek the most economically advantageous tender(s), having regard to the evaluation criteria, weightings and methodology set out in this ITT.
- 1.3. In order to enable the Authority to identify the most economically advantageous tender tenderers may be required to answer queries and clarify information regarding their Tender Response.
- 1.4. When considering which Tender Response is the most economically advantageous, the Authority will take into account any costs it reasonably expects to incur in association with the Tender Response, including, without limitation, any Authority supplied resources, facilities, accommodation or additional management.
- 1.5. The evaluation will use a "sifting" approach to determine the Contract award recipient(s) with Tenderers having to pass through a series of "gates A- C". Tender Responses will be evaluated on a gate-by-gate basis (in the order shown in Figure 1 below) with Tenderers that are unsuccessful in a gate not proceeding to the next gate (with the subsequent sections of the Tender Response not evaluated and the Tender Response set aside).
- 1.6. Tender Responses which pass through to gate D will be fully evaluated on both quality and price as set out in Section 3 Paragraphs 7, 8 and 9

2. EVALUATION PROCESS

- 2.1. The diagram below (Figure 1) summarises the process that will be used to select an appropriate Tenderer and award the contract for this procurement. It should be noted that pricing is only taken into consideration should the quality evaluation result achieve the threshold (as stated in paragraph 7.4 below).

Figure 1: Evaluation process overview



3. ADMINISTRATIVE COMPLIANCE (GATE A)

- 3.1. The Authority will check each Tender Response for completeness and compliance with the tender instructions. The Authority reserves the right to reject any tender responses it considers are incomplete, or non-compliant.
- 3.2. **Tenderers should note** that a Tender Response for multiple Lots that exceeds 70% of the Event Volumes will be treated as a non-compliant bid.

4. LEGAL & COMMERCIAL COMPLIANCE (GATE B)

- 4.1. The legal and commercial compliance gate will be evaluated using Tender Responses to Part B, Schedule One (a), Sections A and including without limitation the following.
- 4.2. (Question A.5) – The Tenderer will be excluded if it is neither registered nor licensed appropriately.
- 4.3. (Question A.6) – The Tenderer will be excluded should any of the grounds for mandatory rejection be triggered.
- 4.4. (Question A.7(a) to (g) and (i)) – The Tenderer may be excluded should any of the grounds for discretionary rejection be triggered.
- 4.5. (Question A. 7(h) – If the Tenderer responds “yes” to the tax compliance questions (i.e. declare that they have had an OONC) then the Authority may decide to exclude them on this basis. Any such decision is at the discretion of the Authority on the basis that the tax compliance provisions are discretionary exclusion criteria under the Regulations.
- 4.6. (Question A.8) – The response to this question is for information only.
- 4.7. (Question A.9) – The Government has developed an approach to ensuring that previous poor performance by tendering entities can be taken into account and robustly assessed prior to entering into certain new contracts. The Authority is

looking to determine whether Tenderers have appropriately discharged their obligation under previous principal contracts (as described in "Procurement Policy Note 09/12 – Taking Account of Bidders' Past Performance" and "Procurement Policy Note 03/14 – Measures to Promote Tax Compliance"): <https://www.gov.uk/government/collections/procurement-policy-notes>

4.8. The Authority is seeking to ensure that any failure to discharge obligations under the previous principal relevant contracts of those potentially involved in performing this contract is taken into account in the assessment of whether specified minimum standards for reliability for such contracts are met.

4.9. (Question B.1) – The Tenderer will not proceed any further than Gate C should its responses to Question B.1 demonstrate that:

- there is a reasonably high risk of Insolvency of the contracting entity or its parent company (where that parent company is providing a guarantee) over the lifetime of the contract; or
- there is insufficient financial robustness of the contracting entity to support the value of the contract and/or deliver the services effectively taking into account the contracting entities' Financial Net Worth and/or provision of financial security by means of guarantee(s) and/or bond(s).

For the purposes of Question B.1 (and the above) "Financial Net Worth" means the aggregate (without double counting) of the amount of the total assets as set out in the latest audited accounts including but not limited to:

- (i) the net book value of investment in any subsidiary
- (ii) the net book value of any loan assets of a subsidiary
- (iii) stock
- (iv) inventory
- (v) equipment and
- (vi) claims on debt

For the avoidance of doubt the following must be deducted:

- (A) the value of total liabilities
- (B) the value of any intangible assets such as patents and goodwill and
- (C) the par value of preferred shares (if any)

5. SUITABILITY BASED ON PAST PERFORMANCE ASSESSMENT (GATE C)

- 5.1. The responses of Tenderers in respect of the suitability based on past performance will be evaluated as a gated matter in accordance with the evaluation methodology set out in Table 2 below.
- 5.2. The Authority will, when evaluating the responses of Tenderers in respect of Suitability Assessment consider the extent to which the contents of each response as a whole satisfy the relevant evaluation criteria as identified in table 2 and 3 below; and
- 5.3. Using the scoring guidelines set out in Table 3, award a score of up to 3 for each response
- 5.4. The Tenderer must score at least 2 out of 3 for each evaluation area. If this score is not achieved, the Tenderer will be deselected from the competition.
- 5.5. The overall score will not count towards the Tenderers' qualitative mark.

Table 2: Generic Suitability Assessment Scoring Scheme

GRADE LABEL	GRADE	DEFINITION OF GRADE
Unacceptable	0	The response has been omitted, or the Tenderer proposal evidences inadequate (or insufficient) capacity or capability to deliver the requirement(s)
Weak	1	The Tenderer has demonstrated merit, although there is weakness evident in its capacity or capability for the purposes of the Procurement.
Satisfactory	2	The Tenderer has evidenced a level of capacity and capability suitable for the purposes of the procurement.
Good	3	The Tenderer has evidenced a significant level of capability and capacity for the purposes of the procurement.

Table 3: GATE C - Suitability Assessment Evaluation Matrix

NB Where the Tenderer is a new legal entity for this requirement, the experience can be evidenced by the separate organisations that make up the entity

EVALUATION AREA	EVALUATION INTENTION	EVALUATION QUESTION	EVALUATION CRITERIA
C.1 Organisational capability (experience)	Evaluated in conjunction with question C.2. Seeks to identify those organisations that have relevant management experience and the suitable tools, infrastructure, processes and governance as set out in the Part B of the ITT)	Please provide details of the experience that the Tenderer (as an organisation) has in the delivery of services similar to those required under this contract. This experience should be evidenced with the contract examples provided in response to question C.2. If the Tenderer is operating in a "management" capacity (e.g. as part / lead of a consortium), then this management integration capability should be evidenced along with the operational delivery activities. Please also indicate the percentage (%) level of turnover this contract would contribute to the overall turnover of the Tenderer. Please provide percentages on all lots bid	The Tenderer's Response is relevant to this procurement in terms of: <ul style="list-style-type: none"> Size (relative to the size of geographic coverage of the maximum number of Lots applied for in this tender.) - Complexity (demonstrated through managing complex supply chains (over multi lots if applicable) Value (relative to the value of the maximum number of lots applied for in this tender.
C.2 Contract Examples	Used in conjunction with question C.1	Please provide details of up to three contracts from either, or both, the public and private sectors, that are relevant/the same or similar to the Authority's requirement(s). Contracts for the supply of services should have been performed during the past three years.	N/a

<p>C.3 Operational capability (leadership / management)</p>	<p>Seeks to establish that the Tenderer's Project / Delivery Lead(s) have the appropriate skills, qualifications and experience for the scope of service delivery requirements</p>	<p>Please provide details of the qualifications and experience of senior staff, who have led similar projects/contracts where they were responsible for ensuring the delivery of a contract (highlighting the role each has undertaken) (This may be a Partner, Project Manager, Lead Consultant or similar. If there is a specific Project / Delivery Lead for each (or a set of) specific deliverables or geographical lots, then the details for all Project / Delivery Leads should be provided.) Please also identify where possible the Contract Manager for the Project. If they cannot be currently identified please demonstrate how they will be identified, appointed and in a position to manage the contract in lines with the timetable indicated in Section One above.</p>	<p>The Tenderer's Response shows that it:</p> <ul style="list-style-type: none"> • Has made Project / Delivery Lead arrangements that are sufficient and suitable for each [multiple] Lot applied for within this Tender • Has made Project / Delivery Lead arrangements with individual(s) that have the appropriate qualifications and experience to manage the scope of the requirements for each [multiple] Lot applied for within this Tender
<p>C.4 Technical capability (service delivery)</p>	<p>Seeks to establish that the Tenderer's key team personnel (i.e. those delivering the services) have the appropriate skills, qualifications and experience for the scope of service delivery requirements.</p>	<p>Please provide details of the key team members (highlighting the role each will undertake) in delivering the requirement(s) for each Lot applied for within this tender. Tenderers must demonstrate that the personnel proposed have direct experience of being involved with similar requirements and that each member has the relevant skills and competencies to fulfil the specific roles identified.</p>	<p>The Tenderer's Response shows that it:</p> <ul style="list-style-type: none"> • Has proposed resources that have the appropriate skills for each [multiple] Lot applied for within this Tender • Has resources with appropriate experience and qualifications for each [multiple] Lot applied for

			within this tender
C.5 Staffing (knowledge base)	Seeks to establish that the Tenderer has the resources for contingency and a knowledge base against the service delivery requirement	Please detail the number of staff available to the Tenderer (including consortia members and named sub-contractors where appropriate) carrying out of services directly relevant to those required.	<p>For each [multiple] Lot applied for within this Tender. The Tender Response shows that it:</p> <ul style="list-style-type: none"> • Has a resource base capable of mitigating delivery risk • Has a pool of knowledge

6. PROPOSAL ASSESSMENT

- 6.1. All previous scoring (such as for the Suitability Assessment) will be discarded at this point such that the Contract award decision is based solely on the basis of the Tender Response and price offering.
- 6.2. The Authority will evaluate Tender Responses for quality and price for each Lot in its own right to determine the most economically advantageous tender by Lot.
- 6.3. The Authority uses a quality / price ratio of 70%/30% to determine the outcome of its evaluation where quality and price are weighted and scored individually before being combined.
- 6.4. Quality criteria are weighted and scored as a percentage of the maximum score available with a minimum quality threshold set.
- 6.5. Price is scored as a percentage from the deviation of a Tenderer's evaluation price from the lowest evaluation price (see Section 8 – Price Evaluation)
- 6.6. In the case of Multi-Lot Tender Responses these will be evaluated against the same criteria as individual Lots and will only be successful where that evaluation produces a score equal or greater than those ranked in the individual lot evaluation tender process.

7. QUALITY EVALUATION

- 7.1. Tenders are assessed on how well they satisfy the quality evaluation criteria. The relative importance of each criterion is established by giving it a percentage weighting so that all the weightings equal 100%. The Evaluation Matrix (Table 4) provides details of the weightings that the Authority will use in assessing Tender Responses.
- 7.2. The quality evaluation will be carried out using Tender Responses to Part B, Schedule One (a), Section D and presentations, using the scoring scheme (identified in Table 3 below) A Tenderer will only be invited to present where the combination of it's Tender Response score plus its presentation score would

enable to achieve its the minimum quality threshold.

