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Contract for the Provision of Services

Public Research 2017-2018

CQC AM 139

Lot 2 - National Stakeholder Sentiment Survey

SECTION 1

FORM OF CONTRACT

PARTIES:

- (1) THE CARE QUALITY COMMISSION of 3rd Floor, 151 Buckingham Palace Road, London, SW1W 9SZ (the "[Authority]");

AND

- (2) Communicate Research Ltd, trading as 'ComRes' of Four Millbank, London, SW1P 3JA (registered in England and Wales under number 4810991 whose registered office is Coveham House, Downside Bridge Road, Cobham, Surrey KT11 3EP (the "Contractor")

(each a "Party" and together the "Parties").

WHEREAS

Following an open competitive tender process, the Authority wishes to appoint the Contractor to provide certain services and the Contractor agrees to provide those services in accordance with these terms and conditions.

NOW IT IS HEREBY AGREED as follows:

1. TERMS OF CONTRACT

- 1.1 The "Contract" comprises the following:

Section 1:	Form of Contract
Section 2:	Terms and Conditions
Schedule 1:	Specification
Schedule 2:	Tender Response
Schedule 3:	Pricing
Schedule 4:	Change Control
Schedule 5:	Commercially Sensitive Information
Schedule 6:	Non-Disclosure Agreement
Schedule 7:	Contractor and Third Party Software
Schedule 8:	Security Requirements, Policy and Plan
Schedule 9:	Guarantee
Schedule 10:	Exit Management Strategy
Schedule 11:	Key Performance Indicators
Schedule 12:	Business Continuity and Disaster Recovery Plan
Schedule 13:	Mobilisation Plan

- 1.2 The Contract starts on 02 May 2017 (the "Commencement Date") and ends on 30 April 2018 (the "End Date") the "Initial Period" unless it is terminated early or extended in accordance with the Contract.

- 1.3 The Authority may extend the term of the Contract until 30 April 2019 ("Extension"). 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 12 Months. Any such period shall not exceed a maximum extension of 12 Months. The terms of the Contract will apply throughout the period of any Extension.

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SECTION 2

TERMS AND CONDITIONS

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A GENERAL PROVISIONS

A1 Definitions and Interpretation

Unless the context otherwise requires the following terms shall have the meanings given to them below:

"Affected Party" means the Party seeking to claim relief in respect of a Force Majeure Event.

"Affiliate" means in relation to a body corporate, any other entity which directly or indirectly Controls is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time.

"Approval" and **"Approved"** means the prior written consent of the Authority.

"Authorised Representative" means the Authority representative named in the CCN as authorised to approve agreed Variations.

"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 the Contract; or
- (b) any Personal Data for which the Authority is the Data Controller.

"Authority Premises" means any premises owned, occupied or controlled by the Authority or any other Crown Body which are made available for use by the Contractor or its Sub-Contractors for provision of the Services.

"Authority Software" means software which is owned by or licensed to the Authority (other than under or pursuant to the Contract) and which is or will be used by the Contractor for the purposes of providing the Services.

"Authority System" means the Authority's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Contractor in connection with the Contract which is owned by or licensed to the Authority by a third party and which interfaces with the Contractor System or which is necessary for the Authority to receive the Services.

"BPSS" means the HMG Baseline Personnel Security Standard for Government employees.

"Breach of Security" means any incident that result in unauthorised access of data, applications, services, networks and/or devices by bypassing their underlying security mechanisms.

"CCN" means a change control notice in the form set out in Schedule 4.

"Commencement Date" means the date set out in paragraph 1.2 of the Form of Contract.

"Commercially Sensitive Information" means the information listed in Schedule 5:

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

"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 or trade secrets or Intellectual Property Rights of either Party and all personal data and sensitive personal data within the meaning of the DPA. Confidential Information shall not include information which:

- (a) was public knowledge at the time of disclosure otherwise than by breach of clause E4;
- (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information.

"Contract" has the meaning given in paragraph 1.1 of the Form of Contract.

"Contract Period" means the period from the Commencement Date to:

- (a) the End Date; or
- (b) following an Extension, the end date of the Extension

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

"Contracting Authority" means any contracting authority (other than the Authority) as defined in regulation 2 of the Regulations.

"Contractor Software" means software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services and which is set out in Schedule 7.

“Contractor System” means the information and communications technology system used by the Contractor in performing the Services including the Software, the Contractor Equipment and related cabling (but excluding the Authority System).

“Control” means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **“Controls”** and **“Controlled”** shall be interpreted accordingly.

“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 offices 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.

“Disaster” means an event defined as a disaster in the Business Continuity and Disaster Recovery Plan.

“Default” means any breach of the obligations of the relevant Party (including abandonment of the Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party or the Staff in connection with the subject-matter of the Contract and in respect of which such Party is liable to the other.

“DOTAS” means the Disclosure of Tax Avoidance Schemes rules which require a promotor of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act and as extended to national insurance contributions by the National Insurance (Application of Part 7 of the Finance Act 2004) regulations 2012, SI 2012/1868 made under section 132A of the Social Security Administration Act 1992.

“DPA” means the Data Protection Act 1998 and any subordinate legislation made under that 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.

“EIR” means the Environmental Information Regulations 2004 (SI 2004/3391) and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

“Employment Liabilities” means any Loss including those incurred by or attributed to the Authority (which shall include any incurred as a result of an indemnity or warranty given, or to be given, by the Authority to a Replacement Contractor or sub-contractor).

“End Date” means the date set out in paragraph 1.2 of the Form of Contract.

“Equipment” means the Contractor's equipment, consumables, plant, materials and such other items supplied and used by the Contractor in the delivery of the Services.

“Extension” has the meaning given in paragraph 1.3 of the Form of Contract.

“FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

“Force Majeure Event” means any event outside the reasonable control of either Party affecting its performance of its obligations under the Contract arising from acts, events, omissions, happenings or non-

happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, for flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Contractor or the Staff or any other failure in the Contractor's supply chain.

"Form of Contract" means Section 1 of the Contract.

"General Anti-Abuse Rule" means:

- (a) the legislation in Part 5 of the Finance Act 2013; and
- (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;

"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.

"Halifax Abuse Principle" means the principle explained in the CJEU Case C-255/02 Halifax and others.

"HMRC" means HM Revenue & Customs.

"ICT Environment" means the Authority System and the Contractor System.

"Information" has the meaning given under section 84 of the FOIA.

"Initial Contract Period" means the period from the Commencement Date to the End Date.

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

"ITEPA" means the Income Tax (Earnings and Pensions) Act 2003.

"Key Personnel" mean those persons named in the Specification as key personnel.

"Key Performance Indicators" means the key performance indicators listed in the Schedule 11 and a Key Performance Indicator ("KPI") shall mean any one of them;

"Know-How" means all information not in the public domain held in any form (including without limitation that comprised in or derived from drawings, data formulae, patterns, specifications, notes, samples, chemical compounds, biological materials, computer software, component lists, instructions, manuals, brochures, catalogues and process descriptions and scientific approaches and methods).

"Law" means law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any Regulatory Body with 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.

“Malicious Software” means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.

“Material Breach” means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Authority would otherwise derive from:

- (a) a substantial portion of the Contract; or
- (b) any of the obligations set out in clauses A6, D1, E1, E2, E3, E4, E7, E8 or E10.

“Month” means calendar month.

“NICs” means National Insurance Contributions.

“Occasion of Tax Non-Compliance” means:

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

“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 where the Services are to be supplied as set out in the Specification.

“Price” means the price (excluding any applicable VAT) payable to the Contractor by the Authority under the Contract, as set out in Schedule 3 for the full and proper performance by the Contractor of its obligations under the Contract.

“Pricing Schedule” means Schedule 3 containing details of the Price.

“Prohibited Act” means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
 - i) induce that person to perform improperly a relevant function or activity; or
 - ii) reward that person for improper performance of a relevant function or activity;

- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;
- (c) an offence:
 - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);
 - ii) under legislation or common law concerning fraudulent acts; or
 - iii) the defrauding, attempting to defraud or conspiring to defraud the Authority;
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK.

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

"Purchase Order" means the document in which the Authority specifies the Services which are to be supplied by the Contractor under 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, and as may be further detailed in Schedule 1.

"Receipt" means the physical or electronic arrival of the invoice at the address specified in clause A4.4 or at any other address given by the Authority to the Contractor for the submission of invoices from time to time.

"Regulations" means the Public Contract Regulations 2015 (SI 2015/102).

"Regulatory Body" means a government department 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.

"Relevant Conviction" 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.

"Relevant Requirements" means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.

"Relevant Tax Authority" means HMRC or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.

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

"Request for Information" means a request for information under the FOIA or the EIR.

“Returning Employees” 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.

“Security Policy” means ISO/IEC 27001 Information Security Management.

“Services” means the services set out in Schedule 1 including any modified or alternative services.

“Specification” means the description of the Services to be supplied under the Contract as set out in Schedule 1 including, where appropriate, the Key Personnel, the Premises and the Quality Standards.

“SSCBA” means the Social Security Contributions and Benefits Act 1992.

“Staff” means all persons employed 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 a third party directly or indirectly contracted to the Contractor (irrespective of whether such person is an agent or company within the same group of companies as the Contractor) whose services are used by the Contractor (either directly or indirectly) in connection with the provision of the Services, and **“Sub-Contract”** shall be construed accordingly.

“Tender” means the Authority’s invitation to supply to contractors consisting of the Specification, [the terms of the contract, these clauses and form of Letter of Engagement.

“Tender Response” means the document submitted by the Contractor to the Authority in response to the Authority’s invitation to suppliers for formal offers to supply the Services appended hereto in Schedule 2.

“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.

“TFEU” means the Treaty on the Functioning of the European Union.

“Third Party IP Claim” has the meaning given to it in clause E8.7 (Intellectual Property Rights).

“Third Party Software” means software which is proprietary to any third party which is or will be used by the Contractor to provide the Services including the software and which is specified as such in Schedule 7.

“Treaties” means the Treaty on European Union and the TFEU.

“TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

“TUPE Information” means the information set out in clause B17.1.

“Valid Invoice” means an invoice containing the information set out in clause C2.5.

“Variation” means a variation to the Specification, the Price or any of the terms or conditions of the Contract.

“VAT” means value added tax charged or regulated 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.

In the Contract, unless the context implies otherwise:

- (a) the singular includes the plural 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) references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or central Government body;
- (e) the words "other", "in particular", "for example", "including" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "without limitation";
- (f) headings are included for ease of reference only and shall not affect the interpretation or construction of the Contract;
- (g) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time; and
- (h) references to the Contract are references to the Contract as amended from time to time.

A2 The Authority's Obligations

A2.1 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, and the exercise by the Authority of its duties and powers in any other capacity shall not lead to any liability (howsoever arising) on the part of the Authority to the Contractor.

A3 Contractor's Status

A3.1 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.

A3.2 The Contractor shall not (and shall ensure that any other person engaged in relation to the Contract shall not) say or do anything that might lead any other person to believe that the Contractor is acting as the agent or employee of the Authority.

A4 Notices and Communications

A4.1 Subject to clause A4.3, where the Contract states that a notice or communication between the Parties must be "written" or "in writing" it is not valid unless it is made by letter (sent by hand, first class post, recorded delivery or special delivery) or by email.

A4.2 If it is not returned as undelivered a notice served:

- (a) in a letter is deemed to have been received 2 Working Days after the day it was sent; and
- (b) in an email is deemed to have been received 4 hours after the time it was sent provided it was sent on a Working Day

or when the other Party acknowledges receipt, whichever is the earlier.

A4.3 Notices pursuant to clauses G3 (Force Majeure), I2 (Dispute Resolution) or to terminate the Contract or any part of the Services are valid only if served in a letter by hand, recorded delivery or special delivery.

A4.4 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under the Contract:

(a) For the Authority:

Contact Name: [REDACTED]

Address: 151 Buckingham Palace Road, London, SW1W 9SZ; and

Email: [REDACTED]

(b) For the Contractor:

Contact Name: [REDACTED]

Address: Four Mimbank, London, SW1P 3JA; and

Email: [REDACTED]

A5 Mistakes in Information

A5.1 The Contractor is responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Contractor in connection with the Services and shall pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein.

A6 Conflicts of Interest

A6.1 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 notify the Authority without delay giving full particulars of any such conflict of interest which may arise.

A6.2 The Authority may terminate the Contract immediately by notice and/or take or require the Contractor to take such other steps it deems necessary if, in the Authority's reasonable opinion, 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 A6 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

B. THE SERVICES

B1 Specification

B1.1 In consideration of the Contractor supplying the Services the Contractor shall be paid the Price.

B1.2 The Contractor shall comply fully with its obligations set out in the Specification and Tender (to include, without limitation, the KPIs and all obligations in relation to the quality, performance and provision of the Services),

B2 Provision and Removal of Equipment

- B2.1 The Contractor shall provide all the Equipment and resource necessary for the supply of the Services.
- B2.2 The Contractor shall not deliver any Equipment to nor begin any work on the Premises without obtaining Approval.
- B2.3 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.
- B2.4 Unless otherwise agreed, Equipment brought onto the Premises will remain the property of the Contractor.
- B2.5 If the cost of any Equipment is reimbursed to the Contractor such Equipment shall be the property of the Authority and shall on request be delivered to the Authority as directed by the Authority. The Contractor will keep a full and accurate inventory of such Equipment and will deliver that inventory to the Authority on request and on completion of the Services.
- B2.6 The Contractor shall maintain all Equipment in a safe, serviceable and clean condition.
- B2.7 The Contractor shall, at the Authority's written request, at its own expense and as soon as reasonably practicable:
- (a) remove immediately from the Premises Equipment which is, in the Authority's opinion, hazardous, noxious or not supplied in accordance with the Contract; and
 - (b) replace such item with a suitable substitute item of Equipment.
- B2.8 Within 20 Working Days following the end of the Contract Period, 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 shall make good any damage to those Premises and any fixtures and fitting in the Premises which is caused by the Contractor or Staff. For the avoidance of doubt, damage includes damage to the fabric of the buildings, plant, fixed equipment or fittings therein

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 the Service 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 do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services. The Contractor shall ensure that those Staff are properly managed and supervised.

- B3.3 If the Specification includes installation of equipment the Contractor shall notify the Authority in writing when it has completed installation. Following receipt of such notice, the Authority shall inspect the installation and shall, by giving notice to the Contractor:
- (a) accept the installation; or
 - (b) reject the installation and inform the Contractor why, in the Authority's reasonable opinion, the installation does not satisfy the Specification.
- B3.4 If the Authority rejects the installation pursuant to clause B3.3(b), the Contractor shall immediately rectify or remedy any defects and if, in the Authority's reasonable opinion, the installation does not, within 2 Working Days or such other period agreed by the Parties, satisfy the Specification, the Authority may terminate the Contract with immediate effect by notice.
- B3.5 The installation shall be complete when the Contractor receives a notice issued by the Authority in accordance with clause B3.3(a). Notwithstanding acceptance of any installation in accordance with clause B3.3(a), the Contractor shall remain solely responsible for ensuring that the Services and the installation conform to the Specification. No rights of estoppel or waiver shall arise as a result of the acceptance by the Authority of the installation.
- B3.6 During the Contract Period, the Contractor shall:
- (a) at all times have all licences, approvals and consents necessary to enable the Contractor and Staff to carry out the installation;
 - (b) provide all tools and equipment (or procure the provision of all tools and equipment) necessary for completion of the installation; and
 - (c) not, in delivering the Services, in any manner endanger the safety or convenience of the public.

B4 Key Personnel

- B4.1 The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Services.
- 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 or other similar extenuating circumstances.
- B4.3 Any replacements to the Key Personnel shall be subject to Approval. Such replacements shall be of at least equal status, experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
- B4.4 The Authority shall not unreasonably withhold its agreement under clauses B4.2 or B4.3. Such agreement shall be conditional on appropriate arrangements being made by the Contractor to minimise any adverse effect on the Services which could be caused by a change in Key Personnel.
- B4.5 The Authority may, by notice to the Contractor, ask it to remove any Staff whose presence is, in the Authority's reasonable opinion, undesirable. The Contractor shall comply with any such request immediately.

B5 Contractor's Staff

B5.1 The Authority may, by notice to the Contractor, refuse to admit onto, or withdraw permission to remain on, the Authority's Premises:

- (a) any member of the Staff; or
- (b) any person employed or engaged by any member of the Staff

whose admission or continued presence would, in the Authority's reasonable opinion, be undesirable or if not suitably qualified to carry out the Services.

B5.2 The Contractor shall ensure that all Staff who have access to the Authority's Premises, the Authority System or the Authority Data have been cleared in accordance with the BPSS.

[B5.3 The Authority may require the Contractor to ensure that any person employed in the provision of the Services has undertaken a Disclosure and Barring Service check. The Contractor shall ensure that no person who discloses that he/she has a Relevant Conviction or is found by the Contractor to have a Relevant Conviction (whether as a result of a police check or through the Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Services.]

B5.4 At the Authority's written request, the Contractor shall provide a list of the names and addresses of all persons who may require admission in to the Authority's Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably request.

B5.5 If the Contractor fails to comply with clause B5.4 within two 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.

B5.6 The decision of the Authority as to whether any person is to be refused access to the Authority's Premises and as to whether the Contractor has failed to comply with clause B5.2 shall be final and conclusive.

B5.7 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.

B5.8 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 Act 2010 ("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.

