



Invitation to Quote for:

**Research services to provide a victim
needs assessment for the City of York and
North Yorkshire**

Instructions to Bidders

**Closing Date:
12 noon Monday 13th January 2014**

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Instructions to Bidders

NOT COMPLYING WITH THESE INSTRUCTIONS MAY INVALIDATE YOUR SUBMISSION

1. Contract Summary

- 1.1. You are invited by the Police and Crime Commissioner for North Yorkshire (Commissioner) to submit a quotation to supply the following for the City of York and North Yorkshire in relation to **victim referral and support services**:
 - 1.1.1. **A needs and demand assessment;**
 - 1.1.2. **An evaluation of existing services and wider good practice; and**
 - 1.1.3. **A gap analysis**
- 1.2. Please read all of this document and associated appendices before completing your return. The information disclosed will be used for evaluation purposes.
- 1.3. Please answer all questions on the attached **Commercial Data Questionnaire (CDQ, Appendix 1)** and the **Response & Pricing Schedule (RPS, Appendix 2)** as well as signing the **Confidentiality & Non-Disclosure Agreement (Appendix 3)**.
- 1.4. These Invitation to Quote (ITQ) documents must be fully completed. It is insufficient to cross refer to other documents.
- 1.5. Offers are to be received in accordance with the **Specification (Section 4)** and **Terms & Conditions (Section 5)** contained herein, and all other documents forming the Contract.
- 1.6. **Closing date** for the receipt of quotes is **12 noon Monday 13th January** and providers may be required to attend a clarification session which will be held on **Thursday 16th January**.
- 1.7. Providers intending to quote are invited to request an **optional individual clarification meeting** with the Commissioner on **Monday 6th or Tuesday 7th January**. If providers wish to book in time with the Commissioner

please contact Rachel Firth via email Rachel.firth@northyorkshire-pcc.gov.uk

- 1.8. The **Victim Needs Assessment** and all associated outputs outlined in this document are to be **delivered by 12 noon Monday 17th March 2014**.

2. Instructions to Providers

- 2.1. These instructions are designed to ensure that all quotations are given equal and fair consideration. It is important therefore that you provide all the information asked for in the format and order specified.
- 2.2. The quotation must be calculated with careful reference to the contents of the Contract.
- 2.3. Cross referencing to other documents is not accepted as we have provided **Appendix 1: CDQ and Appendix 2: RPS** for provider responses. Supplementary information is not permitted. If references are made to other documents or supplementary information, the Commissioner may choose not to include it in the evaluation of your proposal.
- 2.4. HTML links are not permitted as part of your submission within **Appendix 1: CDQ and Appendix 2: RPS**. They will not be included in the evaluation of your proposal.
- 2.5. Proposals are considered by a team of evaluators against pre-determined evaluation criteria. The easier it is for the document to be read, the better. Follow each statement with an explanation of how the requirement is met. Remember, it is not enough to simply state that the requirement can be met.
- 2.6. A statement that a particular requirement detailed in the **Specification (Section 4)** will be met is not in itself sufficient. Such responses, or responses that are ambiguous, may be taken as failing to meet the requirement. Detailed information regarding how, when and to what extent a requirement can be met must be provided where appropriate.
- 2.7. Please ensure that all prices are entered into **Appendix 2: RPS** and that no reference to cost is made in any other part of the response. Quoted rates must be fully inclusive prices in pounds and pence (but **excluding VAT**).

- 2.8. All prices quoted must include all costs, charges and overheads and incidental expenses such as travel, attendance at meetings etc. for all obligations under the contract.
- 2.9. You should complete the quotation prices only after you have read and fully understood all of the Contract documents. Once a contract has been awarded no allowance whatsoever can be made for any errors, omissions or misjudgements in quoting.
- 2.10. Providers invited to quote must also submit with their quotation:
 - 2.10.1. a certificate signed by their insurance company or agent to the effect that the Provider carries the insurance required under the Contract conditions.
 - 2.10.2. if the submission is by an agent, details of its principal.
- 2.11. **Appendix 1: CDQ and Appendix 2: RPS** must be completed to provide your response to this requirement.
- 2.12. A word restriction is detailed against each qualitative element of the quotation response within **Appendix 2: RPS**. Providers are required to adhere to these and cannot utilise appendices etc. to supplement their response.

3. Terms and Conditions

- 3.1. The standard Commissioner Terms and Conditions for Consultancy will form the basis of the contract.
- 3.2. Accordingly, Providers must accept that the Contract will be let on this basis, and not on the basis of the successful Provider's own terms.

4. Canvassing etc.

- 4.1. Any Provider who canvasses any member or officer of NYP or the Commissioner, whether directly or indirectly, relating to the award of these contracts will be disqualified.
- 4.2. If the Provider:-
 - 4.2.1. fixes or adjusts the amount of his quotation by arrangement with any other person; or

- 4.2.2. communicates to any person other than the Commissioner the amount of the quotation (unless the disclosure is made for insurance purposes, for example); or
- 4.2.3. enters into any arrangement with any other organisation or individual to the effect that they will refrain from quoting or as to the amount of any other quotation to be submitted; or
- 4.2.4. offers or pays any sum of money to induce such a person to accept the quote;

then the Provider shall be disqualified from quoting and may be subject to civil and criminal liability.