7.3. The scored responses are generally assessed out of a maximum of four (4). The evaluation panel will not be allowed to give partial scores (for example 3.5); however, once all scores are aggregated, the quality scores will be rounded to two decimal places prior to consolidating with the price evaluation.

7.4. The Authority has set a minimum quality threshold for this procurement, therefore, those Tender Responses that achieve a weighted score of 50% or above, against the 70% available for quality and do not include an individual grade below 2 in D2, D3, D4, D5 will be eligible for consideration of Contract award, by evaluation of the Tenderer pricing proposals. Any Tender Response not meeting this minimum quality threshold will be deselected and will not be considered further.

Table 3: Generic Quality Evaluation Scoring Scheme

GRADE LABEL	GRADE	DEFINITION OF GRADE
Very Weak	0	The response has been omitted, or the Tender Response evidences inadequate (or insufficient) delivery of the Requirements
Weak	1	The Tenderer Response has merit, although there is weakness (or inconsistency) as to the full satisfaction of the delivery of the Requirements
Satisfactory	2	The Tender Response has a suitable level of detail to assure that a satisfactory delivery of the Requirements is likely.
Good	3	The Tender Response has evidenced a level of understanding that assures there will be desirable value-add within the solution or superior and desirable (time or quality) delivery outcomes.
Excellent	4	The Tender Response evidences significant levels of understanding and offers an innovative solution that includes desirable value-add to the Authority.

Quality and Price Ratios for Evaluation of Tenders at Gate D Evaluation			
Quality	70%		
Price	30%		

Table 4: Section D - Quality Evaluation Matrix

EVALUATION AREA	EVALUATION INTENTION	EVALUATION QUESTION	EVALUATION CRITERIA	WEIGHT
D.1 Overview	This response is not evaluated and is used to contextualise the Tender Response.)	Tenderers must provide a concise summary highlighting the key aspects of the proposal. Including the combination of lots for which they are tendering plus their ranked preference for the award of single and combined multiple lots (up to a maximum of three but not exceeding 70% of the volumes in Annex 1 Part B).	N/a	N/a
D.2 Resource Model	Seeks to establish that the Tenderer has understood the resource Requirements and has a credible plan for delivering sustainable successful outcomes	Tenderers must provide a description of the resourcing model and how it will deliver the requirements. This should include a description of how it is intended to obtain, deliver and sustain the services for all aspects of the Requirement.	<p>The Tender Response shows that it:</p> <ul style="list-style-type: none"> Has a sustainable /resource delivery model that delivers the requirements and reflects continuous improvement as outlined in part B of the ITT paragraph 7 Has a defined and coherent way of working with any sub contracted supply chain within the resource model to ensure delivery of the volumes and maintenance of quality Assures that quality resources can be maintained throughout the life of the contract but demonstrates innovation on how they will access these resources Has a credible and sustainable resourcing model to ensure diversity 	15%

<p>D.3 Management of Quality</p>	<p>Seeks to establish that the Tenderer has a robust quality management strategy and related policies</p>	<p>Tenderers are to detail their quality and process management procedures to ensure the service quality standards are delivered and maintained.</p>	<p>across each type of ExE that is representative of not only the protected characteristics but the broader service user community.</p> <ul style="list-style-type: none"> • Has a viable strategy to source appropriate Support Workers for individual EXE (as maybe required) • Has appropriate objective processes and protocols that will determine the use of support workers 	<p>15%</p>
			<ul style="list-style-type: none"> • The Tender Response shows that they: Has a quality assurance regime that monitors, measures and ensures the quality of resources deployed in line with the Authorities quality standards in part B of the ITT • Has demonstrated within their plan the format and timing of Post Event Evaluations and how the information obtained will be used and shared to improve performance on an ongoing basis. • Has evidenced how they will ensure that all EXE meet minimum skill set and quality standards • Has a credible and sustainable training methodology and programme that recognises individual differences but maintains quality of service and the confidence of the individual 	

			<p>resources.</p> <ul style="list-style-type: none"> • Has a credible strategy and programme of ongoing performance management of EXE • Will ensure that every Support Worker assisting an EXE has a clear understanding of what is required from them and the limitation of their role/input. • Has a policy on how they or their supply chain will interact with and support the EXE on a regular basis to maintain their wellbeing. • Contribute more widely to the quality of inspection more widely through information sharing. 	
<p>D.4 Logistics</p>	<p>Seeks to establish the Tender Response has mechanisms in place that ensure the services are provided to the agreed locations with the appropriate support to enable them to carry out the event successfully</p>	<p>Tenderers are to detail how they will ensure that EXE receive the right level of support prior, during and after an assignment to an Event</p>	<p>The Tender Response shows that</p> <ul style="list-style-type: none"> • The Tenderer will demonstrate how they will ensure a robust logistical plan to ensure the deployment of resources to all activities in each event to time • The Tenderer will have a viable strategy that seeks to minimise the carbon footprint and environmental impact of the provision of services across each lot and or multiple lots. • The Tenderer will provide communication tools that facilitate the breadth of activity described to successfully deliver the events. • Has a policy on how they or their 	<p>10%</p>

<p>D5 Mobilisation and Deployment of EXE Resource</p>	<p>Seeks to establish that the Tender Response has mechanisms, protocols in place to ensure that there is a pipeline of relevant resource for deployment to events in a timely way and in line with the profile of events</p>	<p>Tenderers are to detail their mobilisation/operational plan which will demonstrate how they or the sub-contractors will source, mobilise and deploy EXE to satisfy the Requirements.</p>	<p>supply chain will interact with and support the EXE on a regular basis to maintain their wellbeing over time through logistical management</p> <p>The Tender Response demonstrates that the Tenderer has :</p> <ul style="list-style-type: none"> • A credible mobilisation/operational plan that demonstrate how the Tenderer will flex to meet the profile of events set by the Authority. • Ensure the use of the Authority's National Resource Planning System for scheduling, allocating and assigning EXE resource to Events • Evidenced a clear understanding of the different types of Event (see Part B of the ITT, Annex 4) and the associated roles and responsibilities of the EXE and how they will select the most suitable EXE for each Event type • Has in place clear policies and protocols to ensure the quality of service to all events • How the tenderer intends to maintain the confidence of individual resources in readiness for deployment. • How their deployment model would ensure the delivery of quality services to focused inspections. • A robust organisation management structure that is capable of 	<p>15%</p>
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			<p>managing the breadth of the services required.</p> <ul style="list-style-type: none"> Has identified and proposes suitable management of the delivery risks 	
<p>D.6 Transition Implementation Plan This criterion will be determined through presentation and is not required for the submission of the ITT. Tenderers will be expected to bring a written account to the presentation.</p>	<p>Seeks to establish that the Tenderer has a robust implementation plan.</p>	<p>i) Tenderers must provide an outline transition implementation plan to indicate its plans for the transition from contract award into the new contract delivery phase. Tenderer's should demonstrate how they will: Ensure they achieve the increased volumes of EXE during the first three months of the Contract as outlined in Annex1 Part B of the ITT</p>	<p>The Tenderer's response shows that it has a credible solution including :-</p> <ul style="list-style-type: none"> Defined and achievable milestones Identified and proposes suitable management of the delivery risks A quality assurance regime that monitors, measures and assures quality outcomes 	5%
<p>D.7 Continuous Improvement</p>	<p>Seeks to establish that the Tenderer will implement a robust approach to continuous improvement during the life of the contract not limited to the current content of</p>	<p>The Tenderer must outline the processes it proposes to use in order to ensure that continuous improvement in line with Part B of the ITT, Schedule1 (Specification), paragraph 7 and any other pertinent aspects of the Specification to be delivered over the life of the contract with a view to reducing costs and improving the quality and efficiency of the services.</p>	<p>The Tender Response shows that it has robust processes in place to:</p> <ul style="list-style-type: none"> demonstrate how targets for improvement will be set, monitored and reported pro-actively seek and identify opportunities for cost savings and service improvements in every aspect of contract delivery, manage implementation of any agreed changes to achieve these, Manage any risks effectively, and without compromising on any of the performance standards set for the 	5%

	the ITT requirement	the ITT requirement	contract.	
D8 Social value	Seeks to establish that the Tenderer will be committed to a positive social impact	The Tenderer must outline how a social value improvement plan for the life of the contract	The Tender Response addresses the requirements as set out in paragraph 8 in part B of the ITT	5%
D.9 Authority responsibilities	Seeks to ensure that the Tenderer is not seeking to transfer unreasonable, e. material, additional costs or increased risk back to the Authority	Tenderers must identify any areas of Authority responsibility NOT already detailed within the Specification.	The Tender Response does not impose additional material and adverse risk, responsibility or cost onto the Authority.	

8. PRICE EVALUATION

1.1 Price Scores are calculated for each Tender Response for each Lot on the following basis:

$$\text{Price Score} = \frac{LBP * 100}{EBP}$$

Where,

LBP = lowest priced bid for this Lot

EBP = price of the bid being evaluated for this Lot

and in the case of a Multi-Lot Tender Response, a separate Price Score will be calculated as regards each Lot in the Multi-Lot Tender Response.⁴

1.2 For the avoidance of doubt, the LBP for a particular Lot may be the price for a particular Lot set out in a Multi-Lot Tender Response, and that LBP will continue to be used for the purpose of the remainder of the process set out below even if the Multi-Lot Tender Response from which such LBP is drawn ceases to be considered by reason of paragraph 1.4.

1.3 Price Scores and Quality Scores will then be added together so as to give a single score for each bid for each Lot (a "Combined Score").

1.4 A Multi-Lot Tender Response can only be successful if the Combined Score as regards each Lot to which that Multi-Lot Tender Response relates is the highest Combined Score for that Lot.

1.5 If:

1.5.1 a Multi-Lot Tender Response is successful, then the Authority will (subject as set out in this ITT) award:

(a) the contracts for the Lots which are the subject of that Multi-Lot Tender Response to the Tenderer which submitted that Multi-Lot Tender Response.; and

(b) the remaining Lot(s) to the Tenderer which attained the highest Combined Score for the Lot concerned; and

1.5.2 no Multi-Lot Tender Response is successful on the basis set out in this paragraph 1.5, then the Authority will (subject as set out in this ITT) award the

¹ It is open to Tenderers to decide how they wish to price Multi-Lot tender Responses, but Tenderers are reminded that, because of the mechanism set out in this paragraph 8 they cannot be certain which Lots will be awarded to them. Tenderers will wish to take this into account in determining the prices for the purpose of Multi-Lot Tender Responses.

contract for each of the Lots respectively to the Tenderer which attained the highest Combined Score for the Lot concerned.