[B6 Inspection of Premises

N/A

B7 Licence to Occupy Premises

- B7.1 Any land or Premises made available from time to time to the Contractor by the Authority in connection with the Contract shall be on a non-exclusive licence basis free of charge and shall be used by the Contractor solely for the purpose of performing its obligations under the Contract. The Contractor shall have the use of such land or Premises as licensee and shall vacate the same on termination of the Contract.
- B7.2 The Contractor shall limit access to the land or Premises to such Staff as is necessary for 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.
- B7.3 Should the Contractor require modifications to the Authority's Premises, such modifications shall be subject to Approval and shall be carried out by the Authority at the Contractor's expense. The Authority shall undertake approved modification work without undue delay.
- B7.4 The Contractor shall (and shall ensure that any Staff on the Authority's Premises shall) observe and 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 on the Authority's Premises as determined by the Authority
- B7.5 The Contract does not create a tenancy of any nature whatsoever in favour of the Contractor or its Staff and no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Contract, the Authority retains the right at any time to use the Premises owned or occupied by it in any manner it sees fit.

B8 Property

- B8.1 All Property is and shall remain the property of the Authority and the Contractor irrevocably licenses the Authority and its agents to enter 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 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, unless such loss or damage was caused by the Authority's negligence. The Contractor shall inform the Authority immediately of becoming aware of any defects appearing in, or losses or damage occurring to, the Property.

B9 Offers of Employment

B9.1 Except in respect of any transfer of Staff under TUPE, for the Contract Period and for 12 Months thereafter neither party shall employ or make an offer employment to the other party's staff who have been associated with the Services and/or the Contract without consent of the other Party.

B10 Employment Provisions

N/A

C PAYMENT

C1 Price

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

C1.2 [The Contract Price is fixed, and is not subject to indexation or escalation during the Contract Period.]

C2 Payment and VAT

C2.1 Unless otherwise stated in the Contract payments shall be once a month in arrears.

C2.2 The Contractor shall submit invoices to the Authority on the dates set out in Schedule 3.

C2.3 The Authority shall, in addition to the Price and following Receipt of a Valid Invoice, pay the Contractor a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Contract.

C2.3 The Contractor shall add VAT to the Price at the prevailing rate as applicable and shall show the amount of VAT payable separately on all invoices as an extra charge. If the Contractor fails to show VAT on an invoice, the Authority will not, at any later date, be liable to pay the Contractor any additional VAT.

C2.4 All Contractor invoices shall be expressed in sterling or such other currency as shall be permitted by the Authority in writing.

C2.5 Valid Invoices shall include:

- (a) the Contractor's full name, address and title of the Contract;
- (b) the Purchase Order number

and, if requested by the Authority:

- (c) timesheets for Staff engaged in providing the Services signed and dated by the Authority's representative on the Premises on the day;
- (d) the name of the individuals to whom the timesheet relates and hourly rates for each;
- (e) identification of which individuals are Contractor's staff and which are Sub-Contractors;
- (f) the address of the Premises and the date on which work was undertaken;

- (g) the time spent working on the Premises by the individuals concerned;
- (h) details of the type of work undertaken by the individuals concerned;
- (i) details of plant or materials operated and on standby;
- (j) separate identification of time spent travelling and/or meal or rest breaks; and
- (k) where appropriate, details of journeys made and distances travelled.

- C2.6 The Authority shall not pay Contractor time spent on meal or rest breaks and the Contractor shall ensure that all workers take adequate meal or rest breaks.
- C2.7 The Authority shall not pay for plant which is not in use during a meal or rest break.
- C2.8 Meal and rest breaks will include breaks both in or outside an individual's workplace along with any time taken in travelling to or from the break location and/or any facilities for cleaning/changing/washing in preparation for or return from a meal or rest break.
- C2.9 Timesheets must include a minimum of 30 minutes break for each shift of 8 hours, a minimum of 45 minutes break in a shift of between 8 and 12 hours and a minimum of one hour break will be taken within a shift in excess of 12 hours and the Contractor's rates and Contract Price must include such breaks.
- C2.10 The Authority shall not pay the Contractor's overhead costs unless specifically agreed in writing by the Authority and overhead costs shall include, without limitation; facilities, utilities, insurance, tax, head office overheads, indirect staff costs and other costs not specifically and directly ascribable solely to the provision of the Services.
- C2.11 If Schedule 3 expressly provides that the Authority may be charged for plant which is on standby then in circumstances where plant was waiting to be transferred between Premises or where the Authority has instructed that the plant is retained on the Premises then a standby charge of 60% of agreed rates may be made in respect of such relevant periods if supported by timesheets.
- C2.12 The Authority shall pay only for the time spent by Staff working on the Premises.
- C2.13 The Authority shall not pay a stand-by rate if plant is on standby because no work was being carried out on the Premises at that time or no operator or other relevant staff were available (unless the standby is because the Contractor is awaiting licensing of the Premises on the Authority's instructions).
- C2.14 The Authority shall not pay for plant or equipment which is stood down during any notice period pursuant to clauses H1, H2 and/or H3 and the Contractor shall mitigate such costs as far as is reasonably possible, for example, by reutilising Staff, plant, materials and services on other contracts.
- C2.15 The Contractor may claim expenses only if they are clearly identified, supported by original receipts and Approved.
- C2.16 If the Authority pays the Contractor prior to the submission of a Valid Invoice this payment shall be on account of and deductible from the next payment to be made.
- C2.17 If any overpayment has been made or the payment or any part is not supported by a Valid Invoice the Authority may recover this payment against future invoices raised or directly from the Contractor.

All payments made by the Authority to the Contractor shall be on an interim basis pending final resolution of an account with the Contractor in accordance with the terms of this clause C2.

- C2.18 The Authority shall pay all sums due to the Contractor within 30 days of Receipt of a Valid Invoice. Valid Invoices should be submitted for payment to the following address:

CARE QUALITY COMMISSION
T70 PAYABLES F175
PHOENIX HOUSE
TOPCLIFFE LANE
WAKEFIELD
WF3 1WE

- C2.19 If the Contractor enters into a Sub-Contract with a supplier for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in the Sub-Contract which requires payment to be made of all sums due from it to the Sub-Contractor within 30 days from the receipt of a valid invoice.
- C2.20 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 C2.21 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.
- C2.21 The Contractor shall not suspend the Services unless the Contractor is entitled to terminate the Contract under clause H2.3 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.
- C2.22 Any late payment of undisputed invoices by the Authority will be subject to interest at the rate of a maximum of 3% above the base rate from time to time of Barclays Bank plc.
- C2.23 The Authority shall not pay an invoice which is not Valid Invoice.

C3 Recovery of Sums Due

- C3.1 If under the Contract any sum of money is recoverable from or payable by the Contractor to the Authority (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 from the Authority under the Contract or under any other agreement with the Authority or the Crown.
- C3.2 Any overpayment by either Party, whether of the 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.
- 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 during Extension

C4.1 Subject to Schedule 3 and clause F6, the Price shall apply for the Initial Contract Period and until the end date of any Extension or such earlier date of termination or partial termination of the Contract in accordance with the Law or the Contract.

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.

D. STATUTORY OBLIGATIONS

D1 Prevention of Fraud and Bribery

D1.1 The Contractor represents and warrants that neither it, nor to the best of its knowledge any Staff, have at any time prior to the Commencement Date:

- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

D1.2 The Contractor shall not during the Contract Period:

- (a) commit a Prohibited Act; and/or
- (b) do or suffer anything to be done which would cause the Authority or any of its employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

D1.3 The Contractor shall, during the Contract Period:

- (a) establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and
- (b) keep appropriate records of its compliance with its obligations under clause D1.3(a) and make such records available to the Authority on request.

D1.4 The Contractor shall immediately notify the Authority in writing if it becomes aware that any breach of clauses D1.1 and/or D1.2 has occurred or is likely to occur, or has reason to believe that it has or any of the Staff have:

- (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;

- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
- (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the Contract or otherwise suspects that any person directly or indirectly connected with the Contract has committed or attempted to commit a Prohibited Act.

D1.5 If the Contractor notifies the Authority pursuant to clause D1.4, the Contractor shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation. This obligation continues for twelve (12) years following expiry or termination of this contract.

D1.6 If the Contractor is in Default under clauses D1.1 and/or D1.2, the Authority may by notice:

- (a) require the Contractor to remove from performance of the Contract any Staff whose acts or omissions have caused the Default; or
- (b) immediately 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
- (c) recover in full from the Contractor any other Loss sustained by the Authority in consequence of any breach of those clauses.

D1.7 Any notice served by the Authority under clause D1.6 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has taken (including, where relevant, the date on which the Contract shall terminate).

D1.8 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.

D1.9 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.

D2 Discrimination

D2.1 The Contractor shall:

- (a) perform its obligations under the Contract in accordance with:
 - i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy maternity or otherwise);
 - ii) the Authority's equality and diversity policy as given to the Contractor from time to time;

- iii) any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law; and
- (b) take all necessary steps and inform the Authority of the steps taken to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation).

D3 Rights of Third Parties

- D3.1 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.

D4 Environmental Requirements

- D4.1 The Contractor shall comply in all material respects with applicable environmental and social Law requirements in force from time to time in relation to the Services. Where the provisions of any such Law are implemented by the use of voluntary agreements, the Contractor shall comply with such agreements as if they were incorporated into English law subject to those voluntary agreements being cited in the Specification and Tender. Without prejudice to the generality of the foregoing, the Contractor shall:

- (a) comply with all Policies and/or procedures and requirements set out in the Specification and Tender in relation to any stated environmental and social requirements, characteristics and impacts of the Services and the Contractor's supply chain;
- (b) maintain relevant policy statements documenting the Contractor's significant social and environmental aspects as relevant to the Services being supplied and as proportionate to the nature and scale of the Contractor's business operations; and
- (c) maintain plans and procedures that support the commitments made as part of the Contractor's significant social and environmental policies, as referred to in Clause D4.1 (b).

- D4.2 The Contractor shall meet reasonable requests by the Authority for information evidencing the Contractor's compliance with the provisions of this Clause D.

D5 Business Continuity and Disaster Recovery Plan

- D5.1 The Contractor shall comply at all times with the relevant provisions of the Business Continuity and Disaster Recovery Plan to be appended hereto in Schedule 12.
- D5.2 The Business Continuity and Disaster Recovery Plan shall be compliant with the current British Standard (BS25999) code of practice and specification for business continuity management or equivalent. In particular the Business Continuity and Disaster Recovery Plan must show that the Contractor is able to maintain the Services throughout the terms of the contract as far as practicable in the event of a Disaster, unforeseen business disruption or emergency event.
- D5.3 The Authority further reserves the right to undertake or commission an independent audit of the Business Continuity Plan that is put in place by the Contractor in respect of Services supplied to or on behalf of the Authority.

- D5.4 Following the declaration of a Disaster in respect of any of the Services, the Contractor shall:
- (a) implement the Disaster Recovery Plan
 - (b) continue to provide the affected Services to the Authority in accordance with the Disaster Recovery Plan; and
 - (c) restore the affected Services to normal within the period laid out in the Disaster Recovery Plan.
- D5.5 To the extent that the Contractor complies fully with the provisions of this clause D5 (and the reason for the declaration of a Disaster was not a breach of any of the other terms of this Contract on the part of the Contractor), the KPIs to which the affected Services are to be provided during the continuation of the Disaster shall not be the KPIs as referred to in Schedule 11 but shall be the KPIs set out in the Disaster Recovery Plan or (if none) the best service levels which are reasonably achievable in the circumstances.

D6 Health and Safety

- D6.1 The Contractor shall perform its obligations under the Contract in accordance with:
- (a) all applicable Law regarding health and safety (including Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety); and
 - (b) the Authority's health and safety policy while at the Authority's Premises.
- D6.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Authority's Premises of which it becomes aware and which relate to or arise in connection with the performance of the Contract. The Contractor shall instruct Staff to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

E PROTECTION OF INFORMATION

E1 Authority Data

E1.1

- E1.1 The Contractor shall not delete or remove any proprietary notices contained within or relating to the Authority Data.
- E1.2 The Contractor shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Contractor of its obligations under this Contract or as otherwise expressly authorised in writing by the Authority.
- E1.3 To the extent that Authority Data is held and/or Processed by the Contractor, the Contractor shall supply Authority Data to the Authority as requested by the Authority in the format specified in the Specification.
- E1.4 The Contractor shall preserve the integrity of Authority Data and prevent the corruption or loss of Authority Data.
- E1.5 The Contractor shall perform secure back-ups of all Authority Data and shall ensure that up-to-date back-ups are stored securely off-site. The Contractor shall ensure that such back-ups are made available to the Authority immediately upon request.

- E1.6 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 Framework.
- E1.7 If 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 and the Contractor shall do so promptly; 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.
- E1.8 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.

E2 Data Protection Act

- E2.1 For the purposes of clauses E1 and 2, the terms "Data Controller", "Data Processor", "Data Subject", "Personal Data", "Process" and "Processing" shall have the meanings prescribed in the DPA.
- E2.2 The Contractor shall (and shall ensure that all 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.
- E2.3 Notwithstanding the general obligation in clause E2.1, if the Contractor is Processing Personal Data 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 the Contract or as otherwise notified by the 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 the Contract or as is required by Law or any Regulatory Body;
 - (d) Implement and maintain 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 who may have access to the Personal Data;
 - (f) not transfer the Personal Data to any Sub-Contractor and/or Affiliates for the provision of the Services without Approval;
 - (g) not cause or permit the Personal Data to be transferred outside of the European Economic Area without Approval;

- (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 E2;
- (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;
- (j) not disclose Personal Data to any third parties in any circumstances other than with Approval or in compliance with a legal obligation imposed upon the Authority;
- (k) notify the Authority (within 5 Working Days) if it receives:
 - i) a request from a Data Subject to have access to that person's Personal Data; or
 - (ii) a complaint or request relating to the Authority's obligations under the DPA;
- (l) provide the Authority with full cooperation and assistance in relation to any complaint or request made, including by:
 - i) providing the Authority with full details of the complaint or request;
 - ii) complying with a data access request within the relevant timescales set out in the DPA and in accordance with the Authority's instructions;
 - iii) providing the Authority with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Authority); and
 - iv) providing the Authority with any information requested by the Authority;
- (m) permit the Authority (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, in accordance with clause E9 (Audit), the Contractor's data Processing activities (and/or those of its agents, subsidiaries and Sub-Contractors) and comply with all reasonable requests or directions by the Authority to enable the Authority to verify and/or procure that the Contractor is in full compliance with its obligations under the Contract;
- (n) provide a written description of the technical and organisational methods employed by the Contractor for Processing Personal Data (within the timescales required by the Authority); and
- (o) not Process Personal Data outside the European Economic Area without Approval and, if the Authority consents to a transfer, to comply with:
 - i) the obligations of a Data Controller under the Eighth Data Protection Principle set out in schedule 1 of the DPA by providing an adequate level of protection to any Personal Data that is transferred; and
 - ii) any reasonable instructions notified to it by the Authority.

E2.4 The Contractor shall comply at all times with the DPA and shall not perform its obligations under the Contract in such a way as to cause the Authority to breach any of its applicable obligations under the DPA.

E2.5 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, agent or staff.

E2.6 This clause E2 shall apply during the Contract Period and indefinitely after its expiry.

E3 Official Secrets Acts and Finance Act

E3.1 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.

E3.2 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.

E3.3 In the event that the Contractor or its Staff fail to comply with this clause, the Authority reserve the right to terminate the Contract by giving notice in writing to the Contractor.

E4 Confidential Information

E4.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of FOIA, the content of this Contract is 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 FOIA.

E4.2 Except to the extent set out in this clause E4 or if disclosure or publication is expressly permitted elsewhere in the Contract each Party shall treat all Confidential Information belonging to the other Party as confidential and shall not disclose any Confidential Information belonging to the other Party to any other person without the other party's consent, except to such persons and to such extent as may be necessary for the performance of the Party's obligations under the Contract.

E4.3 Notwithstanding any other term of this Contract, the Contractor hereby gives its consent for the Authority to publish the whole Contract (but with any information which is Confidential Information belonging to the Authority redacted) including from time to time agreed changes to the Contract, to the general public.

E4.4 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.

E4.5 The Contractor shall assist and cooperate with the Authority to enable the Authority to publish this Contract.

E4.6 If required by the Authority, the Contractor shall ensure that Staff, professional advisors and consultants sign a non-disclosure agreement prior to commencing any work in connection with the Contract in substantially the form attached in Schedule 6. The Contractor shall maintain a list of the non-disclosure agreements completed in accordance with this clause E4.3.

E4.7 If requested by the Authority, the Contractor shall give the Authority a copy of the list and, subsequently upon request by the Authority, copies of such of the listed non-disclosure agreements as required by the Authority. The Contractor shall ensure that its Staff, professional advisors and consultants are aware of the Contractor's confidentiality obligations under the Contract.

- E4.8 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.
- E4.9 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.
- E4.10 Clause E4.1 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 EIR;
 - (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 the Contract; or
 - (e) it is independently developed without access to the other Party's Confidential Information.
- E4.11 Nothing in clause E4.1 shall prevent the Authority disclosing any Confidential Information obtained from the Contractor:
- (a) for the purpose of the examination and certification of the Authority's accounts;
 - (b) for the purpose of 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;
 - (c) to any Crown Body or any Contracting Authority and the Contractor hereby acknowledges that all government departments or Contracting Authorities receiving such Confidential Information may further disclose the Confidential Information to other government departments 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 government department or any Contracting Authority;
 - (d) to any consultant, contractor or other person engaged by the Authority
- provided that in disclosing information under clauses E4.8 (c) and (d) the Authority discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.
- E4.12 Nothing in clauses E4.1 to E4.6 shall prevent either Party from using any techniques, ideas or Know-How gained during the performance of its obligations under the Contract in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.
- E4.13 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 E4.6 is made aware of the Authority's obligations of confidentiality.
- E4.14 If the Contractor does not comply with clauses E4.1 to E4.6 the Authority may terminate the Contract immediately on written notice to the Contractor.