5. Guarantees

- 5.1. If a Provider is a subsidiary company within the meaning of the Companies Act 1985 it may be required to provide a guarantee in a form to be specified by the Commissioner.

6. Confidentiality and Standards

- 6.1. Providers invited to quote will appreciate the need for the Commissioner to be satisfied that the Contractor is employing appropriate staff to provide the service.
- 6.2. All Providers are required to sign and return the Confidentiality & Non-Disclosure Agreement (Appendix 3).

7. Freedom of Information Act 2000

- 7.1. Under the above Act, the Commissioner has an obligation to provide information when requested. Whilst the Commissioner will meet any requirements of the Act, it will be useful if you can identify areas of your quotation submission which you would consider to be covered by the exemptions stated within the Act, i.e. not subject to disclosure. Please provide details of those sections (if any) of your quote which you believe to be exempt and the reasons.

8. Provider Selection Criteria

8.1. The Commissioner may disqualify any potential Provider who fails to:

- 8.1.1. comply with the requirements of Regulation 23 and/or fails to certify on the Statement of Good Standing that it has fulfilled these requirements
- 8.1.2. provide a satisfactory response to any questions in the **Appendix 1: CDQ** or inadequately or incorrectly completes any question
- 8.1.3. submit its completed response before the deadline

8.2. The potential Providers who are not disqualified in accordance with the above grounds shall be evaluated on the selection criteria which take into account the economic and financial standing and the technical or professional ability of the potential Provider and are in accordance with [Regulations 23-26 of the Public Contracts Regulations 2006](#) (as amended from time to time).

Selection Criteria	Evaluation Weighting
Appendix 1: Commercial Data Questionnaire	Pass / Fail

9. Contract Award Criteria

- 9.1. Providers must complete **Appendix 2: RPS**
- 9.2. The Contract Award decision will be based upon evaluation of the Most Economically Advantageous submission(s), taking into account the following:
 - 9.2.1. evaluation results
 - 9.2.2. reference checks
 - 9.2.3. all clarifications including meetings (if required)
- 9.3. Your response to our requirement will be evaluated using **Appendix 2: RPS**.

Appendix 2: RPS	Evaluation Weighting
Question 1: Proposed approach /	50%

methodology to undertake the victim needs assessment	
Question 2: Experience / expertise in delivering the required outputs, and the capacity and capability of the proposed team	50%
Price	Upper limit fixed, see Section 10

- 9.4. The Commissioner does not bind herself to accepting any quotation but every effort will be made to reach a decision on award of contract by the **end of January 2014**.
- 9.5. Following the evaluation of the bids, Providers may be required to attend a meeting to clarify elements of their submission. The date for these meetings, if required, will be **16th January**. Such meetings will only be at the instigation of the Commissioner.
- 9.6. Final evaluation results will be based upon merging the scores from the written responses and the clarifications, only if clarifications are required by the Commissioner.

10. Price

- 10.1. The budget allocated to the delivery of this project is **£50,000** inclusive of all proposed expenditure (but **excluding VAT**) as per point 2.7.
- 10.2. Providers are required to provide a breakdown of their costs against this budget. Pricing Schedule at **Appendix 2: RPS**.
- 10.3. Providers must complete **Appendix 2: RPS** to provide all of the obligations under the Contract. All prices shall be stated in pounds sterling and **exclusive of VAT**.
- 10.4. All expenses (accommodation, travel etc.) should be included in the fixed fee.

11. Period for which Quotations shall Remain Valid

- 11.1. Unless otherwise stated by the Provider, quotations shall remain valid for a minimum of 90 days from the closing date for receipt of quotations.

12. How and Where To Return the Quotation

12.1. Electronic Quotes

The preferred method of submitting responses is via email to Maria.earles@northyorkshire.pnn.police.uk by **12 noon 13th January 2014**.

Any person may submit the proposal, however, authorisation must be received by the relevant party. For example where the Provider is a partnership the submission should be approved by an authorised partner, where the Provider is a company the submission should be approved by a Director or Company Secretary.

12.2. Non-Electronic Quotations

The submission of hard copy quotes is discouraged, although can be accommodated if necessary. If this method of submission is required Providers must contact Maria.earles@northyorkshire.pnn.police.uk to request a return address.

13. Form of Quotation

- 13.1. Providers must complete and sign the Form of **Quotation (Section 2)**; where the Provider is an individual the quote must be signed by that individual, where the quote is from a partnership the quote must be signed by two authorised partners and where the quote is from a company two Directors or a Director and the Secretary should sign. All signatories must be authorised to sign on the quotation.