1.6 The only exception to the process described in paragraph 1.5 above is if, by reason of its application, a single Tenderer would be declared the winner of all Lots. In that case, given that (as set out in paragraph 4.3 of Section 1 of this Part A) the Authority will not award all Lots to a single Tenderer, and wishes to ensure that no bidder is awarded Lots which in aggregate account for more than 70% of Event volumes (set out in Annex 1 of Part B), the Tenderer concerned (the "Multiple Winner") will be awarded a combination of Lots determined as follows:

1.6.1 the Authority will determine the 3 Lots for which the Multiple Winner achieved the highest Quality Score (the "Highest Scoring Lots");

1.7.2 if the Event volumes for the Highest Scoring Lots do not exceed 70% of the total Event volumes then the Highest Scoring Lots will be awarded to the Multiple Winner and the remaining Lot will be awarded to the Tenderer which submitted the bid for the remaining Lot with the next highest Combined Score on the basis of a Tender which was not submitted by the Multiple Winner;⁵

1.7.3 if the Event volumes for the Highest Scoring Lots exceed 70% of the total Event volumes then the Authority will instead award the Lot for the London area and those two of the remaining Lots for which the Quality Score was highest to the Multiple Winner and the Lot not awarded to the Multiple Winner will be awarded to the Tenderer which submitted the Tender for that Lot with the next highest Combined Score on the basis of a Tender which was not submitted by the Multiple Winner.

9. TENDERER PRESENTATION MEETING

9.1. , The Authority will invite those Tenderers who can achieve the minimum quality threshold as outlined above in section 3, paragraph 7, to a presentation meeting. This will take place between receipt of tenders and announcement of successful Tenderer(s). It is anticipated that this will be in line the timescales specified in Section One, Paragraph 3 (Timetable) of this document.

9.2. Those Tenderers invited to a presentation will be asked to present specifically on how they will satisfy the criteria in D6 in table 4 in section 3

10. CONSOLIDATED VIEW

22.2 Tenders will be evaluated on both quality criteria and price 70% and 30% respectively. To ensure the relative importance of both categories are reflected correctly in the overall score, a weighting system has been applied to each part. The Authority will through this methodology ensure the most economically advantageous tender (MEAT) in respect of each such Lot is awarded.

11. CONTRACT AWARD

11.1. The Contract will be awarded based on the offer that is the most economically advantageous (MEAT) to the Authority based on quality and price. For the purposes of this procurement, this is defined as the highest consolidated score (achieved in the manner described above in paragraph 8 section 3).

INVITATION TO TENDER FOR THE PROVISION OF:
EXPERTS BY EXPERIENCE

Deadline: 21st July 2015
ITT Reference: CQC PSO 20

PART B – Tender Schedules, Appendices and Annexes
(To be returned by Tenderers)

Schedule One: Introduction & Service Specification

INTRODUCTION

1. BACKGROUND

- 1.1 The Care Quality Commission (referred to as the Authority) is the independent regulator of health and Adult social care in England. The Authority makes sure health and social care services provide people with safe, effective, compassionate, high-quality care and encourages care services to improve. The Authority monitors, inspects and regulates services to make sure they meet fundamental standards of quality and safety and it publishes what it finds, including performance ratings to help people choose care.
- 1.2 For more information about Authority, the organisations it regulates and how it regulates them please go to <http://www.cqc.org.uk/content/what-we-do>. This includes information about the Authority's specialised inspection model which makes use of the knowledge, skills and experience of Experts by Experience (ExE).

2. CURRENT CONTRACT PROFILE

- 2.1 The Authority currently has 4 national contracts for the provision of ExE services. These contracts were let to provide types of experts on a national basis and are due to expire on the 30th September 2015. The table below shows the current profile and number of EXE and admin staff provided by each contractor.

Provider	Types of EXE provided	No and type of Ex by Ex	No and type of admin staff
Contractor 1	Detention under the Mental Health Act Learning disabilities/Autism Physical and sensory impairments People with mental health issues Children and young people and their carers All regions	161 (131 employed PAYE 30 self-employed invoice) 14 "inactive" 7 "no longer employed"	9 (100% assigned)
Contractor 2	Older people Family carers of older people family carers of people with dementia and people in the early stages of dementia All regions	171	6 (100% assigned)
Contractor 3	Family carers of people with learning disabilities and /or behaviour that is considered to be challenging All regions	40 (32 employed PAYE and 8 self-employed invoice)	3 (100% assigned)
Contractor 4	People with experience of substance misuse services – All regions except SE/SW/Eastern/London	20	1 (20% assigned)

3. EXECUTIVE SUMMARY

- 3.1 The Authority is looking for an organisation(s) to provide ExE Services that will include the attraction, recruitment, training, management and deployment of ExE.
- 3.2 ExE are people from diverse backgrounds who use regulated services or have done so in within the past 5 years and/or care for people who do so. These ExE are required by the Authority to take part in its inspections events and other events. They bring knowledge, skills and experience in the use of services which encourage and enable people who use services to communicate with the Authority.
- 3.3 The Authority carries out comprehensive or focused inspections.
 - a. A comprehensive inspection event is planned in advance, and includes all aspects of the health and care service.
 - b. A focused inspection event is unplanned. This may happen at short notice and could take place if there are areas of concern that have been raised during a comprehensive inspection event or through ongoing monitoring work.
- 3.4 The Authority also carries out other events for example engagement events to develop policy and strategy and CQC employee training events.
- 3.5 The Authority require ExE services to participate in the following events:
 - a. Inspection Events
 - b. Engagement and CQC Employee Training Events (other events)
- 3.6 Descriptions of these events, and the roles and responsibilities of an ExE in relation to them, are set out in Annex 4 (Events and Activities) of this document.

SERVICE SPECIFICATION

4. THE REQUIREMENT

- 4.1 The Authority is looking for a Contractor(s) to provide ExE Services that will include; the attraction, recruitment, training, management and deployment of ExE to participate in a range of events including:

- a. Inspections that take place in a range of health and care services to include: primary care, mental health, social care and NHS services in order to gather the experiences and views of individuals and their family carers and/ or advocates using the services.
- b. Taking part in engagement for the purpose of assisting the Authority to:
 - Develop effective inspection strategy methodologies and processes
 - Develop effective inspection documentation
 - Develop effective related strategies policies and methodologies
 - Engage the public in a listening event
 - Provide information at a Quality Summit
- c. Taking part in CQC employee training events, for example explaining the role of an ExE on inspector induction training

4.2 The appointed Contractor(s) must:

- a. Provide a sustainable model of services to resource the above events meeting the Key Performance Indicators as set out in Annex 8 (Key Performance Indicators) to this document.
- b. Ensure the deployment of these services to a range of events, to the volumes set out in the Annex 1 (Volumes of Events) to this document against an agreed timetable of delivery.

4.3 These resources to be deployed across four individual regions covering the full breadth of ExE resource requirements, a map of the regions can be found at [\[Map of CQC Geographic Areas\]](#)

4.4 The requirement set out above should be delivered through a sustainable model of ExE resources that consists of the following key elements :

- a. Attraction, recruitment and retention of ExE resources
- b. Training
- c. Management
- d. Deployment

The evaluation in Part A will seek to determine tenderers' ability to deliver the above.

4.5 Annex 1 (Volumes of Events) to this document outlines the projected annual volumes over the life of the contract. However the Authority plans events on annual basis and evaluates these quarterly, therefore the Authority can only provide a confidence level against these volumes of 80% in Year 1, 65% in Year 2 and 50% in year 3 as outlined in Annex 1 (Volumes of Events) to this document.

4.6 Current volumes will increase by 61% in month 2 with a further increase of 61% in month 3. From this point volumes are not currently estimated to fluctuate. This is further information on this in Annex 1(Volumes of Events) to this document.

A. ATTRACTION, RECRUITMENT AND RETENTION OF EXE RESOURCES

4.7 The Contractor(s) will attract, recruit, manage and maintain a quality assured pool of ExE. This pool to be deployed against the volumes and profiles as detailed in Annex 1 (Volumes of Events) to this document. Contractor(s) must ensure that ExE meet the minimum skill set and quality requirements as outlined in Annex 5 (Minimum Skill Set) to this document and have a clear understanding of the nature of the work.

B. TRAINING

4.8 The Contractor(s) will be responsible for ensuring that ExE are fully trained to enable their deployment to events. This is to ensure they can deliver their activities effectively and to the Key Performance Indicators set out in Annex 8 (Key Performance Indicators) to this document.

- The Contractor(s) will be required to attend a 'train the trainer' session (one working day) with the Authority to ensure that their ExE induction training contains the core module training as specified by the Authority outlined below.
- The inspection process:
 - a. Introduction to CQC
 - b. Roles and responsibilities
 - c. Health and Safety
 - d. How to pass on a safeguarding concern
- Equalities, Diversity and Human Rights (EDHR)

4.9 The Core module training for ExE takes an average of 5 hours and lasts no longer than 7.5 hours.

4.10 The Contractor(s) will be responsible for assessing and providing any other training to EXE to ensure they can deliver their activities

4.11 The Contractor(s) will be required to ensure that their training of ExE takes into account any inspection policy changes. For information there have been two significant changes in the last three years.

C. MANAGEMENT & DEPLOYMENT

4.12 The Contractor(s) are responsible for ensuring the deployment of ExE in respect of carrying out their role and responsibilities.

- 4.13 The Contractor(s) will be required to develop a work satisfaction survey to be issued at six-monthly intervals, the content of which will be agreed prior to issue.
- 4.14 Contractor should take into consideration that some ExEs, for example those with a physical or sensory impairment or a Learning Disability, may require the assistance of a support worker in order to undertake the ExE role. Some ExE may already have support workers in place but others may not. The Contractor(s) must be able to source any required support workers to enable ExE to carry out the services within the contract. Contractors must be able to demonstrate an objective assessment of this requirement before deploying the support worker. A percentage indication of the level of support workers deployed in the last six months is set out in Annex 1 (Volumes of Events) to this document.
- 4.15 The support worker's role is to support the ExE in line with their roles and responsibilities (see section 4.27 & 4.28 of this document). It is not the role of the support worker to offer opinion or participate in an event. Please see Annex 1(Volumes of Events) to this document for the percentage of support workers deployed over the last 6 months of the existing contract.