- E4.15 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Services, the Contractor shall maintain adequate security arrangements that meet the requirements of professional standards and best practice.
- E4.16 The Contractor will immediately notify the Authority of any breach of security in relation to Confidential Information and all data obtained in the supply of the Services and will keep a record of such breaches. The Contractor will use its best endeavours to recover such Confidential Information or data however it may be recorded. The Contractor will co-operate with the Authority in any investigation as a result of any breach of security in relation to Confidential Information or data.
- E4.17 The Contractor shall, at its own expense, alter any security systems at any time during the Contract Period at the Authority's request if the Authority reasonably believes the Contractor has failed to comply with clause E4.12.

E5 Freedom of Information

- E5.1 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the EIR and shall assist and cooperate with the Authority to enable the Authority to comply with its Information disclosure obligations.
- E5.2 The Contractor shall transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within 2 Working Days of receipt and the Contractor shall and shall procure that any Sub-Contractors shall:
- (a) give the Authority a copy of all Information in connection with the Contract in its possession or control in the form that the Authority requires within 5 Working Days (or such other period as the Authority may specify) of the Authority's request;
 - (b) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIR;
 - (c) not respond to directly to a Request for Information unless authorised to do so in writing by the Authority.
- E5.3 The Authority shall determine in its absolute discretion and notwithstanding any other provision in the Contract or any other agreement whether the Commercially Sensitive Information and any other Information is exempt from disclosure in accordance with the provisions of the FOIA and/or the EIR.
- E5.4 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 EIR 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 E5.4(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.
- E5.5 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.

E6 Publicity, Media and Official Enquiries

- E6.1 Without prejudice to the Authority's obligations under the FOIA, the EIR or any obligations under the Regulations, or any policy requirements as to transparency, neither Party shall make any press announcement or publicise the Contract or any part thereof in any way, except with the written consent of the other Party.
- E6.2 The Contractor shall use its reasonable endeavours to ensure that its Staff, professional advisors and consultants comply with clause E6.1.

E7 Security

- E7.1 The Authority shall be responsible for maintaining the security of the Authority's Premises in accordance with its standard security requirements. The Contractor shall comply with all security requirements of the Authority while on the Authority's Premises, and shall ensure that all Staff comply with such requirements.
- E7.2 The Contractor shall ensure that the Security Plan produced by the Contractor fully complies with the Security Policy.
- E7.3 The Contractor shall comply, and shall procure compliance of its Staff, with the Security Plan and Security Policy.
- E7.4 The Authority shall notify the Contractor of any changes or proposed changes to the Security Policy.
- E7.5 The Contractor shall, as an enduring obligation during 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 from the ICT Environment.
- E7.6 Notwithstanding clause E7.5, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of the Authority Data, assist each other to mitigate any losses and to restore the provision of 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.
- E7.7 Any cost arising out of the actions of the Parties taken in compliance with clause E7.6 shall be borne by the Parties as follows:

- (a) by the Contractor where the Malicious Software originates from the Contractor Software, the Third Party Software or the Authority Data (whilst the Authority Data was under the control of the Contractor); and
- (b) by the Authority if the Malicious Software originates from the Authority Software or Authority Data (whilst the Authority Data was under the control of the Authority).

E7.8 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).

E8 Intellectual Property Rights

E8.1 All Intellectual Property Rights in any guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is:

- (a) furnished to or made available to the Contractor by or on behalf of the Authority;
- (b) prepared by or for the Contractor for use in relation to the performance of its obligations under the Contract; or
- (c) the result of any work done by the Contractor, the Staff or any Sub-Contractor in relation to the provision of the Services (together with clauses E8.1 (a) and (b) the "IP Materials")

shall vest in the Authority and the Contractor shall not, and shall ensure that the Staff shall not, use or disclose any IP Materials without Approval save to the extent necessary for performance by the Contractor of its obligations under the Contract.

E8.2 The Contractor hereby assigns to the Authority, with full title guarantee, all Intellectual Property Rights which may subsist in the IP Materials prepared in accordance with clause E8.1(b) and (c). This assignment shall take effect on the date of the Contract or (in the case of rights arising after the date of the Contract) as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Contractor. The Contractor shall execute all documentation and do all acts as are necessary to execute this assignment.

E8.3 The Contractor shall waive or procure a waiver of any moral rights held by it or any third party in copyright material arising as a result of the Contract or the performance of its obligations under the Contract.

E8.4 The Contractor shall ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Services grants to the Authority a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and shall include the right for the Authority to sub-license, transfer, novate or assign to other Contracting Authorities, the Replacement Contractor or to any other third party supplying services to the Authority.

E8.5 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 the Authority and the Crown from and against all Losses and other liabilities which the Authority or the Crown may suffer or incur as a result of or in connection with any breach of this clause E8.5, except to the extent that any such claim results directly 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.
- E8.6 The Authority shall notify the Contractor in writing of any claim or demand brought against the Authority for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Contractor to the Authority.
- E8.7 The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim, demand or action by any third party for infringement or alleged infringement of any third party Intellectual Property Rights (whether by the Authority or the Contractor) arising from the performance of the Contractor's obligations under the Contract ("Third Party IP Claim"), provided that the Contractor shall at all times:
- (a) consult the Authority on all material issues which arise during the conduct of such litigation and negotiations;
 - (b) take due and proper account of the interests of the Authority; and
 - (c) not settle or compromise any claim without Approval (not to be unreasonably withheld or delayed).
- E8.8 The Authority shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any Third Party IP Claim and the Contractor shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Contractor shall not be required to indemnify the Authority under this clause E8.8 in relation to any costs and expenses to the extent that such arise directly from the matters referred to in clauses E8.5(a) or (b).
- E8.9 The Authority shall not, without the Contractor's consent, make any admissions which may be prejudicial to the defence or settlement of any Third Party IP Claim.
- E8.10 If any Third Party IP Claim is made 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 Approval (not to be unreasonably withheld or delayed), shall (without prejudice to the rights of the Authority under clauses E8.4 and G2.1(g)) use its best endeavours to:
- (a) modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement; or
 - (b) procure a licence to use the Intellectual Property Rights and supply the Services which are the subject of the alleged infringement, on terms which are acceptable to the Authority
- and if the Contractor is unable to comply with clauses E8.10(a) or (b) within 20 Working Days of receipt by the Authority of the Contractor's notification the Authority may terminate the Contract immediately by notice to the Contractor.
- E8.11 The Contractor grants to the Authority a royalty-free, irrevocable, worldwide, non-exclusive licence (with a right to sub-license) to use any Intellectual Property Rights that the Contractor owned or developed prior to the Commencement Date and which the Authority reasonably requires in order to exercise its rights under, and receive the benefit of, the Contract (including, without limitation, the Services).

E8A 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
- E8.9 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.
- E8.10 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.
- E8.11 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.

E8.12 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

E9.1 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 and processes as may be requested by the Authority in connection with the Contract.

E9.2 The Contractor agrees to make available to the Authority, free of charge, whenever requested, copies of audit reports obtained by the Contractor in relation to the Services.

E9.3 The Contractor shall permit duly authorised representatives of the Authority and/or the National Audit Office to examine the Contractor's records and documents relating to the Contract and to provide such copies and oral or written explanations as may reasonably be required.

E9.4 The Contractor (and its agents) shall permit the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the Authority and for carrying out examinations into the economy, efficiency and effectiveness with which the Authority has used its resources. The Contractor shall provide such explanations as are reasonably required for these purposes.

E10 Tax Compliance

E10.1 If, during the Contract Period, an Occasion of Tax Non-Compliance occurs, the Contractor shall:

- (a) notify the Authority in writing of such fact within 5 Working Days of its occurrence; and
- (b) promptly give the Authority:
 - i) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
 - ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

E10.2 If the Contractor or any Staff are liable to be taxed in the UK or to pay NICs in respect of consideration received under the Contract, the Contractor shall:

- (a) at all times comply with ITEPA and all other statutes and regulations relating to income tax, and SSCBA and all other statutes and regulations relating to national insurance contributions, in respect of that consideration; and
- (b) indemnify the Authority against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Contractor or any Staff.

F. CONTROL OF THE CONTRACT

F1A Monitoring of Contract Performance

F1A.1 The Contractor shall comply with the monitoring arrangements set out in the KPI Schedule and the Specification including, but not limited to:

- (a) reporting performance of the Services against the KPIs;
- (b) providing all management and reporting information listed in the Specification at such intervals as specified; and
- (c) 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.

F1 Failure to meet requirements

F1.1 If the Authority informs the Contractor in writing that the Authority reasonably believes that any part of the Services do not meet the requirements of the Contract or differs in any way from those requirements, and this is not 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.

F3 Remedies for inadequate performance

F3.1 If the Authority reasonably believes the Contractor has committed a Material Breach it 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 has demonstrated to the Authority's reasonable satisfaction that the Contractor will be able to supply the Services in accordance with the Specification;
- (b) without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Services;
- (a) withhold or reduce payments to the Contractor in such amount as the Authority reasonably deems appropriate in each particular case; and/or
- (a) terminate the Contract in accordance with clause H2.

F3.2 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.

F3.3 If the Authority reasonably believes the Contractor has failed to supply all or any part of the Services in accordance with the Contract, professional or industry practice which could reasonably be expected of a competent and suitably qualified person, or any legislative or regulatory requirement, the Authority may give the Contractor notice specifying the way in which its performance falls short of the requirements of the Contract or is otherwise unsatisfactory.

- F3.4 If the Contractor has been notified of a failure in accordance with clause F3.3 the Authority may:
- (a) direct the Contractor to identify and remedy the failure within such time as may be specified by the Authority and to apply all such additional resources as are necessary to remedy that failure at no additional charge to the Authority within the specified timescale; and/or
 - (b) withhold or reduce payments to the Contractor in such amount as the Authority deems appropriate in each particular case until such failure has been remedied to the satisfaction of the Authority.
- F3.5 If the Contractor has been notified of a failure in accordance with clause F3.3, it shall:
- (a) use all reasonable endeavours to immediately minimise the impact of such failure to the Authority and to prevent such failure from recurring; and
 - (b) immediately give the Authority such information as the Authority may request regarding what measures are being taken to comply with the obligations in this clause F3.5 and the progress of those measures until resolved to the satisfaction of the Authority.
- F3.6 If, having been notified of any failure, the Contractor fails to remedy it in accordance with clause F3.5 within the time specified by the Authority, the Authority may treat the continuing failure as a Material Breach and may terminate the Contract immediately on notice to the Contractor.

F4 Transfer and Sub-Contracting

- F4.1 Except where clauses F4.5 and F4.6 both apply, the Contractor shall not transfer, novate, charge, assign, sub-contract or in any other way dispose of the Contract or any part of it without Approval. All such documents shall be evidenced in writing and shown to the Authority on request. Sub-contracting any part of the Contract shall not relieve the Contractor of any of its obligations or duties under the Contract.
- F4.2 The Contractor shall be responsible for the acts and/or omissions of its Sub-Contractors as though they are its own. If it is appropriate, the Contractor shall provide each Sub-Contractor with a copy of the Contract and obtain written confirmation from them that they will provide the Services fully in accordance with the Contract.
- F4.3 The Contractor shall ensure that its Sub-Contractors and suppliers retain all records relating to the Services for at least 6 years from the date of their creation and make them available to the Authority on request in accordance with the provisions of clause E9 (Audit). If any Sub-Contractor or supplier does not allow the Authority access to the records then the Authority shall have no obligation to pay any claim or invoice made by the Contractor on the basis of such documents or work carried out by the Sub-Contractor or supplier.
- F4.4 If 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 immediately.
- F4.5 Notwithstanding clause F4.1, the Contractor may assign to a third party (the "Assignee") the right to receive payment of the Price or any part thereof due to the Contractor (including any interest which the Authority incurs under clause C2 (Payment and VAT)). Any assignment under this clause F4.5 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 F4.6 and F4.7.

F4.6 If the Contractor assigns the right to receive the Price under clause F4.5, the Contractor or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

F4.7 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.

F4.8 The provisions of clause C2 shall continue to apply in all other respects after the assignment and shall not be amended without Approval of the Authority.

F4.9 Subject to clause F4.10, 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;

(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.

F4.10 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to clause F4.11, affect the validity of the Contract and the Contract shall bind and inure to the benefit of any successor body to the Authority.

F4.11 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause F4.9 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 and H2 shall be available to the Contractor in respect of the Transferee;

(b) shall be available to the Contractor in the event of respectively, the bankruptcy or insolvency, or Default of the Transferee; and

(b) 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.

F4.12 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.

F4.13 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.

F4.14 The Authority shall be entitled to novate the Contract to any other body which substantially performs any of the functions that previously had been performed by the Authority.

F4.15 Provided that the Authority has given prior written consent, the Supplier shall be entitled to novate the Contract where:

(a) the specific change in contractor was provided for in the procurement process for the award of this Contract;

(b) there has been a universal or partial succession into the position of the Supplier, following a corporate restructuring, including takeover, merger, acquisition or insolvency, by another economic operator that meets the criteria for qualitative selection applied in the procurement process for the award of this Contract.

F5 Waiver

F5.1 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.

F5.2 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 A4 (Notices and Communications).

F5.3 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.

F6 Variation

F6.1 If, after the Commencement Date, the Authority's requirements change, the Authority may request a Variation subject to the terms of this clause F6.

F6.2 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 Price is required in order to implement the Variation within a reasonable time limit specified by the Authority. If the Contractor accepts the Variation it shall confirm it in writing.

F6.3 If the Contractor is unable to accept the Variation or where the Parties are unable to agree a change to the Price, the Authority may:

(a) allow the Contractor to fulfil its obligations under the Contract without the Variation to the Specification; or

(b) terminate the Contract immediately 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. If a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed in clause I2 (Dispute Resolution).

F6.4 Any Variation will not take effect unless recorded in a Change of Control Notice as attached hereto in Schedule 4 and approved in writing by the Authority.

F6.5 The provisions of clause F6.4 may be varied in an emergency if it is not practicable to obtain the Authorised Representative's approval within the time necessary to make the Variation in order to address the emergency. In an emergency, Variations may be approved by a different representative of the Authority. However, the Authorised Representative shall have the right to review such a Variation and require a Change of Control Notice to be entered into on a retrospective basis which may itself vary the emergency Variation.

F7 Severability

F7.1 If any provision of the Contract which is not of a fundamental nature 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.

F8 Remedies Cumulative

F8.1 Except as expressly provided in 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.

F9 Entire Agreement

F9.1 The 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 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

F10.1 The 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 limits its liability for:

- (a) death or personal injury caused by its negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) any breach of any obligations implied by section 2 of the Supply of Goods and Services Act 1982;
- (d) any breach of clause D1; or
- (e) any liability to the extent it cannot be limited or excluded by Law.

G1.2 Subject to clauses G1.3 and G1.4, the Contractor shall indemnify the Authority and keep the Authority indemnified fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of the supply, or the late or purported supply, of the Services or the performance or non-performance by the Contractor of its obligations under the Contract or the presence of the Contractor or any Staff on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly by any act or omission of the Contractor.

G1.3 Subject to clause G1.1 the Contractor's aggregate liability in respect of the Contract shall not exceed £500,000.00.

G1.4 The Contractor shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Authority or by breach by the Authority of its obligations under the Contract.

G1.5 The Authority may recover from the Contractor the following losses incurred by the Authority to the extent they arise as a result of a Default by the Contractor:

- (a) any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
- (b) any wasted expenditure or charges;
- (c) the additional costs of procuring a Replacement Contractor for the remainder of the Contract Period and or replacement deliverables which shall include any incremental costs associated with the Replacement Contractor and/or replacement deliverables above those which would have been payable under the Contract;
- (d) any compensation or interest paid to a third party by the Authority; and
- (e) any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty.

G1.6 Subject to clauses G1.1 and G1.5, neither Party shall be liable to the other for any:

- (a) loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect); or
- (b) indirect, special or consequential loss.

G1.7 Unless otherwise specified by the Authority, the Contractor shall, with effect from the Commencement Date for such period as necessary to enable the Contractor to comply with its obligations herein, take out and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor. Such insurance shall be maintained for the duration of the Contract Period and for a minimum of 6 years following the end of the Contract.

G1.8 The Contractor shall hold:

- (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 one million pounds (£ 1,000,000);
- (c) product liability with the minimum cover per claim of one million pounds £ 1,000,000];
and
- (d) professional indemnity with the minimum cover per claim of one million pounds (£1,000,000), 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.

G1.9 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.

G1.10 If the Contractor does not 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.

G1.11 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract.

G1.12 The Contractor shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Contractor, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Contractor is an insured, a co-insured or additional insured person.

G2 Warranties and Representations

G2.1 The Contractor warrants and represents on the Commencement Date and for the Contract Period that:

- (a) it has full capacity and authority and all necessary consents to enter into and perform 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 Response or other offer made by the Contractor to the Authority remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract and in addition, that it will advise the Authority of any fact, matter or circumstance of which it may become aware which would render such information to be false or misleading;
- (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 an 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, or 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) any person engaged by the Contractor shall be engaged on terms which do not entitle them to any Intellectual Property Right in any IP Materials;
- (i) in the 3 years (or period of existence where the Contractor has not been in existence for 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;
- (j) it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform its obligations under the Contract; and
- (k) it has notified the Authority in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.
- (l) (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 Force Majeure

G3.1 Subject to the remaining provisions of this clause G3, a Party may claim relief under this clause G3 from liability for failure to meet its obligations under the Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Contractor in performing its obligations under the Contract which results from a failure

or delay by an agent, Sub-Contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Contractor.