14. Enquiries

- 14.1. The Commissioner will provide whatever information and assistance reasonably expected to enable Providers to ascertain the extent of the work required.
- 14.2. Any enquiries relating to these instructions or this process should be emailed to Maria.earles@northyorkshire.pnn.police.uk by **12 noon on Wednesday 8th January 2014**.
- 14.3. The main point of contact for this quotation opportunity is:

Maria Earles, Service Delivery Advisor, North Yorkshire Police
Email: Maria.earles@northyorkshire.pnn.police.uk

Section 2: Form of Quotation

Research Services to Provide a Victim Needs Assessment for the City of York and North Yorkshire

Please sign and complete as appropriate and submit along with your quotation. Signed and scanned copies of this form of quotation are acceptable.

1. If our quotation is accepted we agree to enter into a written Contract in the form of the Agreement in the Contract Documentation and, if required, further agree to provide a Guarantee (as referred to in the Instructions to Quote). Until such Agreement is completed, however, this quotation, together with your written acceptance will form a binding agreement between us.
2. We certify that this is a bona fide quotation and that we have not fixed or adjusted the amount of the quote by or under or in accordance with any agreement or arrangement with any other person. We also certify that we have not done and we agree not to do at any time before the quotation closing date any of the following:
 - 2.1. communicate to a person the amount or approximate amount of the proposed quote except where the disclosure in confidence of the approximate amount of the quote was necessary to obtain insurance premium quotations required in connection with the preparation of the quote,
 - 2.2. enter into any arrangement or agreement with any other person that he should refrain from quoting or as to the amount of any quote to be submitted,
 - 2.3. offer to pay any sum of money or gift to any person for doing any of the acts above.

We quote to provide the Service in accordance with all the schedules in the submission attached.

The name and address of our principal is *

Signed: _____
(Name of authorised signatory 1) (Please print name in full)

(Name of authorised signatory 2)

(Please print name in full)

on behalf of: _____

(Name and address of Company in full)

* Only complete if Company is an agent

Section 3: Quotation Background Information

1. Background

1.1. North Yorkshire Police (NYP) is responsible for policing England's largest county covering approximately 8000 km² and the Unitary Authority of York. The county spans from the East coast and close to the West coast. Although much of this area is rural in nature and includes two major national parks - the North Yorkshire Moors and the Yorkshire Dales; the city of York and the major towns of Scarborough, Harrogate, Northallerton and Whitby are within its boundaries. NYP is spread across more than 46 sites and a number of satellite offices.

1.2. For operational and administrative purposes NYP is split into 6 Safer Neighbourhood Commands each of which contain the various District Authorities:

- Harrogate Command contains - Harrogate Borough,
- Craven Command contains - Craven District
- Hambleton and Richmondshire Command contains - Hambleton District and Richmondshire Borough
- Scarborough and Ryedale Command contains - Scarborough District and Ryedale District
- York Command contains - The City of York (unitary authority)
- Selby Command contains - Selby District



1.3. On 22nd November 2012, 41 new Police and Crime Commissioners took up their posts throughout England and Wales. Each Commissioner is responsible for overseeing the performance of the police force in their local area on behalf of the public and working with the wider community of agencies and organisations to develop and implement strategies to reduce crime. Responsible for the 'totality' of policing in their local areas, Commissioners also hold their force's budget. A core function is to involve and inform their local communities on the development of their strategic Police and Crime Plan and to report back to the public on its delivery and performance.

You can find out more on the following websites:

<https://www.gov.uk/government/collections/police-and-crime-commissioners-publications>

<http://www.apccs.police.uk/page/Role%20of%20the%20PCC>

<http://www.northyorkshire.police.uk/8436>

<http://www.northyorkshire-pcc.gov.uk/>

2. Why is this work being commissioned?

2.1. In North Yorkshire, the successful Police and Crime Commissioner candidate was Julia Mulligan. The Commissioner wishes to appoint a research team to deliver, for the City of York and North Yorkshire in relation to **victim referral and support services**:

2.1.1. **A needs and demand assessment;**

2.1.2. **An evaluation of existing services and wider good practice; and**

2.1.3. **A gap analysis.**

2.2. The victims needs assessment is a crucial aspect of the ambitious programme of change being implemented locally by the Commissioner in North Yorkshire. It will inform the development of a specification to competitively commission a range of targeted referral and support services for victims in line with identified local need and demand.

2.3. This work will help enable the Commissioner to achieve her vision which is to create a victim-centred service across the whole county which is fully integrated with North Yorkshire Police.

2.4. The main drivers for this work are:

- Delivering the Commissioner's Police and Crime Plan, which includes supporting the people of the City of York and North Yorkshire to 'be safe, feel safe'.
- Translating national victim's policy into effective and efficient local delivery.
- Being able to competitively commission local victims services based on an independent review and assessment of victims level and type of need, demand for services, and referral and support provision currently available across the City of York and North Yorkshire.
- Commissioning victims referral and support services that meet local needs / demands whilst demonstrating excellent value for money, ensuring all appropriate safeguards are in place and maintaining public confidence.
- Commissioning local victim referral and support services that ensure timely, accurate, appropriate information sharing in which all partners have confidence.
- Commissioning local victim referral and support services that are responsive at the point of referral, provide accessible information and practical support at the time of need and ensure appropriate after-care and referral to other key agencies as appropriate.