DEPLOYMENT

The Mobilisation and Deployment of Resource

- 4.16 The Contractor (s) will be expected to deploy ExE to the required event volumes and ExE types as set out in Annex 1 (Volumes of Events) to this document. These events include the activities set out in Annex 4 (Events and Breakdown of Activities) to this document and must be delivered to the minimum skill set and quality requirements set out in Annex 5 (Minimum Skill Set) to this document.
- 4.17 The End to End process for the deployment of ExE works in three stages
1. Allocation and assigning to events
 2. Actual services provided to events
 3. Post event evaluation

Allocation and Assignment of Events

- 4.18 The Authority plans to use an online platform; a National Resource Planning System (NRPS) with which Contractor(s) will be required to interface. This is an online platform that provides all the information the contractor(s) will need to allocate ExE to events. Details of the specification for the NRPS are available in Annex 3 (National Resource Planning System) to this document.
- 4.19 The Authority will identify volumes and type of ExE required through the National Resource Planning System. Contractors will be informed of requirements through this system for the projected comprehensive inspection

events 3 months prior to the inspection event. The Authority will update all volume information on a monthly basis, and will require the Contractor(s) to update their resource allocation accordingly within this system in line with Key Performance Indicators (KPIs) as set out in Annex 8 (Key Performance Indicators) to this document.

- 4.20 Contractor(s) will allocate ExE resources to events through the NRPS. The Contractor(s) will ensure that all comprehensive inspection events have identified ExE on average within 28 working days (4 weeks) prior to the inspection.
- 4.21 In addition the Authority via the NRPS will provide access to all focused inspection events details on average 5 working days prior to the inspection event and at least 48 hours prior to the inspection event. The Authority requires the Contractor(s) to ensure that all focused inspection events have identified ExE no later than 1 working day prior to the inspection events.
- 4.22 In addition the Authority via the NRPS will provide access to all engagement and CQC employee training event details an average within 6 weeks prior to the event and at least 2 weeks prior to the event. The Authority requires the Contractor to ensure that all events have identified ExE no later than 1 week prior to the event.
- 4.23 The Contractor(s) is required to upload an agreed quality assured pen portrait of ExEs on to the NRPS in line with the Authority's guidelines prior to the first allocation of an ExE to an event. An example of an ExE Pen Portrait can be found in Annex 7 (Sample Pen Portrait) to this document.
- 4.24 For the Authority's approach to travel & subsistence and hotel booking see instruction to bidders in ITT Part One (a) Tenderer Response, schedule 2 – Pricing Schedule.
- 4.25 The Contractor(s) and the Authority will abide by the cancellation policy as set out in Annex 2 (Cancellations and Complaints) to this document.

Actual services provided to events

- 4.26 Annex 4 (Events & breakdown of activities) to this document describes the activities required per event. There are general responsibilities for ExE which are set out below.

Roles and Responsibilities – Expert by Experience on Inspection Events

- 4.27 For inspection events, the ExE will :
 - a. Focus on key lines of enquiry as set out by the lead inspector which involves

- i. Communicating with people using services and their family/advocates.
- ii. Observing care and the environment in which it is delivered
- iii. Communicating with the staff working at the service
- iv. Gathering and providing information in a format required by the lead inspector

Post Event Evaluation

4.28 The Contractor(s) are required to use feedback from the Authority to evaluate the performance of the ExE against Annex 5 (Minimum Skill Set) to this document following an event.

5. PERFORMANCE STANDARDS

5.1 Key Performance Indicators shall apply to the contractor's work. The requisite indicators are summarised in Annex 8 (Key Performance Indicators) to this document.

6. TIME TABLE & IMPLEMENTATION

6.1 The contract is scheduled to start on 1st December 2015 and will be for an initial period of 18 months with the option (exercisable at the Authority's sole discretion) to extend the contract period of up to an additional 18 months in total.

6.2 Volumes for the first three months of the contract are set out in Annex 1 (Volumes of Events) to this document. The Authority will expect the contractor(s) to be delivering to the volumes outlined within the timescales identified.

7. CONTINUOUS IMPROVEMENT

7.1 In relation to cost savings and efficiencies, the Authority will set an ongoing obligation on the Contractor throughout the Contract Period to identify potential improvements to the provision of the Services with a view to reducing the Authority's costs (including the Contract Charges). Tenderers are expected to identify potential year on year savings for fixed or variable costs in ITT Part One (a) Tenderer Response, schedule 2 – Pricing Schedule. Any cost savings in excess of those identified in this Pricing Schedule will be subject to gain-share as identified in the draft Terms of Contract.

- 7.2 The Authority will expect ongoing improvements to the quality and efficiency of the services both in delivering the ExE service and the supply of these services to the Authority.
- 7.3 The Authority will expect the Contractor (s) to draw together and share intelligence, insight and trends in the way health and social care services are delivered to enable the Authority to deliver its purpose. This to be collated from aggregating individual ExE knowledge, experience and information gathered as a result of ExE participating in individual events as part of their delivery of the ExE programme,
- 7.4 The Authority will, over time, expect to see the regional profiles of ExE more accurately reflecting local demographics as well as ensuring that they cover the protected characteristics of the population. Annex 6 (Diversity profiles of current ExE resource pool) provides the current breakdown of these characteristics.
- 7.5 The Authority would expect the Contractor (s) to contribute to the reduction of its carbon footprint and other environmental sustainability targets.

8. SOCIAL VALUE

- 8.1 The Authority will, over time, also expect the Contractor (s) to put in place innovative strategies that attract and encourage those individuals from a wide range of socio-economic backgrounds, for some of whom payment is a barrier to becoming an ExE.
- 8.2 The Authority will expect the Contractor (s) to demonstrate how it encourages individuals to acquire transferrable skills which could support their ability to not only meet the expectations of the ExE role but to apply those skills in other forms of employment.
- 8.3 The Authority will expect the Contractor (s) to demonstrate how it is able to support the voluntary, community and other organisations that support people who use health and social care services in the geographical area in which it is successful.

9. SKILLS AND KNOWLEDGE TRANSFER

- 9.1 The Authority will expect the Contractor(s) to make links with appropriate organisations, community groups and other representative bodies to ensure that the ExE programme works in synergy with these groups, supplements their work, adds value and enriches the social outcomes targeted by the ExE programme.

(Part B – Tender Schedules)

Schedule One (a): Tenderer Response

See accompanying template questions for completion and return

Schedule Two: Pricing Schedule

1. GENERAL INSTRUCTIONS

- 1.1 The Pricing Schedule will be included in Schedule 3 of the Contract. Tenderers are required to complete the excel spreadsheet accompanying this document as part of their response to this ITT document. Please refer to the 'Summary' tab for a list of assumptions on which the pricing should be based.
- 1.2 The rates contained within the Pricing Schedule are, unless otherwise expressly agreed between the parties, not subject to change.
- 1.3 The rates entered shall be deemed to include complete provision for full compliance with the requirements of the Contract.
- 1.4 All pricing information provided in the Pricing Schedule should include VAT.
- 1.5 Tenderers should complete an individual pricing sheet within the Pricing Schedule for each Lot they are proposing to bid, which for any Multi-Lot Tenders shall detail any economies of scale as a result of winning more than 1 Lot. This information to be provided within the table provided in the 'Summary sheet.
- 1.6 Hotel, travel and subsistence costs are to be treated as a Pass Through cost, for which Tenderers are required to propose a maximum level of charges throughout the Contract Period.

2. SCHEDULE OF PAYMENTS

- 2.1 The Authority requires Tenderers to competitively tender against the requirements of the Specification. Payments to the Contractor for service delivery will be in accordance with the terms and conditions.

Schedule Three: Contract Management

1. GENERAL INSTRUCTIONS

- 1.1. Tenderers will be required to complete all the information requested in the following section once the contract is awarded. Any supporting documents (e.g. implementation plans etc.) will need to be clearly referenced back to the appropriate section.

2. REPRESENTATIVES

- 2.1. Name of Authority's Contract Representative(s): Chris Day, Director of Engagement, CQC; Annette Godwin, Head of Commercial & Contracts, CQC
- 2.2. Name of Contractor's Representative(s): Tenderer to complete

3. DELIVERABLES

List of deliverables, outputs and reports the Contractor is to supply to the Authority:

Deliverables and outputs

The deliverables and outputs are outlined in Annexes 1-8 to this document.

Reports

MONTHLY

- (a) Contractor performance report against KPIs
- (b) Risk log against agreed risk
- (c) Performance against volume
- (d) Report on the number of ExE recruited to include employment arrangement e.g. paid, volunteer.
- (e) ExE by type recruited and the attrition rate
- (f) ExE trained
- (g) Exe by type deployed for inspection in the month
- (h) Workforce profile by demographic and protected characteristics
- (i) How many ExE are being performance managed
- (j) Complaints dealt with in line with CQC's complaints policy

QUARTERLY

- (a) How many ExE deployed within and outside of the contracted region.

SIX MONTHLY

- (a) ExE Quality Survey results
- (b) ExE Work Satisfaction Survey results
- (c) Key themes from the ExE's perspective per region/contract area

3.2. Period(s) over which each deliverable, output and report is to be supplied:

Periods for deliverables and outputs are specified in Annexes 1 – 8. Periods for Reporting are specified above.

4. MEETINGS

4.1. Frequency of contract management meetings:

- (a) Monthly monitoring meeting- scorecards/KPI's
 - (b) Quarterly review meeting - Performance review
 - (c) Half yearly strategic meeting – Include supplier engagement with DCI
 - (d) Annual Meeting – performance award for the whole year./open book work/retention
- 4.2. Location of contract management meetings to be agreed by the Authority upon Contract commencement.

5. REMEDIES

5.1. Remedies for below par performance are detailed within the Contract

Schedule Four: Confidential & Commercially Sensitive Information

See accompanying template for (identification of the confidential & commercially sensitive information) completion and return to the Authority.

Schedule Five: Administrative Instructions

See accompanying template for (Administrative Instructions) completion and return to the Authority.

Schedule Six: Form of Tender

See accompanying template for (Form of Tender) completion and return to the Authority.

Appendix A Sub-Contractors

See accompanying template for (Sub-Contractor information) completion and return to the Authority.

Appendix B Guarantee

See accompanying template for (Parent Company Guarantee information) completion and return to the Authority. . The Authority reserves the right to require direct guarantees from any parent companies, associated companies or other entities to ensure that the Tenderer is financially robust and properly secured. The Councils will expect the Tenderer to agree to enforce the guarantees where require.