- G3.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- G3.3 If the Contractor is the Affected Party, it shall not be entitled to claim relief under this clause G3 to the extent that consequences of the relevant Force Majeure Event:
- (a) are capable of being mitigated by any of the Services, but the Contractor has failed to do so; and/or
 - (b) should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by the Contract.
- G3.4 Subject to clause G3.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- G3.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to continue to perform its obligations under the contract and prevent and mitigate the effects of the Force Majeure Event. Where the Contractor is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- G3.6 If, as a result of a Force Majeure Event:
- (a) an Affected Party fails to perform its obligations in accordance with the Contract, then during the continuance of the Force Majeure Event:
 - i) the other Party shall not be entitled to exercise its rights to terminate the Contract in whole or in part as a result of such failure pursuant to clause H2.1 or H2.3; and
 - ii) neither Party shall be liable for any Default arising as a result of such failure;
 - (b) the Contractor fails to perform its obligations in accordance with the Contract it shall be entitled to receive payment of the Price (or a proportional payment of it) only to the extent that the Services (or part of the Services) continue to be performed in accordance with the terms of the Contract during the occurrence of the Force Majeure Event.
 - (c) either Party is prevented from performing its material obligations under the Contract for a period in excess of 6 Months, either Party may terminate the Contract with immediate effect by notice in writing.
- G3.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under the Contract.
- G3.8 Relief from liability for the Affected Party under this clause G3 shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under the Contract and shall not be dependent on the serving of notice under clause G3.7.

G4 Guarantee

N/A

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 notice and without compensation to 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;
- (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);
- (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;
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;
- (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;
- (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
- (g) being a "small company" within the meaning of section 247(3) of the Companies Act 1985, 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)-(g) occurs under the law of any other jurisdiction.

H1.2 The Authority may terminate the Contract with immediate effect by notice and without compensation to 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;
- (b) a petition is presented and not dismissed within 14 days or order made for the Contractor's bankruptcy;
- (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;

- (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;
- (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;
- (f) he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005;
- (g) he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business; or
- (h) any event similar to those listed in clauses H1.2(a) to (g) occurs under the law of any other jurisdiction.

H1.3 The Contractor shall notify the Authority immediately in writing of any proposal or negotiations which will or may result in a merger, take-over, change of control, change of name or status including where the Contractor undergoes a change of control within the meaning of section 1124 of the Corporation Tax Act 2010 ("**Change of Control**"). The Authority may terminate the Contract with immediate effect by notice and without compensation to the Contractor within 6 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 Approval was granted prior to the Change of Control.

H1.4 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Contractor where the Contractor is a partnership and:

- (a) a proposal is made for a voluntary arrangement within Article 4 of the Insolvent Partnerships 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) 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, his creditors;
 - (ii) a petition is presented for his bankruptcy; or
 - (iii) a receiver, or similar officer is appointed over the whole or any part of his assets;

- (g) any event similar to those listed in clauses H1.4(a) to (f) occurs under the law of any other jurisdiction

H1.5 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Contractor where the Contractor is a limited liability partnership and:

- (a) 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;
- (b) it is for any reason dissolved;
- (c) 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 within Part II of the Insolvency Act 1986;
- (d) 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;
- (e) 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;
- (f) a receiver, or similar officer is appointed over the whole or any part of its assets; or
- (g) it is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (h) a moratorium comes into force pursuant to schedule A1 of the Insolvency Act 1986; or
- (i) any event similar to those listed in clauses H1.5 (a) to (h) occurs under the law of any other jurisdiction.

H1.6 References to the Insolvency Act 1986 in clause H1.5(a) shall be construed as being references to that Act as applied under the Limited Liability Partnerships Act 2000 subordinate legislation.

H2 Termination on Default

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

- (a) the Contractor has not remedied the Default to the satisfaction of the Authority within 25 Working Days or such other period as may be specified by the Authority, after issue of a notice specifying the Default and requesting it to be remedied;
- (b) the Default is not, in the opinion of the Authority, capable of remedy; or
- (c) the Default is a Material Breach.

H2.2 If, 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 give notice to the Authority of its failure to pay. If the Authority fails to pay such undisputed sums within 90 Working Days of the date of such 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) or to a Force Majeure Event.

H3 Non Default Termination or Change of Government Policy

H3.1 The Authority may terminate the Contract at any time by giving 30 days' notice to the Contractor.

H3.2 The Authority may terminate the Contract by giving to the Contractor at least 1 Months' notice in writing where there is a 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 Termination under the Regulations

H4.1 The Authority may terminate the Contract on written notice to the Contractor if:

(a) the Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;

(b) the Contractor was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57 (2), and should therefore have been excluded from the procurement procedure which resulted in its award of the Contract; or

(c) the Contract should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties and the Regulations that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU.

H5 Consequences of Expiry or Termination

H5.1 If the Authority terminates the Contract under clauses H2 or H4 and makes other arrangements for the supply of the 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.

H5.2 If Contract is terminated under clauses H2 or H4 the Authority shall make no further payments 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.

H5.3 If the Authority terminates the Contract under clause H3 the Authority shall make no further payments to the Contractor except 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.

H5.4 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), D1 (Prevention of Fraud and Bribery), E2 (Data Protection Act Compliance), E3 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989), E4 (Confidential Information), E5 (Freedom of Information), E8 (Intellectual Property Rights), E9 (Audit), F9 (Remedies Cumulative), G1 (Liability, Indemnity and Insurance), H5 (Consequences of Expiry or Termination), H7 (Recovery upon Termination) and I1 (Governing Law and Jurisdiction).

H6 Disruption

- H6.1 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.
- H6.2 The Contractor shall immediately inform the Authority of any actual or potential industrial action, whether such action be by its own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- H6.3 If there is industrial action by the Staff, the Contractor shall seek Approval to its proposals to continue to perform its obligations under the Contract.
- H6.4 If the Contractor's proposals referred to in clause H6.3 are considered insufficient or unacceptable by the Authority acting reasonably, then the Contract may be terminated with immediate effect by the Authority by notice.
- H6.5 If the Contractor is unable to deliver the Services owing to disruption of the Authority's normal business, 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.

H7 Recovery upon Termination

- H7.1 On termination of the Contract for any reason, the Contractor shall at its cost:
- (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 in good working order;
 - (c) immediately vacate any Authority Premises occupied by the Contractor;
 - (d) 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; and
 - (e) 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 and/or for the purpose of allowing the Authority and/or the Replacement Contractor to conduct due diligence.
- H7.2 Alternatively, on termination of the Contract for any reason, the Contractor shall at the written request of the Authority and at the Contractor's cost:

- (a) carry out the destruction of any of the Confidential Information, Personal Data and IP Materials ;
- (b) using a method of secure destruction to be specified by the Authority and in accordance with Good Industry Practice; and
- (c) provide a certificate of secure destruction to the Authority.

H7.3 If the Contractor does not comply with clauses H7.1(a) and (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.

H7.4 Where the end of the Contract Period arises due to the Contractor's Default, the Contractor shall provide all assistance under clause H7.1(d) and (e) free of charge. Otherwise, the Client shall pay the Contractor's reasonable costs of providing the assistance and the Contractor shall take all reasonable steps to mitigate such costs.

H8 Retendering and Handover

H8.1 Within 21 days of being requested by the Authority, the Contractor shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Authority to issue tender documents for the future provision of the Services.

H8.2 The Authority shall take all necessary precautions to ensure that the information referred to in clause H8.1 is given only to potential providers who have qualified to tender for the future provision of the Services.

H8.3 The Authority shall require that all potential providers treat the information in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the Authority; and that they shall not use it for any other purpose.

H8.4 The Contractor shall indemnify the Authority against any claim made against the Authority at any time by any person in respect of any liability incurred by the Authority arising from any deficiency or inaccuracy in information which the Contractor is required to provide under clause H8.1.

H8.5 The Contractor shall allow access to the Premises in the presence of the Authorised Representative, to any person representing any potential provider whom the Authority has selected to tender for the future provision of the Services.

H8.6 If access is required to the Contractor's Premises for the purposes of clause H7.5, the Authority shall give the Contractor 7 days' notice of a proposed visit together with a list showing the names of all persons who will be visiting. Their attendance shall be subject to compliance with the Contractor's security procedures, subject to such compliance not being in conflict with the objectives of the visit.

H8.7 The Contractor shall co-operate fully with the Authority during any handover at the end of the Contract. This co-operation shall include allowing full access to, and providing copies of, all documents, reports, summaries and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.

H8.8 Within 10 Working Days of being requested by the Authority, the Contractor shall transfer to the Authority, or any person designated by the Authority, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the provision of the

Services. The transfer shall be made in a fully indexed and catalogued disk format, to operate on a proprietary software package identical to that used by the Authority.

H9 Exit Management

- H9.1 The Contractor shall use all reasonable endeavours so as to facilitate the smooth transfer of the provision of 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.
- H9.2 Within ninety (90) days of the Commencement Date, the Contractor shall provide a draft Exit Management Strategy to (to be appended to Schedule 10) 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 provision 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.
- H9.3 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.
- H9.4 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.
- H9.5 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 the provision of Services (or any part of the Services) 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 provision of 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.

H10 Exit Procedures

- H10.1 Where the Authority requires a continuation of all or any of the Services on expiry or termination of this Contract, either by performing them itself or by engaging a third party to perform them, the Contractor shall co-operate fully with the Authority and any such third party and shall take all reasonable steps to ensure the timely and effective transfer of the Services without disruption to routine operational requirements.
- H10.2 The following commercial approach shall apply to the transfer of the Services if the Contractor:
- (a) does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Price; or
 - (b) reasonably incurs additional costs, the Parties shall agree a Variation to the Price based on the Contractor's rates either set out in Schedule 3 or forming the basis for the Price.
- H10.3 When requested to do so by the Authority, the Contractor shall deliver to the Authority details of all licences for software used in the provision of the Services including the software licence agreements.
- H10.4 Within one Month of receiving the software licence information described above, the Authority shall notify the Contractor of the licences it wishes to be transferred, and the Contractor shall provide for the approval of the Authority a plan for licence transfer.

H11 Knowledge Retention

- H11.1 The Contractor shall co-operate fully with the Authority in order to enable an efficient and detailed knowledge transfer from the Contractor to the Authority on the completion or earlier termination of the Contract and in addition, to minimise any disruption to routine operational requirements. To facilitate this transfer, the Contractor shall provide the Authority free of charge with full access to its Staff, and in addition, copies of all documents, reports, summaries and any other information requested by the Authority. The Contractor shall comply with the Authority's request for information no later than 15 Working Days from the date that that request was made.

I DISPUTES AND LAW

I1 Governing Law and Jurisdiction

- I1.1 Subject to the provisions of clause I2 the Contract, including any matters arising out of or in connection with it, shall be governed by and interpreted in accordance with English Law and shall be subject to the jurisdiction of the Courts of England and Wales. The submission to such jurisdiction shall not limit the right of the Authority to take proceedings against the Contractor in any other court of competent jurisdiction, and the taking of proceedings in any other court of competent jurisdiction shall not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

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 of the Contractor and the commercial director of the Authority.

- 12.2 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.
- 12.3 If the dispute cannot be resolved by the Parties pursuant to clause 12.1 the Parties shall refer it to mediation pursuant to the procedure set out in clause 12.5 unless: (a) the Authority considers that the dispute is not suitable for resolution by mediation; or (b) the Contractor does not agree to mediation.
- 12.4 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.
- 12.5 The procedure for mediation and consequential provisions relating to mediation are as follows:
- (a) a neutral adviser or mediator (the “**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 the 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. If appropriate, the Parties may at any stage seek assistance from the 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) failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties; and
 - (f) 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 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; and

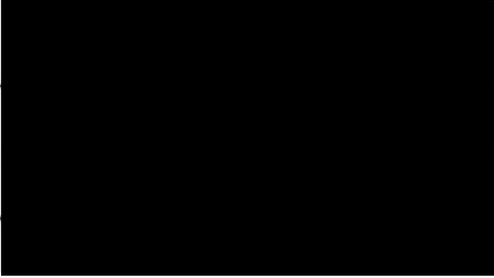
- (c) the Contractor may request by notice to the Authority that any dispute be referred and resolved by arbitration in accordance with clause 12.7, to which the Authority may consent as it sees fit.

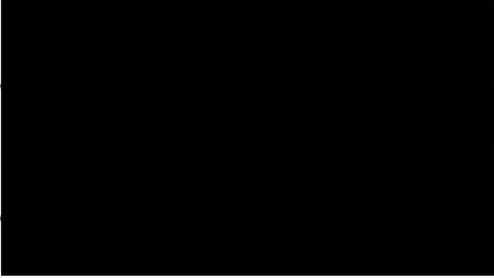
12.7 If any arbitration proceedings are commenced pursuant to clause 12.6,

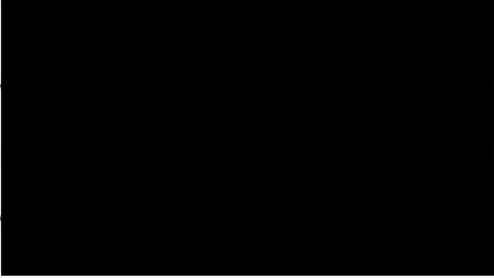
- (a) the arbitration shall be governed by the provisions of the Arbitration Act 1996 and the Authority shall give a notice of arbitration to the Contractor (the "Arbitration Notice") stating:
 - (i) that the dispute is referred to arbitration; and
 - (ii) providing details of the issues to be resolved;
- (b) 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;
- (c) the tribunal shall consist of a sole arbitrator to be agreed by the Parties;
- (d) 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(a) or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- (e) the arbitration proceedings shall take place in London and in the English language; and
- (f) the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law.

IN WITNESS of which this Contract has been duly executed by the parties.

SIGNED for and on behalf of **CARE QUALITY COMMISSION**

Signature 

Name 

Position 

SIGNED for and on behalf of **ComRes [CONTRACTOR]**

Signature 

Name 

Position 

SCHEDULE 1 - SPECIFICATION

National stakeholder trust and confidence in CQC are key internal and external performance measures for evaluating the CQC's effectiveness, impact and value for money.

In order to monitor and report on progress in this area we need to benchmark stakeholder awareness and sentiment from a representative sample of national charities.

This will help us to look at areas to improve our performance and to ensure our work has maximum impact and value for money.

This research will include:

- Providing advice and expertise on the design and undertaking of the research. This will be used to measure current sentiment towards CQC in a transparent way. We anticipate that the supplier would advise on the best approach to measuring sentiment levels. We would anticipate that this would be achieved either through a telephone survey or online survey approach.
- Provide analytical support to process the results of the survey. CQC will also require a report that sets out the overall findings of the survey responses and a presentation of the results.
- This will enable CQC to assess the impact of its current engagement work with these key stakeholders.
- Outputs will provide CQC with information for targets to improve our activity and performance with national charities. Outputs will also allow for CQC to assess the value for money and look for areas to increase efficiency in this work.
- In terms of communicating the outputs, we would look to the supplier to provide a presentation to CQC staff and produce a final report - format to be agreed with the supplier.

We would anticipate that the research would involve around 25 interviews with priority stakeholders.

We would expect the research to include free flowing interviews shaped by a set of questions agreed by CQC.

The research would focus on:

- The relationship the stakeholder has with CQC
- The stakeholders perception of CQC
- The organisational relationship the stakeholder has with CQC

The stakeholders perception on their engagement with CQC

Action	Target Date	Action to Achieve Milestone	Review Date	Payment
Project Inception Meeting	w/c 29 May	Attend meeting	w/c 29 May	20%
Proposed research method signed off	w/c 12 June	CQC signed off	w/c 12 June	20%
Research fieldwork conducted	June/July	Research completed	June/July	25%
Results presented to CQC	w/c 10 July	Presentation delivered	w/c 10 July	35%

SCHEDULE 2 – TENDER RESPONSE

Given the importance of service users to CQC, the organisation's key national stakeholders include those who work for health and social care charities that represent patients and the public. As an important link between the health and social care system and those who use it, understanding the views of charities that represent patients and the public is critical to understanding how the CQC is viewed more broadly. What's more, identifying ways in which perceptions of the CQC can be improved among this group will play an important part in the CQC's strategy to boosting public engagement on the whole.

With this in mind, ComRes recommends conducting semi-structured interviews among 25 key stakeholders, as this will provide the opportunity to acquire quantitative metrics on awareness and perceptions of the CQC, as well as to explore in detail what drives opinion among this group. During this process ComRes will also gather stakeholder-led recommendations for how the CQC's reputation and impact could be improved, both among this audience and among patients and the public more broadly. Interviews will be conducted over the phone, ensuring maximum flexibility for stakeholders and maximising their likelihood to participate.

As a tracking project, many questions will remain the same in order to identify how opinion has changed over time. It will also be possible to introduce new questions, taking into account the latest developments in health and social care and ensuring that the research findings are as relevant, and

impactful, as possible. At the end of the project, ComRes will provide the CQC with a full analytical report written by the project team who specialise in health research, which will include illustrative case studies that demonstrate where the CQC is engaging well with the public and those who represent them, as well as areas where improvements can be made. We will also present the findings to the internal team at the CQC, ensuring maximum buy-in among the organisation's internal stakeholders.