Section 4: Specification

1. Project Outcomes

1.1. What do we want to achieve?

- 1.1.1. A comprehensive understanding of the level and type of victim – victim refers to a victim of crime or anti-social behaviour – referral and support service needs across the City of York and North Yorkshire.
- 1.1.2. A thorough understanding of the scope of demand for victim referral and support services across the City of York and North Yorkshire. We are particularly interested in uncovering any ‘hidden demand’ for victim’s services across the county.
- 1.1.3. An independent review and evaluation of the current end to end process victims of crime are exposed to across the City of York and North Yorkshire to identify areas of good practice and value for money in respect to meeting individual needs. Subject to appropriate consent by individual agencies, this will include referral and support services provided by both statutory organisations e.g. North Yorkshire Police (NYP) and the VCSE sector e.g. Victim Support. This will cover services delivered to all victims of crime and anti-social behaviour including victims of sexual and domestic offences.
- 1.1.4. A detailed understanding of the identifiable gaps in existing victims referral and support service provision based on local need and demand analysis. For example how efficient and effective are: the signposting and referral mechanisms within NYP, from NYP to other partners and between partner agencies - particularly in terms of needs assessment; and the self-referral methods to support services.
- 1.1.5. In order to achieve the four outputs above we require primary research to be undertaken with local victims, who have both accessed services and chosen not to, and key stakeholders. This could, for example, include interviews, surveys and/or focus groups.
- 1.1.6. An understanding of current best practice in the delivery of victim referral and support services – we expect the results of a benchmarking exercise which outlines where service innovation / excellence currently exists and how this is evaluated. We are particularly interested in this in relation to managing information and data sharing across partners.

1.1.7. A set of recommendations that can be used to effectively and efficiently commission referral and support services for victims across the City of York and North Yorkshire that:

- outline measurable victim referral and support service outcomes specific to local need and demand
- outline victim referral and support service activities and outputs specific to local need and demand

1.1.8. The final product required is a comprehensive written report covering the requirements above by **12 noon 17th March 2014** followed by a formal presentation to the Office of the Commissioner of key recommendations from the report during the **week commencing 17th March 2014**.

2. Budget

2.1. The budget allocated to the delivery of this work is **£50,000** inclusive of all expenditure (but **excluding VAT**).

2.2. Providers are required to clearly show the costs associated with the delivery in the **Pricing Schedule at Appendix 2: RPS**.

3. General Requirements

3.1. The successful Contractor will:

3.1.1. Provide named individuals who must perform the work for this contract. If at any time the Contractor is unable to provide the services of any named individual, it shall propose a replacement individual with similar qualifications and experience within 2 calendar days. The Commissioner shall be under no obligation to accept this proposal and shall be entitled to terminate the Contract upon giving 7 (seven) days written notice to the Contractor.

3.1.2. Attend a project initiation meeting to be held between the successful Provider, the Commissioner, or her representative, which must be attended by the research team's key personnel.

3.1.3. Ensure that full audit trails, decision logs and action logs are maintained.

- 3.1.4. Ensure compliance with the organisations corporate governance and financial regulations.

Please refer to Appendix 1: CDQ and Appendix 2: RPS

Section 5: Terms & Conditions

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Standard Conditions of Contract

These Standard Contract Conditions shall be incorporated in any Contract (or order) made by the Commissioner for the purchase of services unless they are specifically excluded and shall apply to the extent that they are not inconsistent with any Special Condition of Contract. These Terms and Conditions may only be varied with the written agreement of the Commissioner. No terms or Conditions put forward at any time by the Contractor shall form any part of the Contract.

1. Definitions

In this Agreement, the following words shall have the following meanings:

'Client'	shall mean the Police and Crime Commissioner
'Commencement Date'	[insert commencement date]
'Completion Date'	the date by which the Consultant shall have completed the Services as set out in Section Four: Specification
'Confidential Information'	the meaning given in clause 7.1.
'Consultant'	shall mean [insert successful Provider details]
'Consultant Materials'	the meaning given in clause 5.4.
'Day'	A period of 24 hours, during which Services are provided of not less than 7.5 hours in duration.
'Demand'	the meaning given in clause 5.5.
'Expenses'	shall include, but not be limited to the following fees and expenses, charges and spending incurred by the Consultant: (a) travel claims for any journeys authorised in advance by the Client

(b) all other types of fees, expenses, charges or spending authorised by the Client to be necessary for the Consultant to perform the Services.

'Facilities' the meaning given in clause 4.2.

'Fee' the meaning given in clause 9.1.1.

'Parties' the Client and the Consultant, and 'Party' shall mean either one of them.