Annex 1- Volumes of Events

Table 1 - Required volumes of Inspection events by region, by service type and by type of Expert for a standard year and confidence values for future years

	Total Number of Events					Year 1 Number of Events			Year 2 Number of Events			Year 3 Number of Events		
	Central	London	North	South	Total	Confidence	Planned	Unplanned	Confidence	Planned	Unplanned	Confidence	Planned	Unplanned
						80%	80%	20%	65%	80%	20%	50%	80%	20%
D / FCD	1,530	593	1,387	1,501	5,011	4,009	3,207	802	3,257	2,606	651	2,506	2,004	501
OP / FCOP	510	198	462	500	1,670	1,336	1,069	267	1,086	868	217	835	668	167
LD	436	169	396	428	1,430	1,144	915	229	930	744	186	715	572	143
PS	262	102	237	257	858	686	549	137	558	446	112	429	343	86
FCLDC	146	56	132	143	477	382	305	76	310	248	62	239	191	48
CYP	29	11	26	28	95	76	61	15	62	49	12	48	38	10
ASC-R	2,912	1,130	2,640	2,859	9,541	7,633	6,106	1,527	6,202	4,961	1,240	4,770	3,816	954
D / FCD	753	292	683	739	2,468	1,974	1,580	395	1,604	1,283	321	1,234	987	247
OP / FCOP	251	97	227	246	822	658	526	132	534	427	107	411	329	82
LD	215	83	195	211	705	564	451	113	458	367	92	353	282	71
PS	129	50	117	127	423	338	271	68	275	220	55	212	169	42
FCLDC	72	28	65	70	235	188	150	38	153	122	31	118	94	24
CYP	14	6	13	14	47	38	30	8	31	24	6	24	19	5
ASC-C	1,435	556	1,301	1,408	4,700	3,760	3,008	752	3,055	2,444	611	2,350	1,880	470
D / FCD	7	3	6	7	22	18	14	4	14	11	3	11	9	2
OP / FCOP	7	3	6	7	22	18	14	4	14	11	3	11	9	2
PS	7	3	6	7	22	18	14	4	14	11	3	11	9	2
MH	2	1	2	2	8	6	5	1	5	4	1	4	3	1
SM	7	3	6	7	22	18	14	4	14	11	3	11	9	2
CYP	14	5	12	13	45	36	29	7	29	23	6	23	18	5
MAT	14	5	12	13	45	36	29	7	29	23	6	23	18	5
NHS Acute	57	22	51	56	186	149	119	30	121	97	24	93	74	19
MH	53	20	48	52	173	138	111	28	112	90	22	87	69	17
MHD	11	4	10	10	35	28	22	6	23	18	5	18	14	4
SM	7	3	6	7	23	18	15	4	15	12	3	12	9	2
MH NHS	71	27	64	69	231	185	148	37	150	120	30	115	92	23
D / FCD	22	8	20	21	71	57	45	11	46	37	9	36	28	7
OP / FCOP	20	8	18	20	66	53	42	11	43	34	9	33	26	7
LD	20	8	18	20	66	53	42	11	43	34	9	33	26	7
PS	20	8	18	20	66	53	42	11	43	34	9	33	26	7
FCLDC	20	8	18	20	66	53	42	11	43	34	9	33	26	7
MH	20	8	18	20	66	53	42	11	43	34	9	33	26	7
MHD	20	8	18	20	66	53	42	11	43	34	9	33	26	7
SM	20	8	18	20	66	53	42	11	43	34	9	33	26	7
CYP	20	8	18	20	66	53	42	11	43	34	9	33	26	7
CYPMH	20	8	18	20	66	53	42	11	43	34	9	33	26	7
MAT	20	8	18	20	66	53	42	11	43	34	9	33	26	7
PMS	223	87	202	219	731	585	468	117	475	380	95	366	292	73
D / FCD	2	1	2	2	6	5	4	1	4	3	1	3	2	1
OP / FCOP	2	1	2	2	6	5	4	1	4	3	1	3	2	1
LD	1	0	1	1	2	2	1	0	1	1	0	1	1	0
PS	2	1	1	1	5	4	3	1	3	3	1	3	2	1
SM	1	0	1	1	2	2	1	0	1	1	0	1	1	0
IH	6	2	6	6	21	17	13	3	14	11	3	10	8	2
MHD	61	24	55	60	200	160	128	32	130	104	26	100	80	20
MH Act	61	24	55	60	200	160	128	32	130	104	26	100	80	20
MH	4	2	4	4	14	11	9	2	9	7	2	7	6	1
MHD	9	3	8	9	29	23	19	5	19	15	4	15	12	3
SM	30	12	27	30	99	79	63	16	64	51	13	50	40	10
IH MH and SMU	43	17	39	43	142	114	91	23	92	74	18	71	57	14
LD	8	3	7	7	25	20	16	4	16	13	3	13	10	3
FCLDC	8	3	7	7	25	20	16	4	16	13	3	13	10	3
Registration LD	15	6	14	15	50	40	32	8	32	26	6	25	20	5
O / FCD	2,313	897	2,097	2,271	7,578	6,062	4,850	1,212	4,926	3,941	985	3,789	3,031	758
OP / FCOP	789	306	716	775	2,586	2,069	1,655	414	1,681	1,345	336	1,293	1,034	259
LD	680	264	617	668	2,228	1,782	1,426	356	1,448	1,159	290	1,114	891	223
PS	419	163	380	412	1,374	1,099	879	220	893	714	179	687	550	137
FCLDC	245	95	222	241	803	642	514	128	522	418	104	402	321	80
MH	80	31	72	78	261	209	167	42	170	136	34	131	104	26
MHD	101	39	91	99	330	264	211	53	215	172	43	165	132	33
SM	65	25	59	64	212	170	136	34	138	110	28	106	85	21
CYP	77	30	70	76	253	202	162	40	164	132	33	127	101	25
CYPMH	20	8	18	20	66	53	42	11	43	34	9	33	26	7
MAT	34	13	31	33	111	89	71	18	72	58	14	56	44	11
Total	4,823	1,871	4,373	4,735	15,802	12,642	10,113	2,528	10,271	8,217	2,054	7,901	6,321	1,580

	Total Number of Events					Year 1 Number of Events			Year 2 Number of Events			Year 3 Number of Events		
	Central	London	North	South	Total	Confidence	Planned	Uplanned	Confidence	Planned	Uplanned	Confidence	Planned	Uplanned
						80%	80%	20%	65%	80%	20%	50%	80%	20%
ASC-R	2,912	1,130	2,640	2,859	9,541	7,633	6,106	1,527	6,202	4,961	1,240	4,770	3,816	954
ASC-C	1,435	556	1,301	1,408	4,700	3,760	3,008	752	3,055	2,444	611	2,350	1,880	470
NHS Acute	57	22	51	56	186	149	119	30	121	97	24	93	74	19
MH NHS	71	27	64	69	231	185	148	37	150	120	30	115	92	23
PMS	223	87	202	219	731	585	468	117	475	380	95	365	292	73
IH	6	2	6	6	21	17	13	3	14	11	3	10	8	2
MH Act	61	24	55	60	200	160	128	32	130	104	26	100	80	20
IH MH and SMU	43	17	39	43	142	114	91	23	92	74	18	71	57	14
Registration LD	15	6	14	15	50	40	32	8	32	26	6	25	20	5
Total	4,823	1,871	4,373	4,735	15,802	12,642	10,113	2,528	10,271	8,217	2,054	7,901	6,321	1,580

NB: 12% of ExE required a support worker over the last 6 months.

Service types key

ASC-R	Adult Social Care - Residential services (including hospices)
ASC-C	Adult Social Care - Community based services
NHS Acute	NHS Acute Hospitals
MH NHS	Mental Health NHS services
PMS	Primary Medical Services
IH	Independent Hospitals
MH Act	Mental Health Act - Visits made by CQC Mental Health Act Reviewers to monitor the use of the Mental Health Act and meet with detained patients
IH MH & SMU	Independent Hospitals - Mental Health and Substance Misuse
Registration LD	Registration - Learning disability services only

ExE type – Key

People in the early stages of dementia	D
Family carers of people with dementia	FCD
Older People who use regulated services	OP
Family carers of older people who use regulated services	FCOP
People who have a learning disability, people who have a dual diagnosis of LD and MH, people with Autism	LD

People who have a physical and/or sensory impairment	PS
Family carers of people who have severe learning disabilities and/or behaviour that is considered to be challenging	FCLDC
People who have experience of using mental health services	MH
People with experience of detention under the Mental Health Act	MHD
People who have experience of using substance misuse services	SM
Children and young people who use health, mental health or care services, or are family carers	CYP
Family carers of children and young people who use health, mental health or care services	CYPMH
People who have recently used maternity services	MAT

NB: In month 1 the Authority plans 555 events. This will increase to 894 events (a 62% increase) in month 2 with a further increase to 1,435 events in month 3 (a 61% increase).

Table 2 Inspection event volume profile for the first three month period of the Contract

	Current Volumes: 6 months					New volumes: Quarter 1 ramp up		
	Central	London	North	South	Total	Month 1	Month 2	Month 3
D / FCD	204	236	310	266	1,016	169	293	418
OP / FCOP	68	79	103	89	339	56	98	139
LD	58	67	88	76	290	48	84	119
PS	35	40	53	46	174	29	50	72
FCLDC	19	22	29	25	97	16	28	40
CYP	4	4	6	5	19	3	6	8
ASC-R	388	450	590	506	1,934	322	559	795
D / FCD	69	34	106	90	299	50	128	206
OP / FCOP	23	11	35	30	100	17	43	69
LD	20	10	30	26	86	14	37	59
PS	12	6	18	15	51	9	22	35
FCLDC	7	3	10	9	29	5	12	20
CYP	1	1	2	2	6	1	2	4
ASC-C	132	65	201	172	570	95	243	392
D / FCD	7	3	5	4	18	3	2	2
OP / FCOP	7	3	5	4	18	3	2	2
PS	7	3	5	4	18	3	2	2
MH	2	1	2	1	7	1	1	1
SM	7	3	5	4	18	3	2	2
CYP	14	5	10	8	37	6	5	4
MAT	14	5	10	8	37	6	5	4
NHS Acute	58	22	43	31	154	26	21	16
MH	13	18	19	19	69	11	13	14
MHD	3	4	4	4	14	2	3	3
SM	2	2	2	3	9	2	2	2
MH NHS	17	24	25	26	92	15	17	19
D / FCD	12	6	12	12	42	7	6	6
OP / FCOP	12	5	11	11	39	6	6	6
LD	12	5	11	11	39	6	6	6
PS	12	5	11	11	39	6	6	6
FCLDC	12	5	11	11	39	6	6	6
MH	12	5	11	11	39	6	6	6
MHD	12	5	11	11	39	6	6	6
SM	12	5	11	11	39	6	6	6
CYP	12	5	11	11	39	6	6	6
CYPMH	12	5	11	11	39	6	6	6
MAT	12	5	11	11	39	6	6	6
PMS	128	60	119	123	430	72	66	61
D / FCD	0	0	0	1	1	0	0	1
OP / FCOP	0	0	0	1	1	0	0	1
LD	0	0	0	0	0	0	0	0
PS	0	0	0	1	1	0	0	0
SM	0	0	0	0	0	0	0	0
IH	0	1	1	3	5	1	1	2
MHD	1	0	1	1	3	1	9	17
MH Act	1	0	1	1	3	1	9	17
MH	3	4	1	5	13	2	2	1
MHD	7	9	2	10	28	5	4	2
SM	22	31	8	33	94	16	12	8
IH MH and SMU	32	44	12	47	135	23	17	12
LD	1	0	2	1	4	1	1	2
FCLDC	1	0	2	1	4	1	1	2
Registration LD	1	0	4	2	7	1	3	4
D / FCD	292	279	432	373	1,376	229	430	632
OP / FCOP	109	98	155	134	497	83	149	216
LD	90	83	131	114	418	70	128	186
PS	65	55	87	76	283	47	81	115
FCLDC	38	31	52	46	168	28	47	67
MH	30	29	32	37	128	21	22	22
MHD	22	18	18	26	83	14	21	28
SM	42	41	27	50	161	27	22	18
CYP	31	16	29	25	101	17	19	21
CYPMH	12	5	11	11	39	6	6	6
MAT	26	11	21	19	76	13	11	9
Total	757	666	996	911	3,330	555	996	1,317