Leadership, Exit Strategy and Skills Transfer

The CQC requires a team with the necessary skills and experience to deliver robust research in short timeframes, with extensive experience of delivering research to meet similar objectives, using similar methods, and among similar audience groups. In addition, the team must be able to produce engaging deliverables, and have an understanding of the unique needs of organisations with a statutory responsibility.

ComRes has proposed a senior team to meet these needs, led by health sector specialist and [REDACTED] will be supported by [REDACTED] with overall responsibility for quality control and oversight; Research Team Leader Lucy Fisher who will be the CQC's dedicated day-to-day point of contact; and [REDACTED] who will provide project support. This dedicated team will provide the CQC with the resource, skills and experience to deliver high-quality research in the time available.

The team have extensive relevant experience of working with statutory bodies in the healthcare space. In 2016 alone the team have successfully delivered the [REDACTED] tracking research to measure sentiment, understanding and awareness across seven audiences; delivered [REDACTED] with 42 Chief Executives across the health sector – including national charities; and designed and run several waves of the [REDACTED] fast turnaround monthly public opinion tracking. They are therefore ideally placed to work with the CQC to successfully deliver its [REDACTED]

Method Statement

Understanding of Requirements

While a range of factors can influence the profile and reputation of the CQC among patients and the public, the views and experiences of key stakeholders that represent those groups play a key role in interpreting, and driving, the CQC's overall reputation. Research among this audience is therefore essential, and will play a key part in informing the CQC's strategy to boost its overall reputation, and ultimately to raise the perceived quality of care across the health and social care system in England, within the system itself as well as among service users.

To this end, research among this audience must provide a comprehensive and in-depth understanding of the views among those who represent patients and the public, including the overall reputation of the CQC and what drives that reputation. A simple evaluation of the CQC across a range of key performance indicators will not be sufficient to provide the organisation with a full understanding of its reputation. The value of conducting research among this audience will come

from the rich insight stakeholders can offer around their perceptions of the CQC and experiences of working with the organisation, as well as their views on the CQC's current approach to public engagement and how this can be improved. Incorporating quantitative metrics that identify how opinion among stakeholders may have changed over time will also be important for the CQC.

The CQC will benefit from working with an agency that specialises in conducting qualitative research among health audiences. This will ensure that the data collected is expertly analysed and translated into meaningful recommendations for the CQC's public engagement strategy on an ongoing basis.

The health team at ComRes has a wealth of experience in conducting qualitative research among stakeholders, and in particular of doing so to tight timescales. We have drawn on this experience to design a research solution that will deliver comprehensively on your research objectives, while meeting your internal deadlines. This solution is outlined below.

Our Solution

In order to evaluate the trust and confidence that national stakeholders have in the CQC, ComRes recommends conducting 25 semi-structured telephone interviews with key stakeholders from health and social care charities that represent patients and the public. These interviews will provide thorough insight into stakeholder awareness and sentiment towards the CQC, and identify how these shape views around the CQC's effectiveness, impact and value for money.

Interviewees will be drawn from a list provided by the CQC, and at kick off ComRes will work with the CQC to develop this list and ensure that the organisation's key stakeholder groups are represented. The interviews will last approximately 30 minutes in length, allowing time to fully explore the CQC's core themes and ensure that the organisation's objectives are fully met. By conducting semi-structured interviews, it will also be possible to include several quantitative questions in each interview, to provide a metric that benchmarks stakeholder awareness and sentiment against previous research.

Benefits of Our Approach

Built in time for CQC input: An immersion meeting at the start of the project will give the CQC the opportunity to finalise the project objectives and share existing knowledge. Partway through the project, ComRes will also deliver interim findings via telephone, providing an opportunity to review learnings to date and determine if there are specific areas of research to be explored in the remaining interviews.

Comprehensive findings: The qualitative approach ensures richness of detail in response, the opportunity to understand drivers of awareness and sentiment; to generate stakeholder-led recommendations; and to develop case studies that demonstrate examples of best practice and areas for improvement. It also offers the opportunity to explore experiences and attitudes in detail and be responsive to individual experiences.

Benchmark performance: Including several quantitative questions across 25 interviews will provide indicative data on awareness and sentiment which can be tracked going forward, and benchmarked against previous years if relevant. Conducting interviews across a broad range of stakeholders will also generate enough data to analyse by different stakeholder groups.

Encouraging high uptake: Given the short fieldwork period, conducting interviews via telephone provides respondents with the flexibility to participate in a time and place that suits them, and reduces logistical hurdles. Our health consultants will be recruiting the interviewees, and their understanding of the topic, as well as their range of experience recruiting this audience, will also encourage greater uptake among stakeholders.

Dedicated project team: A small project team will work across the project from kick-off through to delivery, guaranteeing that detailed knowledge and understanding of the subject and stakeholders is consistent throughout the project. Having the same team involved from start to finish also ensures that those who conduct the research are involved in delivering the findings, so that no key insights are lost.

Development of Research Materials

ComRes has extensive experience of designing and conducting research among senior representatives from health and social care charities, for example on behalf of [REDACTED] and the [REDACTED]. We will bring this expertise to the project, working with the CQC to ensure that the focus of the discussion guide, including language and line of questioning, are both appropriate and engaging for this audience.

To inform this process, an initiation meeting with internal stakeholders at the CQC will provide the opportunity to meet and identify key objectives, and therefore determine what topics should be included to ensure that the findings are most relevant and actionable for the CQC. The design of the discussion guide may draw on research materials the CQC has used in previous research among this audience, allowing you to benchmark opinion against previous findings.

While the interviews will be qualitative in nature, several quantitative questions will be included, which will allow us to create a 'sentiment measurement'. This mixed method approach will have the benefit of providing indicative data on awareness and sentiment, while also allowing us to explore the attitudes and experiences that shape engagement in more comprehensive detail, providing the CQC with rich analysis and illustrative case studies.

The full scope of the discussion guide will be decided following the project immersion phase; however we envisage that the interviews will cover the following broad topics:

- Stakeholder awareness and understanding of the CQC;
- The individual relationship the stakeholder has with the CQC;
- The organisational relationship the stakeholder has with the CQC;
- Stakeholder perceptions of the CQC, including:

- Trust
 - Confidence
 - Favourability
- Stakeholder engagement with the CQC;
 - Change in perceptions of the CQC and its work over time.

Sample Design and Recruitment

To best measure current sentiment towards the CQC, it is important to speak to a variety of key stakeholders from across the system, including those who engage with the organisation regularly and those who have very little contact with it.

The CQC will provide a list of over 200 stakeholder organisations, from which ComRes will work to recruit as broad a range of stakeholder types as possible. Upon commission, we will work in conjunction with the CQC to divide stakeholders into different subgroups. For example, these could be split by organisation type, role or stakeholder engagement with the CQC. We recommend creating no more than 5 subgroups for analysis, to ensure that a minimum of 5 interviews are conducted with respondents from each subgroup. This approach will ensure that we are speaking with individuals from the CQC's key stakeholder groups, providing you with a deeper understanding of how opinion, and experience, may vary between different stakeholder types.

Once the stakeholder list has been finalised, ComRes will send invitees an email explaining the research and inviting them to participate. This will be followed up by direct contact over phone to schedule in interviews and answer any questions the stakeholder may have.

Our experienced, trained consultants personally both recruit and conduct qualitative interviews, which is an important strength of the ComRes approach. This ensures the ability of our project team to talk confidently and persuasively about why a potential respondent should give up their time to take part, which in turn increases uptake among stakeholders.

On some projects it is recommendable to incentivise respondents with a donation to the charity of their choice in return for taking part. However, given the number of stakeholders on the CQC's list and our experience of recruiting such groups for similar clients in the past, we are confident that we will be able to recruit all interviewees within the allocated timeframe without the need to incentivise.

Fieldwork

At ComRes our tried and tested approach to managing the semi-structured interview process has been designed to maximise response rates and generate the most impactful data possible for our clients. Our project team has been hand-picked to provide methodological expertise, as well as being experienced in project planning, contingency and quality control. Our semi-structured interviews are also all recruited and conducted in-house by our qualified and tested consultants, who have conducted similar interviews in the past for organisations such as the F [REDACTED]

At ComRes we recognise the importance of the research process as a form of stakeholder engagement in itself. Our approach to interviewing stakeholders begins before an interview is conducted: prior to each interview our researchers conduct desk research so they are fully informed about the participant's background and organisation. This ensures the interviewer is fully aware of which elements of the guide are most relevant, as well as any likely areas of sensitivity or concern that may come up in the interview.

With the exception of the quantitative questions that are being included, the interviews will broadly take the form of a free-flowing discussion, focused on the stakeholder and their particular expertise and specialism. Our researchers follow the discussion guide as far as possible to gain detailed insight into opinions, and they will also probe interviewees on topics of interest and to explore unanticipated comments or angles on the research topic.

All interviews will be conducted by members of the project team who are fully trained in qualitative research techniques and who are immersed in the subject matter. Combined, this approach will ensure that stakeholders have the best opportunity to contribute their views and are approached with absolute professionalism.

Analysis and Reporting

The semi-structured interviews will generate a vast amount of data. Condensing this much information into clear themes that the CQC can act on with confidence requires a rigorous approach to analysing the data collected. A solid foundation for this analysis will be built through dynamic brainstorming and reporting throughout fieldwork, as well as rigorously validating and prioritising the data once fieldwork is complete, so that the final deliverables are robust, insightful and impactful.

As part of this process, partway through fieldwork we recommend conducting a call with the team at the CQC to discuss the interim findings from the research. This call will be invaluable in the analysis process, allowing us to share the story emerging from the data and discuss the implications for the organisation. This call will also allow ComRes and the team at the CQC to begin discussions about the structure and story of the report, ensuring that nothing in the final report comes as a surprise, and ultimately that this meets your needs as an organisation.

At ComRes we understand that not all insights are equal; a memorable point raised by one stakeholder in a depth interview, for example, should not override a consistent opinion communicated by many others. However, a standalone perception will not be ignored if it adds an idea or raises a concern of critical importance to the CQC. ComRes recognises this complex balance in conducting analysis and the importance of accurately representing the data collected from stakeholders throughout the research at the reporting stage. For this reason, all ComRes Consultants are trained and experienced in filtering and prioritising findings in their analysis, and we will have a consistent team working on the project from inception to reporting.

The ComRes project team will produce a full analytical report in the format preferred by the CQC, for example either in Word or PowerPoint, and we would be happy to use the CQC's house style if preferred. The report will open by providing a succinct executive summary of the key research findings, specifically prepared for time-poor internal stakeholders. The main report will provide in-

depth analysis of the core themes covered in the discussion guide, as well as covering any additional topics that were prominently raised in the interviews. The report will also include subgroup analysis, outlining any differences

between the CQC's core stakeholder groups. At the conclusion of the report a set of clear, actionable recommendations will be provided, designed to inform the CQC how it can achieve maximum impact with its stakeholders and provide value for money.

Following the provision of the final report, ComRes would be delighted to present this research to relevant CQC staff. While the report will play a crucial role in dissemination, it is crucial for the success of the research and implementation of findings that it receives internal buy-in.

ComRes will discuss with the CQC how the presentation can best be targeted to meet the needs of the attendees. This could take the form of a workshop-style session with a focus on next steps from the research, or a more traditional presentation of the findings. Either way, it will ensure that the research findings are effectively disseminated across the team.

Quality Assurance and Risk Management

A core part of ComRes's quality assurance is the identification of potential risks throughout the lifetime of the project, to ensure that there are sufficient processes in place to mitigate these risks. We have identified a number of potential risks to this project on behalf of the CQC, and will revisit this following commissioning and the initiation meeting.

Please see the appendix for a full copy of our Quality Statement and Business Continuity Plan

Risk	Assessment of likelihood and impact	Mitigation
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<p>The tight timings of the project mean that the research is not completed to meet the CQC's deadlines.</p>	<p>Likelihood: Medium Impact: Medium</p>	<p>ComRes is confident of securing the interviews within the stated fieldwork period as we have the required resource in place to recruit and complete 25 interviews from a list of 200 stakeholders, based on previous projects conducted using the same method.</p> <p>The ComRes project team will take responsibility for monitoring fieldwork progress daily, to ensure sufficient progress is being made against targets. Where the response rate for a certain stakeholder group may not be as high as expected, ComRes can allocate further resource in order to meet the deadlines. This will include sending follow up emails, making phone calls and inviting additional stakeholders from the CQC-approved stakeholder list.</p>
<p>The tight timings of the project could mean mistakes are more likely to happen with a rushed design or recruitment process.</p>	<p>Likelihood: Low Impact: High</p>	<p>ComRes will put a detailed timetable in place for getting the project delivered from the point of the project being commissioned. We also operate a defined structure for signing off fieldwork materials - in this case, the discussion guide - with interview piloting to ensure that no final changes are required before fieldwork fully starts.</p>
<p>The tight timings of the project mean that the accuracy of outputs is impaired.</p>	<p>Likelihood: Low Impact: High</p>	<p>For the final deliverables, the ComRes team will produce and confirm with the CQC the format of the outputs in advance of the question design, meaning that the core structure of the report can be decided and put together before fieldwork is completed.</p> <p>All of our outputs are produced in house, and we have tried and tested processes for checking these. The report will be reviewed by two senior members of the team before being submitted to the CQC, ensuring the highest quality and the greatest accuracy.</p>
<p>The tight timings of the project mean that the quality of</p>	<p>Likelihood: Low</p>	<p>The team we have put forward for this project include those with expertise in question design</p>

<p>outputs is impaired.</p>	<p>Impact: Medium</p>	<p>and analysis for public sector health organisations. No outputs are to be delivered to the CQC without being reviewed by one of these senior team members, ensuring a high level of quality.</p> <p>In addition, the team have experience and skills in analysing data for fast turnaround projects, and will therefore be able to produce the report to the required standard within the timings. For more detail on the team's experience, please see the Leadership, Exit Strategy and Skills Transfer section.</p>
<p>Continuity of project manager is not maintained.</p>	<p>Likelihood: Low</p> <p>Impact: Medium</p>	<p>ComRes will provide a guarantee for the CQC that if a replacement in project manager is necessary, that the replacement will be of an equal or greater level of experience and seniority, and that the CQC will be informed in writing of any change before it takes place.</p> <p>In addition, ComRes operates a detailed customer Relationship Management system, which is securely stored online and accessible by all authorised members of staff. This system records all important communications between ComRes and our clients ensuring that an alternative Project Manager can become quickly informed as to the latest status of discussions with the CQC. All project data is stored in a secure, on-site server, and access to all project files can be granted, by ComRes's Directors, to an alternative project manager if necessary.</p> <p>For further detail on ComRes's business continuity plan, please see below.</p>

<p>Reputation among stakeholders of CQC is damaged through participating in the research.</p>	<p>Likelihood: Low Impact: High</p>	<p>ComRes takes every measure to safeguard the stakeholder relationships of our clients. In the first instance, stakeholders will be sent an invitation email that outlines who ComRes is and why we are getting in touch; the research objectives; and what the interview will entail. We phase subsequent follow up communication, either by email or phone call, at suitable intervals, to ensure that stakeholders do not receive an excess of contact. Throughout this process, any stakeholders that request either not to be contacted again or not to participate in the research are automatically marked in our database and are not re-contacted.</p> <p>All contact with stakeholders will be undertaken by trained ComRes consultants with experience in recruiting and interviewing health audiences. The consultants' involvement in the project from the point of commissioning, and their understanding of the topic and audience, will ensure that interactions with stakeholders are appropriately pitched and that those that are invited to participate are fully informed of the purpose of the research and what is being asked of them.</p> <p>At ComRes we treat our responsibility towards our clients' stakeholder relationships with the utmost importance, and our approach to the recruitment and interviewing process meets, and indeed exceeds, the requirements of the Market Research Society code of conduct.</p>
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Timeline and Resource Plan

The CQC requires a team with experience of conducting similar research and an understanding of the health and public sectors. A team with these attributes will be able to deliver the project, and to work well with each other as well as the team at the CQC. The ComRes team will consist of:

- A dedicated day-to-day point of contact: [REDACTED] for the Health team at ComRes and will be responsible for ongoing communication between the CQC and ComRes.
- Contract management and senior support: [REDACTED] will be available to provide advice and resource to [REDACTED] across the duration of the contract. In the case of [REDACTED] absence, [REDACTED] will step in as the dedicated point of contact.

- [REDACTED] will oversee all work across the lifetime of the contract, ensuring each project is delivered to the highest quality standards, on time and on budget.
- [REDACTED] is a specialist in health sector research and will support Lucy on projects to ensure continuity. [REDACTED] work together on the Health research team at ComRes and therefore are ideally placed to work across projects together.

The number of hours allocated for each member of staff are shown below:

TEAM MEMBER	# OF HOURS
[REDACTED]	[REDACTED]
TOTAL	122

Additional information on the leadership of this contract, and the project management processes we will implement, is provided in the section on Leadership, Exit Strategy and Skills Transfer.

Given the need for this project to be delivered in its entirety by the end of w/c 27th March 2017, the CQC is looking to appoint a research agency that has proven experience of delivering high quality projects within tight timelines. At ComRes we are committed to working with our clients to ensure that their internal deadlines are met, and recent fast turnaround projects for the [REDACTED] demonstrate our ability to deliver this project for the CQC on time and to an excellent standard. The timetable below sets out our recommended timings for the main milestones of the project:

Responsibility: ■ ComRes ■ CQC ■ ComRes & CQC

Date	Milestone
w/c 20 th February	Contract awarded
	Project Inception Meeting Held
	Previous discussion guide and other background materials provided (if applicable)
	List of stakeholders provided
w/c 27 th February	Draft discussion guide provided
	Stakeholder list signed off
	Discussion guide signed off
	Recruitment begins
w/c 6 th March	Interviewing begins
20 th March	Interim findings call
w/c 27 th March	Interviewing ends
	Report delivered
TBC	Presentation to the CQC

Overview – Leadership and Project Management

Care Quality Commission (CQC) require a team that have the necessary skills and experience of conducting robust research, engaging with the public on communications research projects, and an understanding of both the health sector and statutory bodies. A team with these attributes will be able to deliver high quality research to the required deadlines, in addition to working well with both each other and the team at the CQC.