'Reports' the meaning given in clause 5.1.

'Services' the meaning given in clause 3.1 and set out in Section 3: Quotation Background Information and Section 4: Specification.

'Third Party Advisers' the providers of external legal, accounting, financial, and other professional services

2. Commencement

2.1. The Client appoints the Consultant to provide advice, research and consultancy services drawing on the Consultant's business and managerial experience and the Consultant accepts the appointment subject to the provisions of this Agreement.

3. Services

3.1. During the existence of this Agreement the Consultant shall provide assistance, advice, research and consultancy and other related services as agreed from time to time with Client ('the Services') in relation to:

3.1.1. the strategic planning of the matters set out in Section 3: Quotation Background Information and Section 4: Specification.

- 3.1.2. the day-to-day operations of the Client arising out of or pertaining to the activities set out in Section 3: Quotation Background Information and Section 4: Specification.
- 3.1.3. the development of such business planning documentation as is necessary from time to time
- 3.2. Where the Client requires further Services from the Consultant the Parties shall discuss what further Services are required and the further Services shall be governed by the provisions of this Agreement.
- 3.3. The Consultant shall not, without the prior consent of the Client, accept any consultancy, employment, directorship or other position or engagement which would, or may in the reasonable opinion of the Client, compromise or create a conflict of interest with its obligations under this Agreement.

4. The Client's obligations

- 4.1. During the performance of the Services the Client will:
 - 4.1.1. co-operate with the Consultant as the Consultant reasonably requires;
 - 4.1.2. provide the information and documentation that the Consultant reasonably requires and at the times, dates and places that the Consultant specifies;
 - 4.1.3. make available to the Consultant such Facilities as Consultant reasonably requires;
 - 4.1.4. ensure that the Client's employees, agents, representatives and Third Party Advisers co-operate and assist the Consultant.
- 4.2. 'Facilities' mean working space, computer equipment (subject to such prior compliance by the Consultant with the Client's information security procedures) access to the internet and the Client's computer network, telecommunications system etc, and shall include not only access to such resources but also use of them to the extent that the Consultant needs to do so in order to perform the Consultancy Services.
- 4.3. The Client will not charge for the Consultant's use of the Facilities made available by the Client.

- 4.4. If the Client does not provide the Facilities that the Consultant reasonably requires (and within the time period) to perform the Consultancy Service, then any additional costs and expenses which are reasonably incurred by the Consultant will be paid by the Client.

5. Reports and materials

- 5.1. In connection with the provision of the Services the Consultant may generate, write or produce reports, advice, analyses, methodologies and other similar materials ('Reports').
- 5.2. The Client shall only use the Reports for the Client's own internal use and will not disclose, supply or copy the Reports to any third party (except as may be required by law or with the prior written consent of the Consultant).
- 5.3. All intellectual property rights in all works or supplies provided under this Contract which are written or produced on a bespoke or customised basis, including, without limitation, all future such rights when the said works are created, shall be owned by the Client and the Consultant shall ensure that it executes all documents necessary to effect such ownership. Where the Consultant provides existing intellectual property right protected material to the Client under this Agreement it shall disclose this to Client, warrants it has the right to do so and shall fully indemnify and hold Client harmless against all loss or liability arising from any third party intellectual property rights claims arising both from such existing material and in relation to any such bespoke work. Except as provided above both parties retain ownership of their pre-existing intellectual property rights protected material.
- 5.4. For the avoidance of doubt, the Client acknowledges and agrees that the Consultant:
- 5.4.1. may invent, create or develop techniques, business models, statistical, financial and mathematical models, problem-solving methods and methodologies and other tools and methods ('Consultant Materials') which are the same or similar to those in any Report(s) or used in providing the Services; and
- 5.4.2. may disclose or use the Consultant Materials as long as the Consultant Materials shall not contain or utilise or be based on any Confidential Information.

5.5. If the Client is required to disclose any Reports (or the information contained in any Reports) following a demand placed upon the Client by law ('Demand') then the Client shall not be in breach of its obligations under this clause 5 subject to the following provisions:

- 5.5.1. the Client notifying the Consultant of the Demand straightaway on receipt of the Demand (including providing any other relevant information concerning the Demand such as the circumstances relating to its issuance and any relevant documentation concerning it);
- 5.5.2. the Client working with the Consultant on available steps or procedures to release only such of the Reports or the information contained in Report(s) as is absolutely necessary to comply with the Demand and/or reduce the extent of any Demand;
- 5.5.3. where the release of any Reports (or information contained Reports) is required, the Client working with the Consultant to ensure that such of the Reports (or information contained in Reports) as are designated by the Consultant as confidential are treated in a confidential manner in so far as the law shall permit.