Table 3

Required volumes of Experts by Experience for Engagement and CQC Employee Training Event (these are in hours) by Expert by Experience type and by region

Other activity' in hours		Based on % of inspection activity undertaken per category of ExE.											Total No of Hours
Category of ExE	D / FCD	OP / FCOP	LD	PS	FCLDC	MH	MHD	SM	CYP	CYPMH	MAT		
Central	1004	342	295	182	106	34	44	28	33	8.5	15	2091	
London	356	122	105	65	38	13	15	10	12	3	5	7	
North	1004	343	295	182	106	34	44	28	33	8.5	15	2092	
South	873	298	257	158	93	30	38	25	30	8	12	18	
Estimated hours per category of ExE	3237	1105	952	587	343	111	141	91	108	28	47	67	

Annex 2 Cancellations and Complaints

ExE payments for cancelled activity

Situation	Payment to Contractor
Cancellations 24 hours' notice or less (excluding weekends and Bank Holidays)	100% as though activity carried out plus 100% of pre-committed travel costs and the cost of any planned replacement care which has to be honoured
Cancellations 48 hours' notice (excluding weekends and Bank Holidays)	50% of the cost of the activity carried out plus 100% of pre-committed travel costs where these costs cannot be recovered.
Cancellations More than 48 hours' notice	100% of pre-committed travel costs where these costs cannot be recovered.

NB

On events which last for multiple consecutive days, the policy operates separately for each day. For example if a 3 day inspection event is cancelled within 24 hours of the first day, payment for day 1 will be 100%, payment for day 2 is 50%, and payment for day 3 will be 0, although for each day the Authority will reimburse committed travel costs where those costs cannot be recovered.

Complaints

There are two types of complaint in relation to the ExE programme:-

1. Corporate complaints
2. Performance complaints

Corporate Complaint

A corporate complaint is about the performance and conduct of the Authority in the exercise of its duties and responsibilities. The Authority's Complaints Procedure is a two-stage process:

Stage 1 is handled directly by the line manager of the person complained about or the Head of Service, whichever is appropriate. The Stage 1 team in the Authority's National Customer Service Centre (NCSC) tracks and chases Stage 1 complaints. The complainant must receive a response within 15 working days. The Authority will work with the Contractor(s) to investigate and resolve the complaint within the deadline.

If the complainant is not satisfied with the response, they can initiate a Stage 2 complaint. Stage 2 corporate complaints are managed and co-ordinated by the Authority's Corporate Complaints Team.

Performance Complaint

Any other complaint about the performance of ExE that is not routed through Corporate Complaints will be managed by the Contractor(s) in discussion with the Authority. The Contractor(s) must send an acknowledgement to the complainant within two working days, and a full response within 15 working days.

If the complaint is received by the Authority directly, the Authority will acknowledge the complaint and pass the complaint to the Contractor(s) within two working days.

The Authority's Complaints Policy can be found here

<http://www.cqc.org.uk/content/complain-about-cqc>

http://www.cqc.org.uk/sites/default/files/documents/20110912_cqc_complaints.pdf

Annex 3: Specification of the National Resource Planning System (NRPS)

CQC is currently completing the procurement of a NRPS which will support the end to end planning & scheduling processes required to deliver its regulatory activity.

This system will provide the Contractor(s) of ExE service with access to information about the planned and unplanned events and allow them to allocate experts to events.

The system itself is web based and requires a minimum of Internet Explorer 6 (IE 6) to access. It should be noted that the Contractor(s) will be expected to provide the necessary IT infrastructure and hardware necessary to provide a web link to enable access to the NRPS. The NRPS is capable of interface with external data sources and has provision for access by third parties such as the Contractor(s).

Contractors winning one or more lots will be able to have access to all relevant lot areas and any identified sub-contracting partners.

This access will enable the Contractor(s) to upload details of the ExE in line with Annex 7 (Sample pen portrait) to this document and confirm the ExE to the event.

Management information reports will be available to the Contractor including, but not limited to:

- The number of filled and unfilled events by region
- The number of events undertaken by each ExE

Training to Contractor(s) on the NRPS will be provided by the Authority. Details of what the training will entail will be confirmed at the start of the Contract.

Additional Information about the Authority's National Resource Planning System

System availability – Anticipated to be 24/7 but this to be confirmed. Any system maintenance will be done outside working hours

Application monitoring - The system will be monitored with suitable alerting tools in place to notify current or imminent service breaches + security issues.

Reporting – There will be the opportunity to work with the Authority to develop the reporting provision from the ExE data made available.

Release Management - System to be subject to formal processes for release management, in association with customer with regard to testing.

Hosting – The System is being hosted either on a secure cloud site to ISO27001. The System is also capable of data standards up to and including IL3.

User management - Procedures will be in place to ensure timely actions in relation to requesting, establishing, issuing, updating, suspending and closing user accounts.

Data ownership - All data within the system will be defined and have a documented owner.

Confidentiality & integrity - The system will maintain a data integrity standard up to and including IL3 throughout the data lifecycle. For more information about IL3 accreditation see link below:

<https://www.gov.uk/service-manual/making-software/information-security.html>

Legal compliance - to the system complies with all relevant nations' legal requirements including Data Protection Act (1998) Freedom of Information Act (2001) & Privacy laws.

Data purging/archiving - There will be a routine to purge/archive data in accordance with an agreed data retention policy.

Accessibility – The system shall enable accessibility via assistive technology for those who cannot use a standard mouse and/or keyboard e.g. WA3, Dragon Speak and Windows 7 Voice Recognition software.

Service desk & service manager – There will be a Service Desk provision available to log and resolve incidents and requests. There will also be a named contact for escalation of issues and regular interface between the Authority's NRPS team and the Contractor(s).

Web Interfaces - The majority of functionality will be accessed through the System's web interface/browser. The user interface has been designed to provide a streamlined flow of work for system users. Web users will not require any desktop components to be loaded or implemented.

Service Definition - Comprehensive and clear instructions will be provided to Contractor(s) on how to use the NRPS.

Annex 4 Events and breakdown of activities

Types of Events

There are two main types of ExE events, these are:

- ExE inspection events
- ExE engagement and CQC employee training events

ExE Inspection Events

An 'ExE inspection event' is defined as the sum of the activity carried out by one ExE over a number of days. There may be multiple inspection events for some inspections.

The Authority currently carries out comprehensive and focused inspections.

Comprehensive inspections are planned in advance and cover all aspects of the business. A focused inspection is usually unplanned. This may happen at short notice and could take place if there are areas of concern that have been raised during a comprehensive inspection or through ongoing monitoring work.

On an inspection the Authority's inspection teams look at whether the service is:

- Safe
- Effective
- Caring
- Responsive to people's needs
- Well-led

Further information about the Authority's regulatory model can be found at:

<http://www.cqc.org.uk/content/what-we-do>

http://www.youtube.com/watch?v=BoL7pxjmGAK&list=UUP_qU5W_c3jaLkOY0mWrB-w

Below are descriptions of the types of ExE inspection events relating to the following services regulated by the Authority:

- 1 Adult Social Care –Residential (ASC – R)
- 2 Adult Social Care – Community based services (ASC – C)
- 3 Independent Hospitals (IH)
- 4 Mental Health NHS Services (MH NHS)
- 5 NHS Acute Hospitals (NHS Acute)
- 6 Primary Medical Services (PMS)
- 7 Services where people are detained under the Mental Health Act (MHA)
- 8 Independent Hospitals/Mental Health and Substance Misuse (IH MH & SMU)
- 9 Registration (Learning disability services only)

Types of ExE inspection events

1 Adult Social Care - residential. These include:

- Care homes and care homes with nursing
- Residential specialist colleges
- Care associated with housing
- Shared lives schemes
- Hospices

Adult Social Care - residential ExE inspection events are the activities that happen before, during and after the inspection. The event will usually involve face-to-face contact with the people using the service and may also involve making telephone calls. Some of these events can take place outside of normal working hours.

There will typically be one ExE event per inspection. Each ExE inspection event lasts for up to 10 hours and takes place over an average of three separate days.

The hours break down as follows:

- Up to 1 hour on pre-inspection activity
- An average of 7 hours of inspection activity
- Up to 2 hours of post-inspection activity

Pre-inspection activity

The Authority will:

- request an ExE with the appropriate experience to be allocated by the Contractor(s)
- provide the ExE with a pre-briefing of no longer than 1 hour by telephone or email. This will include:
 - details about which Key Lines of Enquiry the ExE should focus on
 - questions that the inspector wishes the ExE to ask
 - confirmation of the hours and logistics of the inspection
- provide the ExE with materials that may be useful to them on the inspection

The Contractor(s) will:

- ensure the ExE has the requisite training to undertake the activity
- provide contact details for, and a pen profile of, the ExE to the lead inspector
- arrange any necessary travel and accommodation for the ExE
- arrange support worker/s for the ExE if required
- provide the ExE with materials in alternative formats if required if inspection requirements are passed to the Contractor(s) with 5 or more working days' notice.

Ensure that the ExE has no conflicts of interest before taking part in the inspection

Inspection activity

The Contractor(s) will:

- arrange for the ExE to attend the site visit at the time and place agreed during the pre-briefing to carry out the duties outlined in ITT Part B, section 4.27
- be available to provide management and support to the ExE if required for the duration of the inspection.

Post inspection activity

The Contractor(s) will:

- ensure the ExE writes up their notes/report and emails them to the lead inspector as required by them, copying them to the Contractor(s) for quality checking purposes.
- provide support to the ExE to email their notes/report to the lead inspector as required.
- ensure the ExE reviews the draft inspection report as required by the lead inspector.

Adult Social Care – community based

Adult Social Care community-based ExE inspection events include the activities that happen before, during and after the inspection. The event will usually involve making telephone calls but may also involve face-to-face contact with the staff employed by the service.

There will typically be one ExE event per inspection. Each ExE inspection event lasts for up to 14.5 hours and takes place over an average of 3.5 days. The maximum number of days over which the event takes place is five days.