In order to guarantee that the CQC has access to the broadest expertise from ComRes and to safeguard that sufficient resource will be available at any time throughout the course of both projects, the ComRes team will consist of:

- [REDACTED] will be available to provide advice and resource to [REDACTED] across the duration of the contract. In the case of [REDACTED] absence, [REDACTED] will step in as the dedicated point of contact.
- A dedicated day-to-day point of contact: [REDACTED] at ComRes and will be responsible for ongoing communication between the CQC and ComRes.
- [REDACTED] will oversee all work across the lifetime of the contract, ensuring each project is delivered to the highest quality standards, on time and on budget.
- [REDACTED] is a specialist in health sector research and will support Lucy on projects to ensure continuity. [REDACTED] work together on the Health research team at ComRes and therefore are ideally placed to work across projects together.

This provides the CQC with the reassurance that there is sufficient experienced resource available to deliver both projects for the CQC, delivering significant methodological and policy expertise. More detail on the roles of each team member is listed below.

All team members already have an existing knowledge of the CQC's key policy areas and will be fully briefed and updated on all aspects of each particular project to make sure that the CQC will receive insight in the shortest timeframes possible without having to sacrifice quality of reporting.

Contract Management



- Be the senior point of contact for all projects for the CQC. This means she has oversight and an understanding of the CQC's overall aims and objectives, and context in which the CQC operates;
- Hold responsibility for research design, project management and quality control. This will involve setting out the initial timetable and milestones, and final sign off on key deliverables;
- Monitor all fieldwork, including management of subcontractors and ensuring ComRes's ability to meet deadlines;
- Provide regular updates to the CQC, including a fortnightly update as part of ongoing Contract management including budget, risks and progress;
- Lead analysis and reporting, providing insight from across the health and public sector, as well as communications expertise. These will be delivered in a report and presentation;
- Draw on insight from across ComRes's communications research to provide specialist understanding to this project;
- Identify any innovations or new ways of working that could potentially deliver cost savings to the CQC;
- At the end of each project, lead the review meeting to provide the CQC with an assessment of what did and did not work on the project to support the organisation's continuous improvement.

Escalation Plan

ComRes employs a robust, tried and tested escalation plan. As a nimble and flexible research agency we can act on any arising issues with speed and commitment to resolving the issue.

In the event that any concerns arise on a particular project, [REDACTED] will immediately inform the [REDACTED]. [REDACTED] will then assemble an internal meeting of the full project team to assess the concerns and what action is needed to be taken. On agreement of a recommend course of action, [REDACTED] will contact the CQC team to discuss the issue at hand and our recommended action plan. Once agreed by the CQC we will then implement the plan immediately.

The CQC is able to raise any query or concern with any member of the project team – [REDACTED]. If any issue arises on the project – be it an internal issue flagged by the project team or one raised by the CQC – the full project team are immediately informed. The decision is then made by the Contract Manager as to the next action and whether to escalate the issue to the Chief Executive immediately. If escalated to the Chief Executive, an internal meeting will immediately be organised involving all members of the project and account team, followed by a meeting or call with the CQC. In these meetings, a course of action is proposed and a satisfactory way forward agreed with you.

In addition, the Chief Executive has weekly meetings with all Directors and Managers in the company. At these meetings, any issues with projects are discussed and a course of action agreed.

It is ComRes policy that all queries and concerns are treated with the highest priority by the most senior members of the team. As a result, the Chief Executive and other Directors are on hand to deal with any concern or query personally.

Project Management

To meet the challenging timetables and maintain clear, proactive communication, ComRes will use our tried and tested project management processes as outlined below.

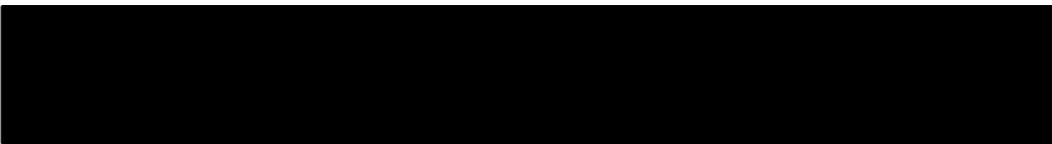
- At the beginning of each project, Project Plans provide clarity on the key milestones and are amended if specifications change.
- ComRes will ensure that there is sufficient time even during quick turnaround projects for the CQC to feed in to the design process, including commenting on and signing off draft research materials. This is a core part of our project management approach and ensures projects continue to be aligned with overall objectives

throughout the process. However, we recognise that the CQC team will have many demands on their time, and may be restricted in their ability to engage with this process. Therefore for each research project covered by the contract, ComRes will include a project management plan, setting out each stage of the research and the related time implication for the CQC, in addition to a detailed project timeline.

- Timings and key responsibilities are made clear, ensuring appropriate time for review by the client at each stage of the project. This ensures that even where deadlines are tight, both ComRes and the CQC are aligned on project objectives and expectations throughout the project.
- ComRes operates a detailed Customer Relationship Management (CRM) system, securely stored online and accessible by all authorised members of staff. This system records all important communications between ComRes and our clients, ensuring that wider members of the project team will be immediately up to speed on the latest communications with the CQC. The system is also used to manage workload and capacity with all current and upcoming work logged on the system and used to forecast available resource.

Our confidence in these processes, and our experience in implementing them, allows us to be as flexible as possible in delivery of our projects. We will tailor these standard approaches to every project, taking into account the CQC's requirements and preferences, ensuring we are able to deliver high quality, robust research even to tight timelines.

"ComRes were commissioned to carry out our stakeholder survey on the effectiveness and impact of the Oxford Academic Health Science Network, and we appointed them on the quality of their proposal – best design, engagement, method and evaluation. The team were fantastic to work with – professional, organised, timely and engaging - and they very quickly understood the work of the AHSN, its strategic objectives and priorities. We are delighted with the summary report, which highlighted some good results and will be used to further improve our engagement and inform our future strategy. Other AHSNs have already been talking to us about our positive experience with ComRes."



Expertise and Credibility

The Care Quality Commission requires the successful agency to demonstrate significant prior experience of research in a range of relevant areas. ComRes has extensive experience of relevance to this contract including experience of:

- Delivering research with similar project objectives, including measuring awareness, understanding and sentiment.
- Designing and delivering projects using a range of research methodologies and across a range of audiences, including:
 - Qualitative and quantitative research techniques;
 - Delivering a nationally representative sample;
 - Drafting and implementing appropriate research questions, screening questions and prompts;
 - Targeting research to gain maximum insight from relevant audience groups, including national charities, members of the public, and health and social care service users.
- Taking over and improving tracking research, enabling robust comparisons over time.
- Delivering research to tight deadlines, on time and on budget;
- Analysing and reporting on research findings to provide engaging deliverables which can be used by a wide range of both internal and external stakeholders.
- Working with organisations with a statutory responsibility such as the CQC.

Meeting Your Project Objectives

It will be critical that the project team has expertise in research to meet the CQC's individual project objectives – namely, in measuring levels of awareness, understanding and sentiment of the organisation. Best practice in this field varies dependent on the expected level of knowledge, and as such, the research approach must always be adapted to measure the views of different audiences and stakeholder groups. ComRes has extensive experience of delivering projects to meet similar objectives for a wide range of organisations including the [REDACTED]

[REDACTED]. This experience provides us with a strong understanding of best practice in this area of research, which will be critical to the successful delivery of this contract.

Methodological and Audience Expertise

The CQC needs a mixed methodology team with extensive experience of designing both qualitative and quantitative research projects in order to ensure that the results are robust and can be used with confidence to track progress and develop your strategy going

forward. ComRes has extensive experience of delivering robust research which stands up to scrutiny for a wide range of organisations. As a method-neutral agency, we are able to recommend an approach which is targeted to meet your objectives, rather than prioritising one approach over others on the basis of availability of panels or the skills and qualifications of our staff.

For example, the abovementioned project for the GMC utilised a mix of online and telephone methods to ensure that the most robust sample was gained for each audience, and the needs of different stakeholder groups were met throughout the process.

This proposal comprises two main methodological approaches – a mixed-mode telephone and online survey among the general public, including health and social care service users; and semi-structured telephone interviews with third sector representatives. Examples of our experience in conducting research with both audiences is provided below.

Taking Over and Improving Tracking Research

ComRes are experts in successfully taking over tracking research projects on behalf of a wide variety of clients including the Parliamentary and Health Service Ombudsman (PHSO), Information Commissioners Office (ICO), Which? and VistScotland. Ensuring that key metrics remain consistent across waves to ensure that the research can be robustly tracked over time, ComRes adds additional insight and increases value for money.

This will be achieved through careful review of the objectives of the research, the design materials, the processes and methodologies used, as well as the final deliverables provided from the previous years of research, in close conjunction with the CQC. This will identify the areas most important to the CQC – those which should continue to be tracked over time – as well as identifying any potential areas for improvement, and any areas which may be missing from the current research.

Delivering, Research to Tight Deadlines

To ensure that each piece of research runs smoothly to tight deadlines, robust project management processes are critical. Our project team regularly delivers research to tight deadlines for a wide range of clients – from 24-hour snap polling for our media clients to fast-turnaround research to address a high- priority reputational issue for our clients - giving us a good understanding of best practice in this context. The ComRes team delivers ongoing support through regular project and account reviews, clear communication of deadlines and a flexible approach to question design, ultimately ensuring an approach which delivers robust, high-quality insight in a short timeframe. These skills will be vital to the successful delivery of this contract for the CQC.

Providing Engaging Deliverables

ComRes is committed to ensuring our insights from every project are communicated clearly, comprehensively and explicitly in order to maximise the impact they have. In order to achieve this, we place great emphasis not only on uncovering the insights, but structuring these into a manageable story addressing core objectives for the CQC.

ComRes recognises that the audience for the contract deliverables may include people who are not opinion research specialists, and we will ensure that findings are accessible to all potential audiences. We have extensive experience of both working for and engaging with regulators (ORR, FCA), key Whitehall departments (DfE, DECC) and corporates (Bayer, First Group). We frequently adopt our client's branding and style guidelines to ensure that the report fits seamlessly into their library of documents, and would be happy to do this for the CQC if desired.

Research for Statutory Bodies

ComRes has extensive experience of working with statutory bodies in healthcare and more broadly, and Rachel Phillips and Lucy Fisher both have a detailed understanding of designing research which takes into account the unique roles and responsibilities of these types of organisations. They will use this experience to ensure that the research fully delivers on all its key objectives.

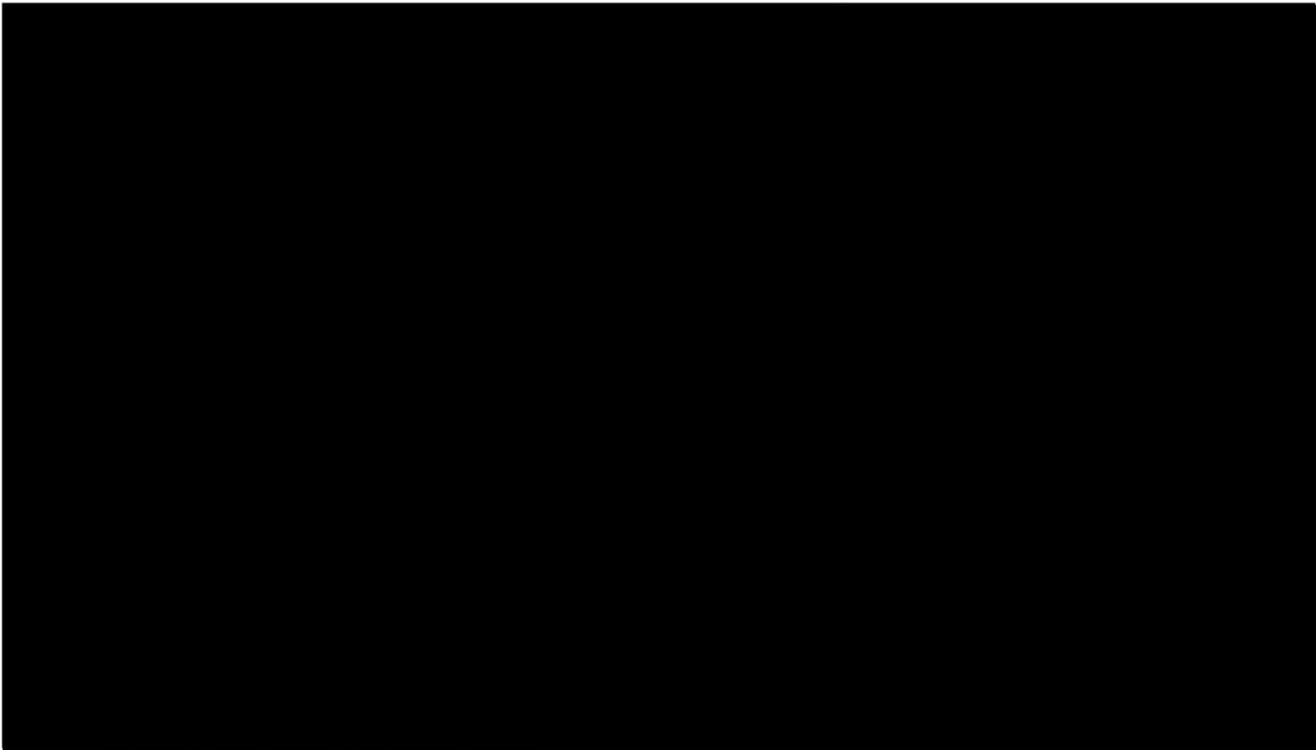
Skills and Qualifications

For this contract, the CQC will need a team that is experienced in conducting fast turnaround research combined with an in-depth understanding of the regulatory environment in health, and extensive experience of research using similar methods and audiences. ComRes has therefore put together a team that are most suitable to deliver these attributes.

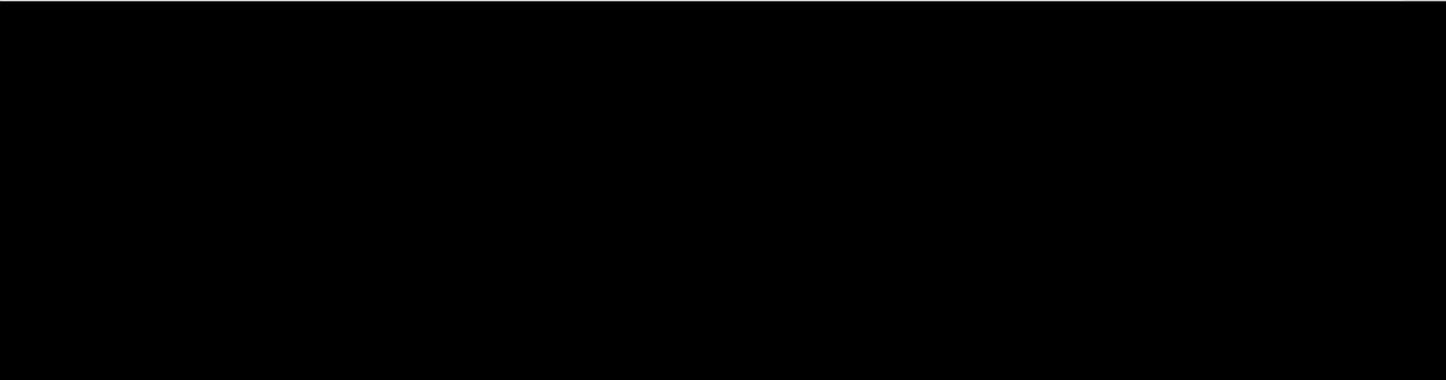
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SCHEDULE 3 - PRICING

PUBLIC RESEARCH 2: NATIONAL STAKEHOLDER SENTIMENT SURVEY

Element	Cost (ex VAT)	Cost (in VAT)
KICK OFF & DESIGN		
FIELDWORK		
ANALYSIS, REPORTING & PRESENTATION		
TOTAL	11,375	13,650

SCHEDULE 4 - CHANGE CONTROL

Contract Change Note

Contract Change Note Number	
Contract Reference Number & Title	
Variation Title	
Number of Pages	

WHEREAS the Contractor and the Authority entered into a Contract for the supply of [project name] dated [dd/mm/yyyy] (the "Original Contract") and now wish to amend the Original Contract

IT IS AGREED as follows

1. The Original Contract shall be amended as set out in this Change Control Notice:

Change Requestor / Originator		
Summary of Change		
Reason for Change		
Revised Contract Price	Original Contract Value	£
	Previous Contract Changes	£
	DN: Enter all CCN's here so that total value is shown for Audit purposes	
	Contract Change Note [x]	£
	New Contract Value	£
Revised Payment Schedule		
Revised Specification (See Annex [x] for Details)		
DN: Any change to Specification should be added as an Annex to the CCN		
Revised Contract Period		
Change in Contract Manager(s)		
Other Changes		

2. Save as herein amended all other terms of the Original Contract shall remain effective.
3. This Change Control Notice shall take effect from the date on which both the Authority and the Contractor have communicated acceptance of its terms.