6. Term and termination

- 6.1. The Consultant shall start performing the Services on the Commencement Date.
- 6.2. This Agreement will continue for 3 months from the commencement date, or the Parties agree that it shall be terminated or it is terminated by either Party by giving the other Party 30 days' written notice.
- 6.3. Without prejudice to the other remedies or rights, either Party may terminate this Agreement, at any time, on written notice to the other Party ('Other Party'). The notice will take effect as specified in the notice:
 - 6.3.1. if the Other Party is in material breach of its obligations under this Agreement. If the breach is capable of remedy within 14 days, the breach is not remedied with the said 14 days by the Other Party receiving notice which specifies the breach and requiring the breach to be remedied; or
 - 6.3.2. if the Client considers that the Consultant has failed to comply with its reasonable requirements as regards the performance of the Services

or that the Consultant has acted in a manner prejudicial to the efficient conduct of the Client's business

6.3.3. if the Consultant becomes insolvent or if an order is made or a resolution is passed for the winding up of the Consultant or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the Consultant's assets or business, or if the Consultant makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt, the Consultant to notify the Client of any such circumstances forthwith; or

6.3.4. if the Consultant:

6.3.4.1. has offered any gift or consideration of any kind as an inducement or disincentive for doing anything in respect of this Contract or any other Contract with the Commissioner, or

6.3.4.2. has committed any offence under the Bribery Act, or

6.3.4.3. has committed an offence under Section 117 (2) of the Local Government Act 1972, or

6.3.4.4. has been convicted of an offence listed under article 45 of EU directive 2004/18/EC relating to criminality, corruption, fraud and money laundering.

6.3.5. if the Consultant fails to observe the Commissioner's policies in relation to health and safety (which, for the avoidance of doubt, shall include any statutory health and safety obligations), vetting, security and /or the manner in which the Commissioner's suppliers, own clients and personnel should be treated.

6.3.6. if the Client shall by operation of law cease to exist.

6.4. On termination of this Agreement, the Client shall pay for all Services provided up to the date of termination, and for all expenditure falling due for payment after the date of termination from commitments reasonably and necessarily incurred by the Consultant for the performance of the Services prior to the date of termination.

7. Confidentiality

7.1. The Consultant acknowledges that confidential information will be provided by the Client to the Consultant in relation or in connection with the Services ('Confidential Information'). The Consultant shall not disclose any Confidential Information to anyone other than the employees, agents or representatives of the Client or the Third Party Advisers.

7.2. The obligations of clause 7.1 shall not apply to any information which:

7.2.1. is, or becomes, publicly available through no fault of the Consultant;

7.2.2. is provided to the Consultant without restriction or disclosure by a third party, who did not breach any confidentiality obligations by making such a disclosure; or

7.2.3. was developed by the Consultant (or on its behalf) who had no direct access to, or use or knowledge of the Confidential Information supplied by the Client;

7.2.4. is required to be disclosed by order of a court of competent jurisdiction.

7.3. The Consultant shall sign a declaration pursuant to Official Secrets Act 1989.

7.4. The Consultant shall not at any time make use of any Client logo or insignia in whatever medium unless so authorised by the Client, nor shall the Consultant use the Client's name for promotional purposes unless so authorised by the Client.

7.5. All documentation, software and other property made available to the Consultant by the Client shall remain the property of the Client and the Consultant shall return forthwith, upon the request of the Client, and in any event upon the termination of this Agreement howsoever caused, all such documentation, software and property, to the Client, together with all copies of any such materials in the possession custody or power of the Consultant.

8. Reliance on Information

The Client acknowledges and agrees that the Consultant:

8.1. will use and rely on:

NOT PROTECTIVELY MARKED COMMERCIAL

- 8.1.1. Confidential Information and non-confidential information provided by the Client to the Consultant, and
- 8.1.2. other information available from public and non-public sources, (together 'Information') in performing the Services without the Consultant verifying the Information; and
- 8.2. does not assume any responsibility for the truthfulness, veracity, accuracy of any of the Information provided to the Consultant.

9. Payment

- 9.1. In consideration of performing the Services the Client shall pay to the Consultant:
 - 9.1.1. the rates specified in Appendix 2 Response and Pricing Schedule (the Fee) upon the successful and satisfactory completion of each milestone
 - 9.1.2. the Daily Rates specified in Appendix 2 for each Day payable in the event of additional services being agreed (the 'Fee').
- 9.2. The Fee shall be payable in arrears and within 30 days of the Consultant's invoice (which invoices shall be submitted monthly and shall be accompanied by timesheets supporting the sums claimed).
- 9.3. The Consultant may also claim and be paid for certain Expenses incurred by the Consultant in performing the Services under this Agreement if agreed in advance by the Client. Any or all the Expenses shall be paid by the Client to the Consultant within 30 days of the date of any invoice provided that the Consultant shall produce such documentary proof of such Expenses upon demand in accordance with the Client's normal procedures.
- 9.4. All sums due under this Agreement:
 - 9.4.1. are exclusive of value added tax which, where applicable, will be paid by the Client to the Consultant in addition;
 - 9.4.2. shall be made by the due date, failing which the Consultant may charge the Client interest on late payments on a daily basis at a rate equivalent to 4% above the base lending rate of the Bank of England then in force; and

9.4.3. shall be paid in pounds sterling by direct transfer to such account in England and Wales as the Consultant shall nominate.

9.5. Payment by the Client shall be without prejudice to any claims or rights which the Client may have against the Consultant and shall not constitute any admission by the Client as to the performance by the Consultant of its obligations under this Agreement.

10. Warranties, liability and indemnities

10.1. The Consultant warrants that it will use reasonable care and skill in performing the Services and to the standard generally accepted within the industry, sector or profession in which the Consultant operates for the type of Services provided by the Consultant.

10.2. If the Consultant performs the Services (or any part of the Services) negligently or materially in breach of this Agreement then, if requested by the Client, the Consultant will re-perform the relevant part of the Services, subject to clauses 10.4 and 10.5 below. The Client's request must be made within 6 months of the date the Consultant completed performing the Services or the termination of this Agreement as the case may be.

10.3. The Consultant shall be liable to the Client for direct losses caused by the negligence of the Consultant or arising from the Consultant's breach of its obligations contained in this Agreement.

10.4. Neither Party shall be liable to the other Party in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by that other Party of an indirect or consequential nature including without limitation any economic loss or other loss of turnover, profits, business or goodwill. The provisions of this clause 10.4 shall not apply to clause 10.5.

10.5. Each of the Parties acknowledges that, in entering into this Agreement, it does not do so in reliance on any representation, warranty or other provision except as expressly provided in this Agreement, and any conditions, warranties or other terms implied by statute or common law are excluded from this Agreement to the fullest extent permitted by law. Nothing in this Agreement excludes liability for fraud.

11. Insurance

- 11.1. The Consultant shall take out and maintain employer's liability insurance in a minimum amount for each and every claim, act or occurrence or series of claims, acts or occurrences for the minimum sum of £10m.
- 11.2. The Consultant shall take out and maintain public liability insurance in a minimum amount for each and every claim, act or occurrence or series of claims, acts or occurrences for the minimum sum of £5m.
- 11.3. The Consultant shall take out and maintain professional indemnity insurance in a minimum amount for each and every claim, act of occurrence or series of claims, acts or occurrences for the minimum sum of £1m.
- 11.4. The Consultant shall supply to the Client on request copies of all insurance policies, cover notes, premium receipts and other documents necessary to establish compliance with this clause 11.

12. General

12.1. Force Majeure

Neither Party shall have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that Party. The Party affected by such circumstances shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than 6 months, either Party may terminate this Agreement by written notice to the other Party.

12.2. Amendments

This Agreement may only be amended in writing signed by duly authorised representatives of the Parties.

12.3. Assignment

Neither Party may assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under this Agreement without the prior written agreement of the other Party.

12.4. Entire agreement

This Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement. Nothing in this Agreement excludes liability for fraud.

12.5. **Waiver**

No failure or delay by the Consultant in exercising any right, power or privilege under this Agreement shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

12.6. **Agency, partnership etc**

This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

12.7. **Further assurance**

Each Party to this Agreement shall at the request and expense of the other or any of them execute and do any deeds and other things reasonably necessary to carry out the provisions of this Agreement or to make it easier to enforce.

12.8. **Severance**

If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

12.9. **Announcements**

No Party shall issue or make any public announcement or disclose any information regarding this Agreement unless prior to such public announcement or disclosure it furnishes all the Parties with a copy of such announcement or information and obtains the approval of such persons to its terms. However, no Party shall be prohibited from issuing or making any such public announcement or disclosing such information if it is necessary to do so to comply with any applicable law or the regulations of a recognised stock exchange.

12.10. **Interpretation**

In this Agreement unless the context otherwise requires:

- 12.10.1. words importing any gender include every gender;
- 12.10.2. words importing the singular number include the plural number and vice versa;
- 12.10.3. words importing persons include firms, companies and corporations and vice versa;
- 12.10.4. references to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement;
- 12.10.5. reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule;
- 12.10.6. any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
- 12.10.7. the headings to the clauses, schedules and paragraphs of this Agreement are not to affect the interpretation;
- 12.10.8. any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and
- 12.10.9. where the word 'including' is used in this Agreement, it shall be understood as meaning 'including without limitation'.

12.11. **Notices**

- 12.11.1. Any notice to be given under this Agreement shall be in writing and shall be sent by first class mail or air mail, or by facsimile to the address of the relevant Party set out at the head of this Agreement
- 12.11.2. Notices sent as above shall be deemed to have been received 3 working days after the day of posting (in the case of inland first class mail), or 7 working days after the date of posting (in the case of air mail), or on the next working day after transmission (in the case of facsimile messages, but only if a transmission report is generated by the sender's facsimile machine recording a message from the recipient's facsimile machine, confirming that the facsimile was sent to the number indicated above and confirming that all pages were successfully transmitted).
- 12.11.3. In proving the giving of a notice it shall be sufficient to prove that the notice was left, or that the envelope containing the notice was properly addressed and posted, or that the applicable means of telecommunication was addressed and despatched and despatch of the transmission was confirmed and/or acknowledged as the case may be.

12.12. **Law and jurisdiction**

- 12.12.1. The validity, construction and performance of this Agreement shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

12.13. **Third Parties**

- 12.13.1. For the purposes of the Contracts (Rights of Third Parties) Act 1999 and notwithstanding any other provision of this Agreement this Agreement is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

12.14. **Freedom of Information**

- 12.14.1. The Client is bound by the provisions of the Freedom of Information Act 2000 ("FOI") and information relating to this Agreement and to the Project may need to be disclosed to third parties in order for the Client to meet its obligations under the FOI.
- 12.14.2. The Consultant shall make all reasonable efforts to assist the Client in meeting its obligations under the FOI. If the Client receives an

access request under the FOI, the Consultant shall upon request provide:

- a) a copy of information requested which is held by the Consultant on behalf of the Client within a period of 5 Working Days;
- b) access by an Nominated Officer, within a period of 5 Working Days, to inspect information held by the Consultant on behalf of the Client.

12.14.3. Where it is necessary for the Consultant to provide information to the Client which it believes to be Exempt Information the Consultant shall state in writing to the Client the nature of the information and the relevant exemption. The Client shall inform the Consultant before disclosing such information under the FOI. The Consultant shall adhere strictly to any time limits set by the Client in respect of such consultation to enable the Client to comply with its obligations under the FOI. The Consultant acknowledges that the final decision whether to disclose such information will rest with the Client and not with the Consultant. Nothing contained in the Agreement or any documents or negotiations relating to this Agreement shall prevent the Client from disclosing any information which, in the Client's reasonable opinion or in accordance with any recommendation, notice or decision of a competent authority, it is required to disclose under the FOI.

12.14.4. The Consultant shall observe the Client's retention and destruction policy (details of which shall be provided by the Client upon request) and shall not destroy information other than in accordance with this policy. If the Client notifies the Consultant of a request for information held by the Consultant which is due for destruction, the Consultant shall immediately suspend destruction of that information to allow disclosure to take place. Upon the termination of this Agreement the parties shall agree which party has control of the retained information. Should the Consultant retain control of the information this clause shall remain in force beyond the termination of this Agreement.

12.14.5. The Consultant shall maintain an adequate records management system which will enable it to access the information within the time limits prescribed.

12.14.6. The Consultant shall indemnify the Client against all claims, demands, actions, costs, proceedings and liabilities that the Client directly incurs due to the Consultants breach of clause 12.14 or any part of it.

12.15. **Data Protection**

- 12.15.1. For the purpose of this clause, the terms “Data Controller”, “Data Processor”, “Data Subject”, “Personal Data”, “Process” and “Processing” shall have the meaning prescribed under the DPA.
- 12.15.2. Personal Information obtained as in the provision of the Project is owned by the Client. The Client is the Data Controller and the Consultant is the Data Processor under the terms of the DPA.
- 12.15.3. The Consultant shall ensure that any person who has access to the Client’s data comply with the requirements in this clause and shall ensure that such people receive appropriate data protection training and understand the responsibilities under the DPA in respect of Personal Data.
- 12.15.4. At varying times the Client is required to provide information to central Government and other statutory agencies. In order to gather this information the Client may request information from the Consultant. The information requirements may vary, dependent on the need for data. However the Consultant shall where practical maintain information detailed in the Agreement for the Project. The Client will be within its rights to reasonably request further information from the Consultant as required for Central Government and other statutory agencies as such requests arise.
- 12.15.5. The Consultant shall be liable for and shall indemnify the Client against all claims, demands, actions, costs, proceedings and liabilities of any sort which the Client incurs due to the Consultant’s or any sub-contractors breach of this clause.
- 12.15.6. If the Consultant receives any subject request for Personal Data such request will be referred to the Client’s Data Management Officer as soon as practicable after receipt.
- 12.15.7. If the Consultant sub-contracts any part of the Service then the Consultant shall ensure that any sub-contractor or other arrangement with any such sub-contractor shall include a binding legal obligation upon the sub-contractor to comply with the obligations set out in this clause. For the avoidance of doubt such sub-contracting shall not relieve the Consultant of its obligation to comply with this clause.

12.15.8. The Consultant shall provide to the Client on request evidence of its compliance with this clause to the Client's reasonable satisfaction.

12.15.9. The Client shall monitor compliance with the clause and non-compliance may constitute a ground for termination of this Agreement.

12.15.10. The obligations set out in this clause shall remain in force notwithstanding termination of this Agreement.

12.16. **Publicity, Media and Official Enquiries**

12.16.1. Without prejudice to obligations under the FOI, neither party shall make any press announcement or publicise this Agreement or any part in any way, except with the written consent of the other party.

12.16.2. Both parties shall take reasonable steps to ensure that their staff, agents, sub-contractors, suppliers, professional advisors and consultants comply with clause 12.16.1