The hours break down as follows:

- Up to 1 hour on pre-inspection activity
- 11 hours of inspection activity
- 2.5 hours of post inspection activity

Pre inspection activity

The Authority will:

- request an ExE with the appropriate experience to be allocated by the Contractor(s)
- provide the ExE with a pre-briefing to take no longer than an hour by telephone or email. This will include:
 - Details about which Key Lines of Enquiry they want the ExE to focus on
 - Questions that the inspector wishes the ExE to ask
 - Confirmation of the hours and logistics of the inspection
- provide the ExE with materials that may be useful to them on the inspection
- send out a letter to people using the service informing them that they may receive a call from an ExE
- provide the required information to ExE to enable them to carry out telephone interviews from home or the Contractor's(s') premises, e.g. names, contact numbers etc.

The Contractor(s) will:

- ensure the ExE has the requisite training to undertake the activity
- provide contact details for and a pen profile of the ExE to the lead inspector
- arrange any necessary travel and accommodation for the ExE

- arrange support worker/s for the ExE if required
- provide the ExE with materials in alternative formats if required if inspection requirements are passed to the Contractor(s) with 5 or more working days' notice.
- Ensure that the ExE has no conflicts of interest before taking part in the inspection

Inspection activity

The Contractor will:

- arrange for the ExE to attend a site visit at the time and place agreed during the pre-briefing to carry out the duties outlined in ITT Part B, section 4.27 unless advised otherwise
- ensure the ExE call the required maximum number of people as specified by the Authority
- be available to provide management and support to the ExE if required for the duration of the inspection.

The Authority will:

- ensure that there is an inspector on call to address any safeguarding issues that arise from the telephone calls.

Post inspection activity

The Contractor will:

- ensure the ExE writes up their notes/report and emails them to the lead inspector as required by them, copying them to the Contractor(s) for quality checking purposes.
- provide support to the ExE to email their notes/report to the lead inspector as required.
- ensure the ExE reviews the draft inspection report as required by the lead inspector.

2 Independent Hospitals

Independent Hospital inspection events include the activities that happen before, during and after the inspection. The event will include face-to-face contact with people who use the service and may include making telephone calls.

There will typically be one ExE event per inspection. Each ExE inspection event lasts for up to 16 hours and takes place over an average of three days.

The hours break down as follows:

- Up to 7 hours pre-inspection activity
- An average of 7 hours of inspection activity
- Up to 2 hours of post-inspection activity

Pre-inspection activity

The Authority will:

- request the required number of ExE with the appropriate experience to be allocated by the Contractor(s)
- send the ExE a briefing pack
- invite the ExE to join a one hour telephone conference call unless otherwise stated
- require all participants to attend a full or half day of briefing the day before the inspection

The Contractor(s) will:

- ensure the ExE has the requisite training to undertake the activity
- provide contact details for and a pen profile of the ExE to the lead inspector
- Ensure the ExE joins the pre-inspection telephone conference unless otherwise stated
- arrange any necessary travel and accommodation for the ExE
- arrange support worker/s for the ExE if required
- provide the ExE with materials in alternative formats if required if inspection requirements are passed to the Contractor(s) with 5 or more working days' notice.
- Ensure that the ExE has no conflicts of interest before taking part in the inspection

Inspection activity

The Contractor(s) will:

- ensure that ExE attends the pre-briefing call
- arrange for the ExE to attend the site visit at the time and place agreed during the pre-briefing to carry out the duties outlined in ITT Part B, section 4.27.
- be available to provide management and support to the ExE if required for the duration of the inspection.
- ensure the ExE must hand in their notes/report as required by the lead inspector at the end of each day

Post inspection activity

The Contractor(s) will:

- ensure the ExE reviews the draft report if required.

3 Mental Health NHS Services. These include:

- CAMHS
- Learning disability/autism

Mental Health Trust and community health inspection events include the activities that happen before, during and after the inspection. The event will include face-to-face contact with people who use the service and may include making telephone calls.

There will be an average of seven ExE inspection events per inspection. Each ExE inspection event lasts for up to 30 hours and takes place over an average of three days. The maximum number of days over which the event takes place is five days.

The hours break down as follows:

- Up to 8 hours on pre-inspection activity
- An average of 20 hours of inspection activity
- Up to 2 hours of post-inspection activity

Pre-inspection activity

The Authority will:

- request the required number of ExE with the appropriate experience to be allocated by the Contractor(s)
- send the ExE a briefing pack
- invite the ExE to join a one hour telephone conference call unless otherwise stated
- require all participants to attend a full or half day of briefing the day before the inspection

The Contractor(s) will:

- ensure the ExE has the requisite training to undertake the activity
- provide contact details for and a pen profile of the ExE to the lead inspector
- ensure the ExE joins the pre-inspection telephone conference unless otherwise stated
- arrange any necessary travel and accommodation for the ExE
- arrange support worker/s for the ExE if required
- provide the ExE with materials in alternative formats if required if inspection requirements are passed to the Contractor(s) with 5 or more working days' notice.
- Ensure that the ExE has no conflicts of interest before taking part in the inspection

Inspection activity

The Contractor(s) will:

- ensure that ExE attends the pre-briefing call
- arrange for the ExE to attend the site visit at the time and place agreed during the pre-briefing to carry out the duties outlined in ITT Part B, section 4.27.
- be available to provide management and support to the ExE if required for the duration of the inspection.
- ensure the ExE hands in their report/notes as required by the lead inspector at the end of each day

Post inspection activity

The Contractor(s) will:

- ensure the ExE reviews the draft report if required.

4 NHS Acute Hospitals

NHS Acute and Community Health Trust inspection events include the activities that happen before, during and after the inspection. The event will include face-to-face contact with people who use the service and may include making telephone calls.

There will typically be two ExE inspection events per inspection. Each ExE inspection event lasts for up to 30 hours and takes place over an average of 3 days and within 5 working days. The days worked may be consecutive.

The hours break down as follows:

- Up to 8 hours on pre-inspection activity
- An average of 20 hours of inspection activity
- Up to 2 hours of post-inspection activity

Pre-inspection activity

The Authority will:

- request the required number of ExE with the appropriate experience to be allocated by the Contractor(s)
- send the ExE a briefing pack
- invite the ExE to join a one hour telephone conference call unless otherwise stated
- require all participants to attend a full or half day of briefing the day before the inspection

The Contractor(s) will:

- ensure the ExE has the requisite training to undertake the activity
- provide contact details for and a pen profile of the ExE to the lead inspector
- Ensure the ExE joins the pre-inspection telephone conference unless otherwise stated
- arrange any necessary travel and accommodation for the ExE
- arrange support worker/s for the ExE if required
- provide the ExE with materials in alternative formats if required if inspection requirements are passed to the Contractor(s) with 5 or more working days' notice.
- Ensure that the ExE has no conflicts of interest before taking part in the inspection

Inspection activity

The Contractor(s) will:

- ensure that ExE attends the pre-briefing call

- arrange for the ExE to attend the site visit at the time and place agreed during the pre-briefing to carry out the duties outlined in ITT Part B, section 4.27.
- be available to provide management and support to the ExE if required for the duration of the inspection.
- ensure the ExE hands in their notes as required the lead inspector at the end of each day

Post inspection activity

The Contractor(s) will:

- ensure the ExE reviews the draft report if required.

5 Primary Medical Services. This includes:

- GP surgeries
- Out of Hours services

Primary Medical Services inspection events include the activities that happen before, during and after the inspection. The event will usually involve face-to-face contact with the people using the service and may also involve making telephone calls and reviewing comment cards.

There will typically be one ExE event per inspection. Each ExE Inspection event lasts for up to 10 hours and takes place over an average of two separate days. Some of these events take place outside of normal working hours.

The hours break down as follows:

- Up to 1 hour on pre-inspection activity
- An average of 7 hours of inspection activity
- Up to 2 hours of post-inspection activity

Pre-inspection activity

The Authority will:

- request an ExE with the appropriate experience to be allocated by the Contractor(s)
- provide the ExE with a pre-briefing to take no longer than an hour by telephone or email. This will include:
 - details about which Key Lines of Enquiry they want the ExE to focus on
 - questions that the inspector wishes the ExE to ask
 - confirmation of the hours and logistics of the inspection
- provide the ExE with materials that may be useful to them on the inspection

The Contractor(s) will:

- ensure the ExE has the requisite training to undertake the activity
- provide contact details for and a pen profile of the ExE to the lead inspector
- arrange any necessary travel and accommodation for the ExE

- arrange support worker/s for the ExE if required
- provide the ExE with materials in alternative formats if required if inspection requirements are passed to the Contractor(s) with 5 or more working days' notice.
- Ensure that the ExE has no conflicts of interest before taking part in the inspection

Inspection activity

The Contractor(s) will:

- arrange for the ExE to attend the site visit at the time and place agreed during the request/pre-briefing to carry out the duties outlined in in ITT Part B, section 4.27.
- be available to provide management and support to the ExE if
- ensure the ExE hand in their notes/report as required by the lead inspector at the end of the day.

Post inspection activity

The Contractor(s) will:

- Ensure the ExE reviews the draft report as required by the lead inspector.

6 Services where people are detained under the Mental Health Act

Mental Health Act ExE events include the activities that happen before, during and after the inspection. The event will include face-to-face contact with people who use the service. There will be one ExE event per inspection Each ExE event lasts for up to 12 hours and takes place over an average of two days.

NB: Although the term 'inspection is used throughout this document for ease, it should be noted that the correct term for event to monitor the use of the Mental Health Act to protect the interests of people whose rights are restricted under the Act is "visit", and the person who leads the inspection is known as a 'Mental Health Act reviewer'.

The hours break down as follows:

- Up to 3 hours of pre-inspection activity
- An average of 7 hours of inspection activity
- Up to 2 hours of post-inspection activity

Pre visit

The Authority will:

- request an ExE with the appropriate experience to be allocated by the Contractor(s)
- provide the ExE with a pre brief and planning meeting with a mental health act inspector
- provide the ExE with materials that may be useful to them on the visit

The Contractor(s) will:

- Ensure the ExE has the requisite training to undertake the activity
- provide contact details for and a pen profile of the ExE to the lead inspector
- Ensure the ExE joins the pre brief with the Mental Health Act reviewer
- arrange any necessary travel and accommodation for the ExE
- arrange support worker/s for the ExE if required
- provide the ExE with materials in alternative formats if required if inspection requirements are passed to the Contractor(s) with 5 or more working days' notice.

Visit activity

The Contractor(s) will:

- arrange for the ExE to attend the site visit at the time and place agreed during the pre-briefing to carry out the duties outlined in in ITT Part B, section 4.27.
- be available to provide management and support to the ExE if required for the duration of the inspection.
- Ensure that the ExE has no conflicts of interest before taking part in the visit

Post visit activity

The Contractor(s) will:

- ensure the ExE writes up their notes/report and emails them to the inspector unless instructed otherwise, copying it to the Contractor(s) for quality checking purposes.
- provide support to the ExE to email their notes/report to the lead inspector as required.
- ensure the ExE reviews the draft report if required.