SCHEDULE 5 - COMMERCIALY SENSITIVE INFORMATION

- 1.1 Without prejudice to the Authority's general obligation of confidentiality, the Parties acknowledge that the Authority may have to disclose Information in or relating to the Contract following a Request for Information pursuant to clause E5 (Freedom of Information).
- 1.2 In this Schedule the Parties have sought to identify the Contractor's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be contrary to the public interest.
- 1.3 Where possible the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies.
- 1.4 Without prejudice to the Authority's obligation to disclose Information in accordance with the FOIA and the EIR, the Authority will, acting reasonably but in its sole discretion, seek to apply the commercial interests exemption set out in s.43 of the FOIA to the Information listed below.

CONTRACTOR'S COMMERCIALY SENSITIVE INFORMATION	DATE	DURATION OF CONFIDENTIALITY

SCHEDULE 6 - NON DISCLOSURE AGREEMENT

THIS NON DISCLOSURE AGREEMENT is made the **Tuesday** day of **30/05/17** (the "Commencement Date")

BETWEEN:

Communicate Research Ltd, trading as 'ComRes' of Four Millbank, London, SW1P 3JA (registered in England and Wales under number 4810991 whose registered office is Coveham House, Downside Bridge Road, Cobham, Surrey KT11 3EP (the "Contractor");

and

Rachel Phillips, employee of ComRes – the Contract Manager (the "Disclosee").

(each a "Party" and together the "Parties").

WHEREAS:

- (a) The Contractor has contracted with the Care Quality Commission (the "Authority") to provide services to the Authority in an agreement dated [insert date] (the "Contract").
- (b) The Contract places an obligation of confidentiality on the Contractor. The Disclosee is an [insert employee, professional advisor or consultant] of the Contractor engaged in the provision of services to the Authority in support of or in connection with the services to be provided by the Contractor under the Contract.
- (c) The Disclosee may therefore, have communicated to it, certain Confidential Information belonging to the Authority which is proprietary and must be held in confidence. Accordingly, the Contract requires the Contractor to ensure that the Disclosee enters into a non-disclosure agreement with the Contractor on the terms set out herein.
- (d) Any Confidential Information disclosed by the Authority or the Contractor to the Disclosee, whether contained in original or copy documents, will at all times remain the property of the Authority together with all notes, memoranda and drawings that have been made as a result of access to such Confidential Information.

NOW IT IS AGREED as follows:

Definition and Interpretation

1. In this Agreement:

- a) "Confidential Information" means: any information which has been designated as confidential by the Authority in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) whether commercial, financial, technical or otherwise including (without limitation) information belonging to or in respect of the Authority which relates to research, development, trade secrets, formulae, processes, designs, specifications, the Authority data, internal management, information technology and infrastructure and requirements, price lists and lists of, and information about, customers and employees, all materials and information belonging to third parties in respect of

which the Disclosee owes obligations of confidence; information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, intellectual property rights or know-how of the Authority and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998; whether or not that information is marked or designated as confidential or proprietary; whether arising prior to, on or after the Commencement Date;

b) "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 of any regulatory body of which the Contractor is bound to comply.

2. In construing this Agreement the general words introduced or followed by the word include(s) or including or in particular shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.
3. Unless the context requires otherwise, the singular shall include the plural and vice versa, and the masculine shall include the feminine and vice versa.
4. Reference to any legislative and statutory requirement or similar instrument shall be deemed to include reference to any subsequent amendment to them.
5. References to any person shall, as the context may require, be construed as a reference to any individual, firm, company, corporation, government department, agency, or any association or partnership (whether or not having a separate legal personality).

CONFIDENTIALITY

6. The Disclosee undertakes to: keep confidential all Confidential Information and safeguard it accordingly; and that any Confidential Information supplied will not be used by it for any purpose other than in connection with the Contractor's delivery of the services under the Contract without the prior written permission of the Authority.
7. The Disclosee will take all necessary precautions to ensure that the Confidential Information is held in confidence and will provide proper and secure storage for all information and any papers, drawings or other materials which relate to or are compiled from such information.
8. The Disclosee shall, with respect to any Confidential Information it receives directly from or on behalf of the Authority or from the Contractor, comply, with all instructions and/or guidelines produced and supplied by or on behalf of the Authority from time to time for the handling and storage of Confidential Information, generally or for specific items.
9. The Disclosee will not disclose any Confidential Information or any part thereof to any third party.
10. Where the Disclosee is an employee, breach of the obligations set out herein in this Agreement shall be a cause of disciplinary proceedings, and the Contractor shall institute

and enforce such disciplinary proceedings as against the Disclosee in relation to such breach.

11. Where the disclose is a professional advisor or consultant, breach of the obligation set out herein shall entitle the Contractor to terminate the contract of engagement with the Disclosee immediately, and the Contractor shall enforce such right of termination as against the Disclosee in relation to such breach.
 12. All Confidential Information in tangible form received hereunder together with all copies thereof shall be destroyed or returned immediately to the Contractor or where so required by the Authority and notified to the Disclosee, to the Authority, upon request or upon completion of the task for the purposes of which such Confidential Information was released.
 13. The Confidential Information will not be used by the Disclosee for any purpose or in any way other than under this Agreement.
 14. The following circumstances shall not constitute a breach of the obligations of confidentiality contained in this Agreement:
 - 14.1 Disclosure of Confidential Information by the Disclosee when required to do so by Law or pursuant to the rules or any order having the force of Law of any court, of competent jurisdiction;
 - 14.2 Disclosure of Confidential Information by the Disclosee where and to the extent that the Confidential Information has, except as a result of breach of confidentiality, become publicly available or generally known to the public at the time of such disclosure;
 - 14.3 Disclosure of Confidential Information by the Disclosee where and to the extent that the Confidential Information is already lawfully in the possession of a recipient or lawfully known to it prior to such disclosure;
 - 14.4 Possession of Confidential Information by the Disclosee where it has been acquired from a third party who is not in breach of any obligation of confidence in providing that Confidential Information;
- provided that, in no event shall information relating to the affairs of any identifiable person be disclosed or released from the obligations herein without the prior written consent of the Authority.
15. The Disclosee shall: notify the Contractor and the Authority promptly of the date and circumstances of the loss or unauthorised disclosure, if any, of the Confidential Information or any part of the Confidential Information and in addition, the action being taken to rectify that loss or unauthorised disclosure.
 16. The obligations contained in this Agreement shall continue until notified in writing by the Authority or the Confidential Information becomes public knowledge (other than by breach of the terms of this Agreement).
 17. No licence of any intellectual property rights (including but not limited to patent rights, copyrights, trademarks and rights in proprietary information and/or know-how and whether

registrable or unregistrable) is granted hereby, beyond that necessary to enable use of the Confidential Information for the purpose for which the Confidential Information was released.

18. Nothing in this Agreement shall be construed as compelling any of the Parties to disclose any Confidential Information or to enter into any further contractual relationship with any other party.
19. No representation or warranties are given regarding the accuracy, completeness or freedom from defects of the Confidential Information or with respect to infringement of any rights including intellectual property rights of others.
20. Without affecting any other rights or remedies that the other Parties may have, the Disclosee acknowledges and agrees that damages alone would not be an adequate remedy for any breach of any of the provisions of this Agreement.

GENERAL

21. No failure or delay by any Party to this Agreement in exercising any of its rights hereunder shall operate as a waiver of such rights, nor shall any single or partial exercise preclude any further exercise of such rights. Any waiver by a Party of any breach or non-compliance with any term of this Agreement shall not constitute a waiver of any subsequent breach of non-compliance with the same or any other term of this Agreement.
22. No Party may assign this Agreement or any of its rights and obligations hereunder without the prior written consent of the Authority.
23. Any notice under this Agreement shall be in writing and shall be delivered by post, fax or e-mail to the address of the Party in question set out at the beginning of this Agreement or such other address (or e-mail address or fax number) as the Parties may notify one another from time to time.
24. No term of this Agreement shall be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999, by any person who is not a party to this Agreement other than the Authority. The Parties shall only with the prior written consent of the Authority be entitled to vary any of the provisions of this Agreement without notifying or seeking the consent of any third party and the rights conferred by section 2 of the Contracts (Rights of Third Parties) Act 1999 are excluded.
25. This Agreement shall be governed by and shall be interpreted in accordance with the laws of England.
26. The courts of England have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Agreement and accordingly that any proceedings, suit or action arising out of or in connection therewith shall be brought in such courts.

This Agreement has been entered into on the date first written above.

SIGNED by the authorised signatory for and on behalf of the Contractor:

SIGNED by the Disclosee:

SCHEDULE 7 - CONTRACTOR AND THIRD PARTY SOFTWARE – N/A

CONTRACTOR SOFTWARE

For the purposes of this Schedule 6, “Contractor Software” means software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services. The Contractor Software comprises the following items:

Software	Supplier (if Affiliate of the Contractor)	Purpose	No. of Licences	Restrictions	No. of copies	Other	To be deposited in escrow?

THIRD PARTY SOFTWARE

For the purposes of this Schedule 6, “Third Party Software” means software which is proprietary to any third party which is or will be used by the Contractor for the purposes of providing the Services including the software specified in this Schedule 6. The Third Party Software shall consist of the following items:

Third Party Software	Supplier	Purpose	No. of Licences	Restrictions	No. of copies	Other	To be deposited in escrow?

SCHEDULE 8 - SECURITY REQUIREMENTS, POLICY AND PLAN

INTERPRETATION AND DEFINITION

For the purposes of this Schedule 8, unless the context otherwise requires the following provisions shall have the meanings given to them below:

“Breach of Security” means the occurrence of unauthorised access to or use of the Premises, the Premises, the Services, the Contractor System, or any ICT or data (including Authority Data) used by the Authority or the Contractor in connection with the Contract.

“Contractor Equipment” means the hardware, computer and telecoms devices and equipment supplied by the Contractor or its Sub-Contractor (but not hired, leased or loaned from the Authority) for the provision of the Services;

“Contractor Software” means software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services and which is specified as such in Schedule 6.

“ICT” means Information Communications Technology and includes a diverse set of technological tools and resources used to communicate, and to create, disseminate, store and manage information, including computers, the Internet, broadcasting technologies (radio and television), and telephony.

“Protectively Marked” shall have the meaning as set out in the Security Policy Framework.

“Security Plan” means the Contractor’s security plan prepared pursuant to paragraph 3 an outline of which is set out in an Appendix to this Schedule 8.

“Software” means Specially Written Software, Contractor Software and Third Party Software.

“Specially Written Software” means any software created by the Contractor (or by a third party on behalf of the Contractor) specifically for the purposes of this Contract.

“Third Party Software” means software which is proprietary to any third party which is or will be used by the Contractor for the purposes of providing the Services including the software and which is specified as such in Schedule 6.

1. INTRODUCTION

This Schedule 7 covers:

- 1.1 principles of security for the Contractor System, derived from the Security Policy Framework, including without limitation principles of physical and information security;
- 1.2 wider aspects of security relating to the Services;
- 1.3 the creation of the Security Plan;

- 1.4 audit and testing of the Security Plan; and
- 1.5 breaches of security.

2. PRINCIPLES OF SECURITY

- 2.1 The Contractor acknowledges that the Authority places great emphasis on confidentiality, integrity and availability of information and consequently on the security of the Premises and the security for the Contractor System. The Contractor also acknowledges the confidentiality of Authority Data.
- 2.2 The Contractor shall be responsible for the security of the Contractor System and shall at all times provide a level of security which:
 - 2.2.1 is in accordance with Good Industry Practice and Law;
 - 2.2.2 complies with Security Policy Framework; and
 - 2.2.3 meets any specific security threats to the Contractor System.
- 2.3 Without limiting paragraph 2.2, the Contractor shall at all times ensure that the level of security employed in the provision of the Services is appropriate to maintain the following at acceptable risk levels (to be defined by the Authority):
 - 2.3.1 loss of integrity of Authority Data;
 - 2.3.2 loss of confidentiality of Authority Data;
 - 2.3.3 unauthorised access to, use of, or interference with Authority Data by any person or organisation;
 - 2.3.4 unauthorised access to network elements, buildings, the Premises, and tools used by the Contractor in the provision of the Services;
 - 2.3.5 use of the Contractor System or Services by any third party in order to gain unauthorised access to any computer resource or Authority Data; and
 - 2.3.6 loss of availability of Authority Data due to any failure or compromise of the Services.
 - 2.3.7 processing and storage of authority data within the UK or by exception within the EEA. Any processing outside of the UK must be subject to specific approval by the Authority.

3. SECURITY PLAN

- 3.1 The Contractor shall develop, implement and maintain a Security Plan to apply during the Contract Period (and after the end of the term as applicable) which will be approved by the Authority, tested, periodically updated and audited in accordance with this Schedule 7.
- 3.2 A draft Security Plan provided by the Contractor as part of its bid is set out herein.

- 3.3 Prior to the Commencement Date the Contractor will deliver to the Authority for approval the final Security Plan which will be based on the draft Security Plan set out herein.
- 3.4 If the Security Plan is approved by the Authority it will be adopted immediately. If the Security Plan is not approved by the Authority the Contractor shall amend it within 10 Working Days of a notice of non-approval from the Authority and re-submit to the Authority for approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than 15 Working Days (or such other period as the Parties may agree in writing) from the date of its first submission to the Authority. If the Authority does not approve the Security Plan following its resubmission, the matter will be resolved in accordance with clause 12 (Dispute Resolution). No approval to be given by the Authority pursuant to this paragraph 3.4 may be unreasonably withheld or delayed. However any failure to approve the Security Plan on the grounds that it does not comply with the requirements set out in paragraphs 3.1 to 3.4 shall be deemed to be reasonable.
- 3.5 The Security Plan will set out the security measures to be implemented and maintained by the Contractor in relation to all aspects of the Services and all processes associated with the delivery of the Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with:
- 3.5.1 the provisions of this Schedule 7;
 - 3.5.2 the provisions of Schedule 1 relating to security;
 - 3.5.3 the Information Assurance Standards;
 - 3.5.4 the data protection compliance guidance produced by the Authority;
 - 3.5.5 the minimum set of security measures and standards required where the system will be handling Protectively Marked or sensitive information, as determined by the Security Policy Framework;
 - 3.5.6 any other extant national information security requirements and guidance, as provided by the Authority's IT security officers; and
 - 3.5.7 appropriate ICT standards for technical countermeasures which are included in the Contractor System.
- 3.6 The references to Quality Standards, guidance and policies set out in this Schedule shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such Quality Standards, guidance and policies, from time to time.
- 3.7 If there is any inconsistency in the provisions of the above standards, guidance and policies, the Contractor should notify the Authorised Representative of such inconsistency immediately upon becoming aware of the same, and the Authorised Representative shall, as soon as practicable, advise the Contractor which provision the Contractor shall be required to comply with.

- 3.8 The Security Plan will be structured in accordance with ISO/IEC27002 and ISO/IEC27001 or other equivalent policy or procedure, cross-referencing if necessary to other schedules of the Contract which cover specific areas included within that standard.
- 3.9 The Security Plan shall not reference any other documents which are not either in the possession of the Authority or otherwise specified in this Schedule 7.

4. AMENDMENT AND REVISION

- 4.1 The Security Plan will be fully reviewed and updated by the Contractor annually or from time to time to reflect:
- 4.1.1 emerging changes in Good Industry Practice;
 - 4.1.2 any change or proposed change to the Contractor System, the Services and/or associated processes;
 - 4.1.3 any new perceived or changed threats to the Contractor System;
 - 4.1.4 changes to security policies introduced Government-wide or by the Authority; and/or
 - 4.1.5 a reasonable request by the Authority.
- 4.2 The Contractor will provide the Authority with the results of such reviews as soon as reasonably practicable after their completion and amend the Security Plan at no additional cost to the Authority.
- 4.3 Any change or amendment which the Contractor proposes to make to the Security Plan (as a result of an Authority request or change to Schedule 1 or otherwise) shall be subject to a CCN and shall not be implemented until Approved.

5. AUDIT AND TESTING

- 5.1 The Contractor shall conduct tests of the processes and countermeasures contained in the Security Plan ("Security Tests") on an annual basis or as otherwise agreed by the Parties. The date, timing, content and conduct of such Security Tests shall be agreed in advance with the Authority.
- 5.2 The Authority shall be entitled to send a representative to witness the conduct of the Security Tests. The Contractor shall provide the Authority with the results of such tests (in an Approved form) as soon as practicable after completion of each Security Test.
- 5.3 Without prejudice to any other right of audit or access granted to the Authority pursuant to the Contract, the Authority shall be entitled at any time and without giving notice to the Contractor to carry out such tests (including penetration tests) as it may deem necessary in relation to the Security Plan and the Contractor's compliance with and implementation of the Security Plan. The Authority may notify the Contractor of the results of such tests after completion of each such test. Security Tests shall be designed and implemented so as to minimise the impact on the delivery of the Services.

- 5.4 Where any Security Test carried out pursuant to paragraphs 5.2 or 5.3 reveals any actual or potential security failure or weaknesses, the Contractor shall promptly notify the Authority of any changes to the Security Plan (and the implementation thereof) which the Contractor proposes to make in order to correct such failure or weakness. Subject to Approval in accordance with paragraph 4.3, the Contractor shall implement such changes to the Security Plan in accordance with the timetable agreed with the Authority or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the Security Plan to address a non-compliance with the Security Policy Framework or security requirements, the change to the Security Plan shall be at no additional cost to the Authority. For the purposes of this paragraph, a weakness means a vulnerability in security and a potential security failure means a possible breach of the Security Plan or security requirements.

6. BREACH OF SECURITY

- 6.1 Either Party shall notify the other immediately upon becoming aware of any Breach of Security including, but not limited to an actual, potential or attempted breach, or threat to, the Security Plan.
- 6.2 Upon becoming aware of any of the circumstances referred to in paragraph 6.1, the Contractor shall immediately take all reasonable steps necessary to:
- 6.2.1 remedy such breach or protect the Contractor System against any such potential or attempted breach or threat; and
 - 6.2.2 prevent an equivalent breach in the future;
 - 6.2.3 collect, preserve and protect all available audit data relating to the incident and make it available on request to the Authority;
 - 6.2.4 investigate the incident and produce a detailed report for the Authority within 5 working days of the discovery of the incident.
- 6.3 Such steps shall include any action or changes reasonably required by the Authority. If such action is taken in response to a breach that is determined by the Authority acting reasonably not to be covered by the obligations of the Contractor under the Contract, then the Contractor shall be entitled to refer the matter to the CCN procedure set out in Schedule 3.
- 6.4 The Contractor shall as soon as reasonably practicable provide to the Authority full details (using such reporting mechanism as may be specified by the Authority from time to time) of such actual, potential or attempted breach and of the steps taken in respect thereof.

7. CONTRACT EXIT – SECURITY REQUIREMENTS

- 7.1 In accordance with clause H7 of the Contract, on termination of the Contract, either via early termination or completion of the Contract then the Contractor will either return all data to the Authority or provide a certificate of secure destruction using an industry and Authority approved method. Destruction or return of the data will be specified by the Authority at the time of termination of the Contract.

APPENDIX 1- OUTLINE SECURITY PLAN

SCHEDULE 9 – GUARANTEE – N/A

Guarantee

This Deed is made on 201[]

Between

- (1) [INSERT DETAILS] (Guarantor); and
- (2) Care Quality Commission at [] (CQC).

By an agreement (Contract) dated and made between (1)CQC and (2) [] (Contractor), the Contractor has agreed to provide the Services (as such term is defined under the Contract) in accordance with the terms and conditions of the Contract.

It is agreed

1 Guarantee

- 1.1 In consideration of CQC entering into the Contract with the Contractor, as the Guarantor hereby acknowledges, the Guarantor hereby unconditionally and irrevocably guarantees to CQC as sole and primary obligor:
 - (a) the due and punctual payment by the Contractor of all sums and liabilities payable or to be payable under or pursuant to the Contract to CQC as and when the same fall due (with the intention that any amount not recoverable for any reason from the Guarantor under this Deed on the basis of a guarantee shall nevertheless be recoverable on the basis of an indemnity); and
 - (b) the due and punctual performance and observance by the Contractor of all other acts, covenants, warranties, duties, undertakings and obligations to be performed or observed by the Contractor under or pursuant to the Contract, and hereby undertakes to keep CQC fully and effectually indemnified against all losses, damages, costs, claims and expenses whatsoever and howsoever arising out of or in connection with any failure on the part of the Contractor to effect due and punctual payment of any sum and/or liability as aforesaid and/or to perform or observe all or any of the other acts, covenants, warranties, duties, undertakings and obligations as aforesaid for any reason whatsoever, including the administration, receivership, insolvency, bankruptcy, winding-up, liquidation, dissolution, reconstruction, re-organisation, amalgamation or incapacity of the Contractor or the termination of the Contract or the employment of the Contractor under the Contract and undertakes to pay all sums covered by this indemnity on CQC's first written demand without set-off or counterclaim and free and clear of, and without deduction for or on account of, any present or future taxes, duties, charges, fees, deductions or withholdings of any nature whatsoever provided always that the Guarantor's liability under or pursuant to this Deed shall not exceed the Contractor's liability under or pursuant to the Contract.
- 1.2 The obligations of the Guarantor under or pursuant to this Deed shall not be discharged except by performance or the procurement of performance by the Guarantor. The

guarantee given by the Guarantor under this Deed shall be a primary obligation of the Guarantor and accordingly CQC shall not be obliged before enforcing their rights under this Deed and the obligations of the Guarantor under or pursuant to this Deed shall not be subject to CQC taking any steps or action against the Contractor, including, without limitation, the granting of any time or indulgence to the Contractor, the taking of any legal proceedings or action or the obtaining of any judgment against the Contractor, the making or filing of any claim in bankruptcy, liquidation, winding-up or dissolution of the Contractor or the pursuance or exhaustion of any other right or remedy against the Contractor.

1.3 The rights of CQC and the obligations of the Guarantor under or pursuant to this Deed shall not be prejudiced or affected by any extension of time, indulgence, forbearance or concession given to the Contractor, or any assertion of or failure to assert any right or remedy against the Contractor, or by any modification or variation of the provisions of the Contract, or by the administration, receivership, insolvency, bankruptcy, winding-up, liquidation, dissolution, reconstruction, re-organisation, amalgamation or incapacity of the Contractor or any change in the status, function, control or ownership of the Contractor, or by CQC holding or taking any other or further guarantees or securities or by the invalidity of any such guarantees or securities or by CQC varying, releasing, exchanging, enforcing or omitting or neglecting to enforce any such guarantees or securities, or by any other thing which might otherwise wholly or partially discharge the Guarantor from its obligations under this Deed. Without prejudice to the generality of the foregoing nor shall the Guarantor be discharged or released (in whole or in part) from its obligations under this Deed by any of the following (notwithstanding, where relevant that any of the same may be without the consent of the Guarantor):

- (a) an assignment of the Contract or a novation of the Contract; and
- (b) any incapacity or lack of power, authority or legal personality of the Contractor.

1.4 The guarantee and indemnity contained in this Deed shall be a continuing guarantee and indemnity and shall remain in full force and effect until all monies payable to CQC by the Contractor under or pursuant to the Contract shall have been duly paid and all the Contractor's obligations under or pursuant to the Contract shall have been duly performed. If any payment received by CQC pursuant to this Deed or the Contract shall on the subsequent insolvency of the Contractor or of the Guarantor be avoided under any laws relating to insolvency, such payment shall not be considered as having discharged or diminished the liability of the Guarantor hereunder; and the liability of the Guarantor hereunder shall continue to apply as if such payment had at all times remained owing by the Contractor and the Guarantor shall indemnify CQC in respect thereof.

2 General provisions

2.1 This Deed is in addition to and not in substitution for any other security which CQC may at any time hold in relation to the Services and may be enforced without first having recourse to any such security.

2.2 Subject to the express provisions of this Deed, the rights and remedies of CQC under, or pursuant, to this Deed are cumulative, may be exercised as often as CQC considers appropriate and are in addition to its rights and remedies under general law.

2.3 The Guarantor agrees to be bound by decisions made pursuant to the dispute resolution procedure under the Contract.

- 2.4 Subject to clause 2.3, this Deed and any non-contractual obligations arising out of, or in connection with it, are governed by, and shall be construed in accordance with the laws of England and Wales.
- 2.5 The Courts of England and Wales shall have exclusive jurisdiction in respect of all matters relating to or arising out of this Deed and its performance (including in relation to any non-contractual obligations arising out of or in relation to this Deed).
- 2.6 If a provision of this Deed is or becomes illegal, invalid or unenforceable, such provision shall not affect the legality, validity or enforceability of any other provision of this Deed, and the parties shall negotiate in good faith and in a reasonable manner to agree the terms of a mutually acceptable and satisfactory alternative for that provision.
- 2.7 Notices hereunder shall be served on the Guarantor at its registered office.

SCHEDULE 10 - EXIT MANAGEMENT STRATEGY

It is important to ensure that the insights from the projects are successfully retained and implemented within the Care Quality Commission, ultimately leading to improvements in public trust of the organisation. There are several key steps to this: project documentation, ongoing consultancy, continuity of materials and implementation of results.

PROJECT DOCUMENTATION

Comprehensive provision of information is key to ensure successful exit and transfer of the project. At the start of every project, we produce a project document which includes the hypotheses for the project, the aims and objectives of the project as well as key contact information. This also acts as a guide to all supporting documents which will be incorporated, for example, inclusion of the questionnaire, discussion guide and sample frame, to ensure they do not become detached. In terms of accessibility, clear labelling of sections is important to allow readers to easily identify key information. The information will be updated during and after the project to ensure consistency.

We will also prioritise the provision of all information to the CQC that would be necessary to transfer the project in electronic or hard copy format, with the exception of anything that needs to be destroyed according to the Data Protection Act 1998 (for example, sample lists). Electronic format is easier to store, so we recommend provision of key documents and drafts of questionnaires and discussion guides, and reports in this format. Key documents should be stored in hard copy format as well; for example, the final contract, contract amendments, the final questionnaire, final discussion guide and the final report.

ONGOING CONSULTANCY

Throughout the duration of any contract, and indeed post completion of any project, ComRes aims to provide ongoing consultancy to our clients. As an example, we completed a brand review for a charity client and delivered all the data and report. Two years later, they were implementing their plan for the re-brand and invited ComRes to be part of the process by attending a panel discussion at the House of Lords. We presented the findings and contributed to the process despite having completed the project two years before.

We are always at the end of the phone and can be contacted via email. This should ensure successful transfer of knowledge as we are always available to answer and queries or questions, or indeed talk through ideas. All verbal communication will be followed up with typed notes or documents to ensure all parties are agreed on decisions made. Those not involved in the decision making process at the time (for example, other teams, or people not available at the time) would be provided with the written communication surrounding the discussion to ensure all parties are kept informed.

If at any stage the responsibility for the project at the CQC changes, we would of course be delighted to meet with the new project manager to discuss the objectives and approach again. We have recently done this with a regular client where a new project manager became involved. We went to meet the new manager and their team and ran a half day workshop, providing a full summary of all the work we had delivered to date and a briefing on the project findings from the Contract Manager at ComRes as well as our CEO.

In addition to the above, we keep in regular contact with our clients to share our ongoing insight, advice and expertise and learning from our work. This involves keeping them up to date with new products or research solutions we have developed, and also sharing insight on policy and communication research from our regular newsletters.

CONTINUITY OF MATERIALS

In terms of materials, draft discussion guides and questionnaires will be shared with the team and comments circulated. As mentioned above, these are all stored on our servers and every draft will be accessible by the project team to ensure a paper trail. A full sampling specification will also be drafted, shared and agreed to ensure all parties are clear on the research process and how the public and stakeholders will be approached.

We provide methodology notes and data tables as standard to clients as part of the British Polling Council's guidelines on transparency of data. As founding members of this organisation, transparency is of the utmost importance to ComRes as a company and we pride ourselves on our commitment to ensuring all conclusions drawn from data can be verified directly from the source.

In addition to these standard items, we will also provide the CQC with a full methodology statement and raw data files, where allowed by the Data Protection Act. The full methodology statement will detail the objectives of the research and how our approach met these, as well as details of any quotas set for the sample. This means that the research project could be replicated by another agency if necessary.

Although we can, of course, provide anonymised transcripts from the qualitative interviews if required, we do not recommend doing so as standard. This is because at a senior stakeholder level, with limited sample, it is easy to identify the respondent and large sections have to be removed to preserve anonymity. The value of the transcripts is therefore limited in these types of projects.

IMPLEMENTING THE RESULTS AND PROJECT DEBRIEF

To ensure skills would be retained within the CQC, we recommend conducting a workshop session with key stakeholders within the organisation regarding each piece of research. This would cover the main conclusions and recommendations from the research, to allow those taking the engagement forward to fully understand the details of the project and how best to use it. We would use the workshop to understand how the CQC works on a day-to-day basis and feed this into further recommendations of how to take the findings of the research forward. We would provide clear solutions to communications issues raised by the research and identify next steps for achieving these.

Following the delivery of the final report and presentation, we would conduct a meeting or call to wrap up the project. This is best practice as it allows both parties to discuss the how the project process worked and if there are any recommendations for improvement in future waves. Again, minutes of this would be circulated to allow learnings to be transferred to new team members at either the CQC or ComRes.

SCHEDULE 11 – KEY PERFORMANCE INDICATORS

Indicator	Measured by	Reference Point or Target	Review Date
Schedule Adherence	Meeting schedule	Timeline as agreed with CQC	Bi-weekly review dates
Cost	Delivering within agreed budget	Budget as agreed with CQC	Bi-weekly review dates
Service Levels	Meeting agreed service levels	Project plan	Bi-weekly review dates.
Communications	Regular communications	Review dates attended.	Bi-weekly review dates.

SCHEDULE 12 – BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN

BUSINESS CONTINUITY PLAN

In addition to the risk register above, ComRes has a detailed business continuity plan that aims to mitigate the risks posed to our business from various factors. Our trusted project management processes and cloud-based Customer Relationship Management system ensure project progress is closely monitored and any capacity issues identified and addressed immediately. ComRes has a detailed business continuity plan which each member of the project team is familiar with. While we can provide you with the full details of the business continuity plan, below we have specified the areas it deals with:

- In the event of the evacuation of the office
- In the event of the building being inaccessible (for example, due to a terrorist threat, protest, power cut)
- In the event of the building being damaged / hardware becoming unavailable (for example, due to fire, flooding or theft)
- In the event of employees being unable to access the office (for example, due to a transport failure or inclement weather)
- In the event of the illness /loss of key staff
- In the event of a crisis affecting third party suppliers

The specific plan in relation to illness or loss of key staff, the continuity plan is as follows:

- Presuming staff member is able to communicate;
 - o Staff member to inform manager by telephone if out of office, or in person if in office
 - o Brief handover of necessary actions

- o Office Manager to set the out of office of relevant staff member, and re-direct all calls
- Presuming staff member is unable to communicate;
- o All actions, past and upcoming, are stored on Workbooks – ComRes's Customer Relationship Management system
- o Management team to meet and redistribute relevant actions among team members
- o Office Manager to organise out of office, and re-direct all calls
- With regard to impact on clients
 - o Each project has in place a fully briefed project team, with a designated project lead and project support in place on each individual project to ensure that in the case of unforeseen absences, all work is reallocated to a team member who is as familiar with the project, and as senior, if not more so, than the person intended to carry out the task
 - o All members of the project team to be fully up-to-date on all aspects of the project in question, including being copied in on relevant emails and aware of all out-going deliverables

QUALITY ASSURANCE

Ensuring quality at all stages of research is central to all ComRes research. We have tested and trusted measures in place for ensuring high quality standards for the business overall:

- ComRes fully abides by the MRS and ESOMAR codes of conduct, and operates a comprehensive internal quality management system.
- To assure quality outcomes, all research materials are signed off by a Research Team Leader at the following stages:
 - o Recruitment materials; question design, quota and sample design, stimulus and supporting materials;
 - o Completion of fieldwork and checking data quality;
 - o Completion of research reports and presentations to clients.

- To ensure consistency and accountability, ComRes Research Team Leaders are involved in planning the set-up, fieldwork, analysis and reporting phases of all projects;
- To ensure the quality of the panellists on online panels, thereby providing engagement with the survey and accurate results, the following quality checks are conducted when completing surveys:
 - o Deduplication – blocks survey respondents who attempt to complete the same survey multiple times either within a single panel or across multiple panels;
 - o Survey speedsters – respondents who rush through the survey are identified by comparing survey completion times to the norm;
 - o Grid speedsters – respondents who rush through grid questions are identified by comparing grid completion times to the norm;
- We measure the quality of the work we provide to our clients by gathering detailed feedback from all clients via a questionnaire sent with all final invoices. For this project, we are recommending conducting these questionnaires once a quarter to gauge satisfaction with the contract. These responses are regularly reviewed against established quality targets;
- To monitor quality across the business, a formal six-monthly review of quality management is undertaken by the Chief Executive and Research Management Team;
- Again to assure quality outcomes, ComRes applies a structured approach to analysis and reporting in which all staff are fully trained and is routinely employed across all research projects. This systematic approach involves the following:
 - o Review of the data by the Project Consultant, who pulls together initial key stories;
 - o This is then reviewed by the Contract Manager before writing the detail;
 - o Following the write up of the analysis, both the Contract Manager and Senior Project Support, will read and review the summary alongside the data tables to ensure no key points are missed, and to set it in the context of the wider relevant sector.
 - o This final review will also look for coherence and clarity of the overall story, as well as proof reading.
- To monitor our quality, we identify potential risks, and take action to reduce the possibility of any negative impact. For example, ComRes provides a guarantee for the Department of Health that in the unlikely event a replacement in project manager is necessary, the replacement will be of an equal or greater level of seniority, and the CQC will be informed in writing before any change takes place;

- Team members assigned to a project are required to be involved throughout the project lifecycle, particularly important for a contract of this length. However, ComRes employs more than 20 staff trained in quantitative research methods. Therefore, should any members of the project team be unable to fulfil their responsibilities for any reason, there is sufficient capacity to mitigate against any risk to the project;
- ComRes conducts all its research in keeping with the ICC/ESOMAR Code and all ComRes research staff are MRS members. ComRes is registered with the Information Commissioner's Office to comply with data protection laws laid out in the 1998 Data Protection Act. ComRes is fully compliant with the data protection laws laid out in ISO/IEC 27002 and ISO/IEC 27001, including password protected computers, a clear desk policy, encrypted laptops and portable devices.
- Only those members of staff directly on the project team will have access to the project folder and its contents. ComRes ensures that all staff perform a three-monthly 'cleaning' process of all data held to ensure that it is accurate and up to date, and to destroy data which it is no longer necessary for the business to hold. All confidential information is shredded, removed as confidential waste and pulped at a BS15713 accredited destruction facility. ComRes has an appointed Data Protection Officer, with responsibility for ensuring by procedure that data protection policies are implemented. ComRes has a detailed data protection policy, which we would be happy to provide for reference.

SCHEDULE 13 – MOBILISATION PLAN

Mobilisation plan is to be agreed mutually.

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