7 Independent Hospitals- Mental Health and Substance Misuse. This includes:

- Services for people with learning disabilities/autism
- Mental health services for children and adolescents (CAMHS)

Independent Hospital – Mental Health and Substance Misuse ExE inspection events include the activities that happens before, during and after the inspection. The event will include face-to-face contact with people who use the service and may include making telephone calls.

There will typically be one ExE inspection event per inspection. Each ExE inspection event lasts for up to 16 hours and takes place over an average of three days.

The hours break down as follows:

- Up to 7 hours on pre-inspection activity
- An average of 7 hours of inspection activity
- Up to 2 hours of post-inspection activity

Pre-inspection activity

The Authority will:

- request the required number of ExE with the appropriate experience to be allocated by the Contractor(s)
- send the ExE a briefing pack
- invite the ExE to join a one hour telephone conference call unless otherwise stated
- require all participants to attend a full or half day of briefing the day before the inspection

The Contractor(s) will:

- ensure the ExE has the requisite training to undertake the activity
- provide contact details for and a pen profile of the ExE to the lead inspector
- Ensure the ExE joins the pre-inspection telephone conference unless otherwise stated
- arrange any necessary travel and accommodation for the ExE
- arrange support worker/s for the ExE if required
- provide the ExE with materials in alternative formats if required if inspection requirements are passed to the Contractor(s) with 5 or more working days' notice.
- Ensure that the ExE has no conflicts of interest before taking part in the inspection

Inspection activity

The Contractor(s) will:

- ensure that ExE attends the pre-briefing call
- arrange for the ExE to attend the site visit at the time and place agreed during the pre-briefing to carry out the duties outlined in in ITT Part B, section 4.27.
- be available to provide management and support to the ExE if required for the duration of the inspection.
- ensure the ExE must hand in their report/notes as required by the lead inspector at the end of each day

Post inspection activity

The Contractor(s) will:

- ensure the ExE reviews the draft report if required.

8 Registration (Learning disability services only)

Registration inspections events are the activities that happen before, during and after the inspection. The event will usually involve a site visit to assess suitability for the intended clientele, and may include interviewing people who use an existing service. It may also include joining the whole or part of an applicant interview and reviewing an application or relevant documentation, such as a statement of purpose or information to residents

There will typically be one ExE inspection event per inspection. Each ExE inspection event lasts for up to 10 hours and takes place over an average of three days.

The hours break down as follows:

- Up to 1 hour on pre-inspection activity
- Up to 7 hours of inspection activity
- Up to 2 hours of post-inspection activity

Pre-inspection activity

The Authority will:

- request an ExE with the appropriate experience to be allocated by the Contractor(s)
- provide the ExE with a pre-briefing of no longer than 1 hour by telephone or email. This will include:
 - details about which Key Lines of Enquiry the ExE should focus on
 - questions that the inspector wishes the ExE to ask
 - confirmation of the hours and logistics of the inspection
- provide the ExE with materials that may be useful to them on the inspection

The Contractor(s) will:

- ensure the ExE has the requisite training to undertake the activity
- provide contact details for, and a pen profile of, the ExE to the lead inspector
- arrange any necessary travel and accommodation for the ExE
- arrange support worker/s for the ExE if required
- provide the ExE with materials in alternative formats if required if inspection requirements are passed to the Contractor(s) with 5 or more working days' notice.
- Ensure that the ExE has no conflicts of interest before taking part in the inspection

Inspection activity

The Contractor(s) will:

- arrange for the ExE to attend the site visit at the time and place agreed during the pre-briefing to carry out the duties outlined in in ITT Part B, section 4.27.
- be available to provide management and support to the ExE if required for the duration of the inspection.

Post inspection activity

The Contractor(s) will:

- ensure the ExE writes up their notes/report and emails them to the lead inspector, copying them to the Contractor(s) for quality checking purposes.
- provide support to the ExE to email their notes/report to the lead inspector as required by them
- ensure the ExE reviews the draft inspection report as required.

Engagement and CQC Employee Training Events

ExE Engagement and ExE CQC Employee training events are defined as the sum of the activity carried out by a number of ExE over a number of hours.

ExE Engagement events may include attendance at meetings and workshops, telephone conferences and online activities and could include an ExE working from home. The activities include providing views and comments on consultations, methods and guidance development advisory panels, and reviewing public information materials.

ExE CQC Employee Training events may include attendance at meetings. The activities include CQC staff induction or training.

There will typically be 2 ExE per Engagement event. The maximum number of ExE per engagement event is 12. There will typically be one ExE per CQC Employee training events. Each ExE engagement and CQC Employee training event lasts up to 7.5 hours.

The total number of ExE Engagement and ExE CQC Employee Training event hours is 6750 per annum. (NB 900 days x 7.5 hours)

The Authority will expect the Contractor(s) to fulfil up to the maximum number of hours specified in the contract.

The hours break down as follows for each Engagement and CQC Employee training event:

- Up to 1 hour on pre-event activity
- Up to 5.5 hours of event activity
- Up to 1 hour of post-event activity where required

The Contractor(s) will:

- provide suitably qualified ExE to take part in workshops, teleconferences and online consultations for the purpose of assisting the Authority to
 - Develop effective inspection strategy, methodologies and processes
 - Develop effective inspection documentation
 - Develop effective related strategies policies and methodologies
 - Assist with training for Authority staff
 - Review public information materials
- Provide suitably qualified ExE to take part in a listening event or quality summit for an NHS inspection
- Provide suitably qualified ExE to take part in inspector induction training sessions and those of other staff

Pre-event activity

The Authority will:

- request an ExE with the appropriate experience to be allocated by the Contractor(s)
- provide a descriptor of the audience for, and purpose of, each event and the role they would like the ExE to play
- provide a descriptor of other participants at the events
- provide the ExE with a pre-briefing to take no longer than an hour by telephone or email. This will include:
 - details about the activity
 - confirmation of the hours and logistics of the event
 - joining instructions
- provide the ExE with materials that may be useful to them for the activity
- state the amount of time required from the ExE for each event

The Contractor(s) will:

- ensure the ExE has the requisite training to undertake the activity
- provide contact details for and a pen profile of the ExE to the lead for the event
- arrange any necessary travel and accommodation for the ExE
- arrange support worker/s for the ExE if required
- provide the ExE with materials in alternative formats if required, if the Authority passes them to the Contractor(s) with 5 or more working days' notice.

Event activity

The Contractor(s) will:

- arrange for the ExE to attend the event site where applicable at the time and place agreed during the request/pre-briefing to carry out the duties outlined in in ITT Part B, section 4.28
- be available to provide management and support to the ExE if required for the duration of the event.
- ensure the ExE writes up their response where applicable and emails them to the event lead, copying it to the Contractor(s) for quality checking purposes.
- provide support to the ExE to email their responses to the event lead if required.
- Send a representative/s to the event if required

The Authority will:

- Manage the participation of the ExE during the event, either with or without the support of a representative/s from the Contractor(s)

Post event activity

The Contractor(s) will:

- ensure the ExE reviews draft reports of events if required.
- Inform the ExE of the outcome of the event

The Authority will:

- Inform the contractor(s) of the outcome of the event, e.g. feedback on the ExE's participation on induction training, providing revised policy and methodology documentation etc.

Annex 5: Minimum Skill Set and Values of Experts by Experience

Experts by Experience (supported by a support workers if required) must as a minimum have the following skill sets:

1. Able to actively listen to and effectively communicate with people who use services.
2. Good understanding of health and social care infrastructure, particularly in their area of expertise.
3. Good working knowledge of equality and diversity and human rights principles
4. Ability to accurately record evidence, and report on the evidence they have gathered, with or without support.
5. Ability to demonstrate empathy and active/passive listening skills
6. To have a flexible and positive attitude when liaising with both support organisations staff, the Authority staff and external people
7. Ability to provide written information as required by the lead inspector

The Authority expects ExE to demonstrate the following values and behaviours:

Excellence

- set high standards for themselves and others, and take accountability for results
- be ambitious to improve and innovate
- encourage improvement through continuous learning,
- make best use of people's time, and recognise the valuable contribution of others

Caring

- be committed to making a positive difference to people's lives
- treat everyone with dignity and respect
- be thoughtful and listen to others
- actively support the well-being of others

Integrity

- do the right thing
- ensure their actions reflect their words
- be fair and open to challenge and have the courage to challenge others
- positively contribute to building trust with the public, colleagues and partners

Teamwork

- provide high support and high challenge for colleagues
- understand the impact their work has on others and how others work affects them
- recognise that we can't do this alone
- be adaptable to the changing needs of others

Annex 6

Diversity profiles of current ExE resource pool.

Older People ExE

Information available on 172 ExE

- 129 female
- 43 male
- 80% between 61 and 70 years of age
- 91% white British
- 9% other ethnic backgrounds
- 29.7% consider themselves to be a disabled person
- 4.3% did not state their sexuality
- 85.4% heterosexual
- 2.2% gay men
- 0.5% lesbian
- 0.5%b bisexual

Learning disability, mental health, physical and sensory impairment, children and young people and maternity ExE.

Information available on 180 ExE

- 55 female.
- 45 male
- Age range 17 to 82
- 84% white British.
- 16% other ethnic backgrounds.
- 44 consider themselves to be a disable person.
- 51% did not state their sexuality.
- 47% heterosexual
- 2% gay man
- There are 2 ExE who are transgender.

Family carers of people with profound and multiple LD and behaviour described as challenging ExE.

Information available on 36 ExE

- 24 female
- 12 male
- 91.6% white British
- 8.4% other ethnic background

Substance misuse ExE

Information available on 31 ExE

- 24 female
- 6 male
- 1 prefers not to state gender
- 87.5% white British
- 12.5% other ethnic background

The Authority will expect the Contractor(s) to improve the diversity profile of the ExE resource over time, in line with regional demographics.

Annex 7: Sample pen portrait

Name:

Photo:

Experts by Experience Contact Details

Email:

Home:

Mobile:

Date of DBS Check:

Expert type

- Older people who use regulated services
- People who have a physical and/or sensory impairment

Service Type Experience

- NHS Acute Hospital
- Primary Medical Services

Pen Picture

I am an expert by experience with hearing problems, although manage quite well with a hearing aid. My mother is in a care home for older people, has always been deaf and has dementia. I have recently had successful heart surgery. I use my primary medical services extensively.

If I have to travel by car then I would need a parking facility. I am fitted with a pacemaker.

I communicate in English, Hindi, Urdu and BSL.

Training and Consultation Diary

Date Details of training/ consultation

27/03/2014	ExE Induction Training – London
15/05/2014	Inspection of a care home with nursing – London.
20/06/2014	Inspection of an NHS hospital – Surrey.
19/07/2014	Inspection of a care home with nursing – London.
24/10/2014	New Ways of Working Training – London
30/11/2014	Inspection of a GP surgery – London.

Details of the contractor

Tel:

Email:

Website:

