

**Dated:**

**(1) The Academic Health Science Network for the North East and North  
Cumbria Limited**

and

**(2) [Name of The Service Provider]**

**THIS AGREEMENT** is dated

## **Parties**

- (1) **THE ACADEMIC HEALTH SCIENCE NETWORK FOR THE NORTH EAST AND NORTH CUMBRIA LIMITED** incorporated and registered in England and Wales with company number 8727658 whose registered office is C/O Sintons LLP, The Cube, Barrack Road, Newcastle upon Tyne, NE4 6DB and whose Business Address is at Biomedical Research Building, Campus for Ageing and Vitality, University of Newcastle, Nuns Moor Road, Newcastle upon Tyne, NE4 5PL (**The AHSN**).
- (2) [**Name of The Service Provider**] incorporated and registered in England and Wales with company number [**Company number**] whose registered office is at [**Registered address**] (**The Service Provider**).

## **Background**

- (A) The Service Provider is an approved supplier under The AHSN's [**Innovation Pathway Support**] Dynamic Purchasing System [(**Reference: AHSN NENC 01/22**)] (**DPS**).
- (B) The AHSN invited all relevant approved suppliers under the DPS (including The Service Provider) to tender for the provision of [**DESCRIPTION**] services.
- (C) On the basis of The Service Provider's tender response, The AHSN has selected The Service Provider to provide the Services and The Service Provider is willing and able to provide the Services in accordance with the terms and conditions of this Agreement.

## **Agreed terms**

### **1. Definitions and Interpretation**

- 1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

**Authorised Representatives:** the persons respectively designated as such by The AHSN and The Service Provider, the first such persons being set out in Schedule 3.

**AHSN Assets:** any materials, plant or equipment owned or held by The AHSN and provided by The AHSN for use in providing the Services.

**AHSN's Premises:** the premises which are to be made available for use by The AHSN to The Service Provider for the provision of the Services on the terms set out in this Agreement.

**Best Industry Practice:** the standards which fall within the upper quartile in the relevant industry for the provision of comparable services which are

substantially similar to the Services or the relevant part of them, having regard to factors such as the nature and size of the parties, the term, the pricing structure, and any other relevant factors.

**Bribery Act:** The Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

**Catastrophic Failure:** any action by The Service Provider, whether in relation to the Services and this Agreement or otherwise, which in the reasonable opinion of The AHSN's Authorised Representative has or may cause significant harm to the reputation of the AHSN.

**Charges:** the charges which shall become due and payable by The AHSN to The Service Provider in respect of the Services in accordance with the provisions of this Agreement, as such charges are set out in Schedule 2.

**Effective Date:** [The date of execution of this Agreement.] OR [Specific date]

**Commercially Sensitive Information:** information of a commercially sensitive nature relating to The Service Provider, its intellectual property rights or its business or which The Service Provider has indicated to The AHSN that, if disclosed by the AHSN, would cause The Service Provider significant commercial disadvantage or material financial loss.

**Consistent Failure:** The AHSN serving three Remediation Notices in a rolling six-month period or three Default Notices in a rolling six-month period.

**Crown:** the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive, and the National Assembly for Wales) including, but not limited to, government ministers and government departments and particular bodies, persons, and government agencies.

**Crown Body:** any department, office, or agency of the Crown.

**Data Protection Legislation:** all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including, without limitation (i) any data protection legislation from time to time in force in the UK including the Data Protection Act 2018, the UK GDPR (as defined in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) or any successor legislation and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.

**Default Notice:** is defined in clause 5.2.

**Deliverables:** any outputs of the Services and any other documents, products and materials provided by The Service Provider to The AHSN as specified in Schedule 1 and any other documents, products and materials provided by The Service Provider to The AHSN in relation to the Services.

**Dispute Resolution Procedure:** the procedure set out in clause 14.

**FOIA:** the Freedom of Information Act 2000, and any subordinate legislation made under the 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:** any cause affecting the performance by a party of its obligations under this agreement arising from acts, events, omissions, or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to The Service Provider, the Service Provider's Personnel or any other failure in The Service Provider's supply chain.

**Information:** has the meaning given under section 84 of FOIA.

**Initial Term:** the period commencing on the Effective Date and ending on [Date].

**Intellectual Property Rights:** any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites.

**Key Personnel:** those personnel identified in Schedule 3 for the roles attributed to such personnel, as modified pursuant to clause 10.

**Management Reports:** the reports to be prepared and presented by The Service Provider in accordance with clause 12.

**Necessary Consents:** all approvals, certificates, authorisations, permissions, licences, permits, regulations and consents necessary from time to time for the performance of the Services.

**Payment Plan:** the plan for payment of the Charges as set out in Schedule 2.

**Prohibited Act:** the following constitute Prohibited Acts:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by The AHSN 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 this Agreement.
- (c) committing any offence:
  - (i) under the Bribery Act.
  - (ii) under legislation creating offences concerning fraudulent acts.
  - (iii) at common law concerning fraudulent acts relating to this Agreement or any other contract with the AHSN; or
  - (iv) defrauding, attempting to defraud or conspiring to defraud the AHSN.

**Public Contract Regulations:** The Public Contracts Regulations 2015 (SI 2015/102).

**Remediation Notice:** a notice served by The AHSN in accordance with clause 24.1(a).

**Replacement Services:** any services that are identical or substantially similar to any of the Services and which The AHSN receives in substitution for any of the Services following the termination or expiry of this Agreement, whether those services are provided by The AHSN internally or by any Replacement Service Provider.

**Replacement Service Provider:** any third-party supplier of Replacement Services appointed by The AHSN from time to time.

**Request for Information:** a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations.

**Service Provider Party:** The Service Provider's agents and contractors, including each Sub-Contractor.

**Service Provider's Personnel:** all employees, staff, other workers, agents, and consultants of The Service Provider and of any Sub-Contractors who are engaged in the provision of the Services from time to time.

**Services:** the services to be delivered by or on behalf of The Service Provider under this Agreement, as more particularly described in Schedule 1.

**Sub-Contract:** any contract between The Service Provider and a third party pursuant to which The Service Provider agrees to source the provision of any of the Services from that third party.

**Sub-Contractor:** the contractors or service providers that enter into a Sub-Contract with The Service Provider.

**Term:** the period of the Initial Term as may be varied by:

- (a) any extensions to this Agreement which are agreed pursuant to clause 3; or
- (b) the earlier termination of this Agreement in accordance with its terms.

**Tender Response:** means the document(s) submitted by The Service Provider to The AHSN in response to The AHSN'S tender for the provision of the Services.

**Termination Date:** the date of expiry or termination of this Agreement.

**Working Day:** Monday to Friday, excluding any public holidays in England and Wales.

- 1.2 Clause, schedule, and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.4 The schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the schedules.
- 1.5 A reference to a **company** shall include any company, corporation, or other body corporate, wherever and however incorporated or established.
- 1.6 Words in the singular shall include the plural and vice versa.
- 1.7 A reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.9 A reference to **writing** or **written** includes faxes and e-mail.
- 1.10 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.11 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this Agreement) at any time.

- 1.12 References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule.

## **Commencement and Duration**

### **2. Term**

This Agreement shall take effect on the Effective Date and shall continue for the Term.

### **3. Extending the Initial Term**

- 3.1 The AHSN may extend this Agreement beyond the Initial Term by a further period or periods as agreed between The AHSN and The Service Provider (Extension Period). If The AHSN wishes to extend this Agreement, it shall give The Service Provider at least three months' written notice of such intention before the expiry of the Initial Term or Extension Period.
- 3.2 If The AHSN gives such notice, then the Term shall be extended by the period set out in the notice.
- 3.3 If The AHSN does not wish to extend this Agreement beyond the Initial Term this Agreement shall expire on the expiry of the Initial Term and the provisions of clause 27 shall apply.

### **4. Consents, Service Provider's Warranty and Due Diligence**

- 4.1 The Service Provider shall ensure that all Necessary Consents are in place to provide the Services and The AHSN shall not (unless otherwise agreed) incur any additional costs associated with obtaining, maintaining, or complying with the same.
- 4.2 Where there is any conflict or inconsistency between the provisions of the Agreement and the requirements of a Necessary Consent, then the latter shall prevail, provided that The Service Provider has made all reasonable attempts to obtain a Necessary Consent in line with the requirements of the Services.
- 4.3 The Service Provider acknowledges and confirms that:
- (a) it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked The AHSN all the questions it considers to be relevant for the purpose of establishing whether it is

able to provide the Services in accordance with the terms of this Agreement.

- (b) it has received all information requested by it from The AHSN pursuant to clause 4.3(a) to enable it to determine whether it is able to provide the Services in accordance with the terms of this Agreement.
- (c) it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of The AHSN pursuant to clause 4.3(b);
- (d) it has raised all relevant due diligence questions with The AHSN before the Effective Date; and
- (e) it has entered into this Agreement in reliance on its own due diligence.

4.4 Save as provided in this Agreement, no representations, warranties, or conditions are given or assumed by The AHSN in respect of any information which is provided to The Service Provider by The AHSN and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.

4.5 The Service Provider shall promptly notify The AHSN in writing if it becomes aware during the performance of this Agreement of any inaccuracies in any information provided to it by The AHSN during such due diligence which materially and adversely affects The Service Provider's ability to perform the Services or meet any Service standards as described at clause 6.

4.6 The Service Provider shall not be entitled to recover any additional costs from The AHSN which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to The AHSN by The Service Provider in accordance with clause 4.5 save where such additional costs or adverse effect on performance have been caused by The Service Provider having been provided with fundamentally misleading information by or on behalf of The AHSN and The Service Provider could not reasonably have known that the information was incorrect or misleading at the time such information was provided. If this exception applies, The Service Provider shall be entitled to recover such reasonable additional costs from The AHSN or shall be relieved from performance of certain obligations as shall be determined by the Change Control Procedure.

4.7 Nothing in this clause 4 shall limit or exclude the liability of The AHSN for fraud or fraudulent misrepresentation.

4.8 The Service Provider warrants and undertakes that all information, statements and representations contained in the Tender Response and its response to the DPS invitation to tender are true, accurate and not misleading in all material

respects (save as may have been specifically disclosed in writing to The AHSN before the date of this Agreement) and it will promptly advise The AHSN of any fact, matter or circumstance of which it may become aware during the Term that would render any such information, statement or representation to be false or misleading;

## **The Services**

### **5. Supply of Services**

- 5.1 The Service Provider shall provide the Services to The AHSN with effect from the Effective Date and for the duration of this Agreement in accordance with the provisions of this Agreement.
- 5.2 In the event that The Service Provider does not comply with the provisions of clause 5.1 in any way, The AHSN may serve The Service Provider with a notice in writing setting out the details of The Service Provider's default (a **Default Notice**).

### **6. Service Standards**

- 6.1 The Service Provider shall provide the Services:
- (a) with reasonable skill and care and in accordance with the best practice prevailing in the technology transfer industry from time to time.
  - (b) in all respects in accordance with The AHSN 's policies.
  - (c) in accordance with all applicable laws; and
  - (d) in accordance with the Tender Response.
- 6.2 Without limiting the general obligation set out in clause 6.1, The Service Provider shall (and shall procure that the Service Provider's Personnel shall):
- (a) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this agreement. The Service Provider shall also undertake, or refrain from undertaking, such acts as The AHSN requests so as to enable The AHSN to comply with its obligations under the Human Rights Act 1998; and
  - (b) not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination in employment.

## **7. Health and Safety**

- 7.1 The Service Provider shall promptly notify The AHSN of any health and safety hazards, which may arise in connection with the performance of the Agreement. The AHSN shall promptly notify The Service Provider of any health and safety hazards that may exist or arise at AHSN's Premises and that may affect The Service Provider in the performance of the Agreement.
- 7.2 While on AHSN's Premises, The Service Provider shall comply with any health and safety measures implemented by The AHSN in respect of staff and other persons working on AHSN's Premises.
- 7.3 The Service Provider shall notify The AHSN immediately in the event of any incident occurring in the performance of the Agreement on AHSN's Premises where that incident causes any personal injury or damage to property that could give rise to personal injury.
- 7.4 The Service Provider shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations, and codes of practice relating to health and safety, which may apply to staff and other persons working on AHSN's Premises in the performance of the Agreement.
- 7.5 The Service Provider shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to The AHSN on request.

## **8. AHSN's Premises and Assets**

- 8.1 The AHSN shall, subject to clause 7 and clause 11, provide The Service Provider with access to such parts of AHSN's Premises as The Service Provider reasonably requires for the purposes only of properly providing the Services.
- 8.2 Subject to the requirements of clause 27, in the event of the expiry or termination of this Agreement, The AHSN shall on reasonable notice provide The Service Provider with such access as The Service Provider reasonably requires to AHSN's Premises to remove any of The Service Provider's equipment. All such equipment shall be promptly removed by The Service Provider.
- 8.3 The Service Provider shall ensure that:
- (a) where using AHSN's Premises and any AHSN Assets they are kept properly secure, and it will comply and cooperate with The AHSN's

Authorised Representative's reasonable directions regarding the security of the same.

- (b) only those of the Service Provider's Personnel that are duly authorised to enter upon AHSN's Premises for the purposes of providing the Services, do so.
- (c) any AHSN Assets used by The Service Provider are maintained (or restored at the end of the Term) in the same or similar condition as at the Effective Date (fair wear and tear excepted) and are not removed from AHSN's Premises unless expressly permitted under this Agreement or by The AHSN 's Authorised Representative.

8.4 The AHSN shall maintain and repair the AHSN Assets, however, where such maintenance or repair arises directly from the act, omission, default or negligence of The Service Provider or the Service Provider's Personnel (fair wear and tear excluded) the costs incurred by The AHSN in maintaining and repairing such AHSN Assets shall be recoverable from The Service Provider as a debt.

8.5 The Service Provider shall notify The AHSN immediately on becoming aware of any damage caused by The Service Provider, its agents, employees or Sub-Contractors to any property of the AHSN, to any of the AHSN 's Premises or to any property of any other recipient of the Services in the course of providing the Services.

## **Charges and Payment**

### **9. Payment**

9.1 In consideration of the provision of the Services by The Service Provider in accordance with the terms and conditions of this Agreement, The AHSN shall pay the Charges to The Service Provider in accordance with the Schedule 2.

9.2 The Service Provider shall invoice The AHSN for payment of the Charges at the time the Charges are expressed to be payable in accordance with the Schedule 2.

9.3 The AHSN shall pay the Charges which have become payable in accordance with the Schedule 2 within 30 days of receipt of an undisputed invoice from The Service Provider.

9.4 Where either party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be determined in accordance with clause 14. Provided that the

sum has been disputed in good faith, interest due on any sums in dispute shall not accrue until the earlier of 30 days after resolution of the dispute between the parties.

- 9.5 Subject to clause 9.4, interest shall be payable on the late payment of any undisputed Charges properly invoiced under this Agreement in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. The Service Provider shall not suspend the supply of the Services if any payment is overdue.
- 9.6 The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by The AHSN following delivery of a valid VAT invoice. The Service Provider shall indemnify The AHSN against any liability (including any interest, penalties or costs incurred) which is levied, demanded, or assessed on The AHSN at any time in respect of The Service Provider's failure to account for, or to pay, any VAT relating to payments made to The Service Provider under this Agreement.
- 9.7 The Service Provider shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to The AHSN pursuant to this Agreement. Such records shall be retained for inspection by The AHSN for such time as The AHSN may reasonably direct.
- 9.8 Where The Service Provider enters into a Sub-Contract with a supplier or contractor for the purpose of performing the Agreement, it shall cause a term to be included in such a Sub-Contract that requires payment to be made of undisputed sums by The Service Provider to the Sub-Contractor within a specified period not exceeding 30 days from the receipt of a valid invoice, as defined by the Sub-Contract requirements.
- 9.9 The Service Provider shall make any payments due to The AHSN without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise, unless The AHSN has given its prior express written consent for this, or The Service Provider has a valid court order requiring an amount equal to such deduction to be paid by The AHSN to The Service Provider.

## **Staff**

### **10. Key Personnel**

- 10.1 Each party shall appoint the persons named as such in Schedule 3 as the individuals who shall be responsible for the matters allocated to such Key Personnel. The Key Personnel shall be those people who are identified by each party as being key for the delivery of the Services and who shall be retained for

such time as is required to perform the role which has been allocated to the applicable Key Personnel. The Key Personnel shall have the authority to act on behalf of their respective party on the matters for which they are expressed to be responsible.

10.2 The Service Provider shall not remove or replace any of the Key Personnel unless:

- (a) requested to do so by the AHSN.
- (b) the person is on long-term sick leave.
- (c) the element of the Services in respect of which the individual was engaged has been completed to The AHSN 's satisfaction.
- (d) the person resigns from their employment with The Service Provider;  
or
- (e) The Service Provider obtains the prior written consent of the AHSN.

10.3 The Service Provider shall inform The AHSN of the identity and background of any replacements for any of the Key Personnel as soon as a suitable replacement has been identified.

10.4 Each party shall ensure that the role of each of its Key Personnel is not vacant (in terms of a permanent representative) for more than 15 Working Days. Any replacement shall be as, or more, qualified and experienced as the previous incumbent and fully competent to carry out the tasks assigned to the Key Personnel whom they have replaced. A temporary replacement shall be identified with immediate effect from The Service Provider or The AHSN becoming aware of the role becoming vacant.

10.5 If The Service Provider replaces the Key Personnel as a consequence of this clause 10, the cost of effecting such replacement shall be borne by The Service Provider.

## **11. Other Personnel Used to Provide the Services**

11.1 At all times, The Service Provider shall ensure that:

- (a) each of the Service Provider's Personnel is suitably qualified, adequately trained, and capable of providing the applicable Services in respect of which they are engaged.
- (b) there is an adequate number of Service Provider's Personnel to provide the Services properly;

- (c) only those people who are authorised by The Service Provider (under the authorisation procedure to be agreed between the parties) are involved in providing the Services; and
  - (d) all of The Service Provider's Personnel comply with all of The AHSN's policies including those that apply to persons who are allowed access to the applicable AHSN 's Premises.
- 11.2 The AHSN may refuse to grant access to, and remove, any of the Service Provider's Personnel who do not comply with any such policies, or if they otherwise present a security threat.
- 11.3 The Service Provider shall replace any of the Service Provider's Personnel whom The AHSN reasonably decides have failed to carry out their duties with reasonable skill and care. Following the removal of any of the Service Provider's Personnel for any reason, The Service Provider shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services.
- 11.4 The Service Provider shall maintain up-to-date personnel records on the Service Provider's Personnel engaged in the provision of the Services and, on request, provide reasonable information to The AHSN on the Service Provider's Personnel. The Service Provider shall ensure at all times that it has the right to provide these records in compliance with the applicable Data Protection Legislation.
- 11.5 The Service Provider shall use its best endeavours to ensure continuity of personnel and to ensure that the turnover rate of its staff engaged in the provision or management of the Services is at least as good at the prevailing industry norm for similar services, locations, and environments.

## **Contract Management**

### **12. Reporting and Meetings**

- 12.1 The Service Provider shall provide regular Management Reports to The AHSN.

### **13. Monitoring**

- 13.1 The AHSN may monitor the performance of the Services by The Service Provider.

13.2 The Service Provider shall co-operate, and shall procure that its Sub-Contractors co-operate, with The AHSN in carrying out the monitoring referred to in clause 13.1 at no additional charge to The AHSN.

#### **14. Dispute Resolution**

14.1 Either party may call an extraordinary meeting of the parties by service of not less than 5 days' written notice and each party agrees to procure that its Authorised Representative together with any other member of Key Personnel requested to attend by The AHSN (if any) shall attend all extraordinary meetings called in accordance with this clause.

14.2 The members of the relevant meeting shall use their best endeavours to resolve disputes arising out of this Agreement. If any dispute referred to a meeting is not resolved at that meeting then either party, by notice in writing to the other party, may refer the dispute to senior management of the two parties who shall co-operate in good faith to resolve the dispute as amicably as possible within 14 days of service of such notice. If the senior management fail to resolve the dispute in the allotted time, then the parties shall, within that period, on the written request of either party enter into an alternative Dispute Resolution Procedure with the assistance of a mediator agreed by the parties or, in default of such agreement within seven days of receipt of such request, appointed, at the request of either party, by the Centre for Dispute Resolution or such other similar body as is agreed.

14.3 The parties shall then submit to the supervision of the mediation by such dispute resolution organisation as shall be agreed by the parties.

14.4 Recourse to this Dispute Resolution Procedure shall be binding on the parties as to submission to the mediation but not as to its outcome. Accordingly, all negotiations connected with the dispute shall be conducted in strict confidence and without prejudice to the rights of the parties in any future legal proceedings. Except for any party's right to seek interlocutory relief in the courts, no party may commence other legal proceedings under the jurisdiction of the courts or any other form of arbitration until 21 days after the parties have failed to reach a binding settlement by mediation (at which point the Dispute Resolution Procedure shall be deemed to be exhausted).

14.5 If, with the assistance of the mediator, the parties reach a settlement, such settlement shall be reduced to writing and, once signed by the Authorised Representatives of each of the parties, shall remain binding on the parties.

14.6 The parties shall bear their own legal costs of this Dispute Resolution Procedure, but the costs and expenses of mediation shall be borne by the parties equally.

14.7 While the Dispute Resolution Procedure referred to in this clause 14 is in progress and any party has an obligation to make a payment to another party or to allow a credit in respect of such payment, the sum relating to the matter in dispute shall be paid into an interest bearing deposit account to be held in the names of the relevant parties at a clearing bank and such payment shall be a good discharge of the parties' payment obligations under this Agreement. Following resolution of the dispute, whether by mediation or legal proceedings, the sum held in such account shall be payable as determined in accordance with the mediation or legal proceedings, and the interest accrued shall be allocated between the parties' pro rata according to the split of the principal sum as between the parties.

## **15. Sub-Contracting and Assignment**

15.1 Subject to clause 15.3, neither party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement without the prior written consent of the other party, neither may The Service Provider sub-contract the whole or any part of its obligations under this Agreement except with the express prior written consent of The AHSN.

15.2 In the event that The Service Provider enters into any Sub-Contract in connection with this Agreement it shall:

- (a) remain responsible to The AHSN for the performance of its obligations under this Agreement notwithstanding the appointment of any Sub-Contractor and be responsible for the act's omissions and neglects of its Sub-Contractors;
- (b) impose obligations on its Sub-Contractor in the same terms as those imposed on it pursuant to this Agreement and shall procure that the Sub-Contractor complies with such terms; and
- (c) provide a copy, at no charge to The AHSN, of any such Sub-Contract on receipt of a request for such by The AHSN's Authorised Representative.

15.3 The AHSN shall be entitled to novate the Agreement to any other body which substantially performs any of the functions that previously had been performed by The AHSN.

## **Liability**

## **16. Indemnities**

The Service Provider shall indemnify and keep indemnified The AHSN against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever whether arising in tort (including negligence) default or breach of this Agreement, to the extent that any such loss or claim is due to the breach of contract, negligence, wilful default or fraud of The Service Provider, the Service Provider's Personnel or a Sub-Contractor, save to the extent that the same is directly caused by or directly arises from the negligence, breach of this Agreement or applicable law by The AHSN.

## **17. Limitation of Liability**

- 17.1 Subject to clause 17.3, neither party shall be liable to the other party (as far as permitted by law) for indirect special or consequential loss or damage in connection with the Agreement which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect.
- 17.2 Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to this Agreement.
- 17.3 Notwithstanding any other provision of this Agreement neither party limits or excludes its liability for:
- (a) fraud or fraudulent misrepresentation;
  - (b) death or personal injury caused by its negligence;
  - (c) breach of any obligation as to title implied by statute; or
  - (d) any other act or omission, liability for which may not be limited under any applicable law.

## **18. Insurance**

- 18.1 The Service Provider shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing as a minimum the following levels of cover:
- (a) public liability insurance with a limit of indemnity of not less than £10 million in relation to any one claim or series of claims;
  - (b) employer's liability insurance with a limit of indemnity in accordance with any legal requirement for the time being in force in relation to any one claim or series of claims;

- (c) professional indemnity insurance with a limit of indemnity of not less than £2 million in relation to any one claim or series of claims and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover;

(the **Required Insurances**) in respect of all risks which may be incurred by The Service Provider, arising out of The Service Provider's performance of the Agreement, 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 Service Provider.

- 18.2 The Service Provider shall give The AHSN, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 18.3 If, for whatever reason, The Service Provider fails to give effect to and maintain the Required Insurances, The AHSN may make alternative arrangements to protect its interests and may recover the costs of such arrangements from The Service Provider.
- 18.4 The terms of any insurance or the amount of cover shall not relieve The Service Provider of any liabilities under the Agreement.
- 18.5 The Service Provider shall hold and maintain the Required Insurances for a minimum of six years following the expiration or earlier termination of the Agreement.

## **Information**

### **19. Freedom of Information**

- 19.1 The Service Provider acknowledges that The AHSN may be subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and co-operate with The AHSN (at The Service Provider's expense) to enable The AHSN to comply with any relevant information disclosure requirements.
- 19.2 The Service Provider shall and shall procure that its Sub-Contractors shall:
  - (a) transfer the Request for Information to The AHSN as soon as practicable after receipt and in any event within two Working Days of receiving a Request for Information;

- (b) provide The AHSN with a copy of all Information in its possession or power in the form that The AHSN requires within five Working Days (or such other period as the AHSN may specify) of The AHSN requesting that Information; and
  - (c) provide all necessary assistance as reasonably requested by The AHSN to enable The AHSN to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 19.3 The AHSN shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other Information:
  - (a) is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations; and/or
  - (b) is to be disclosed in response to a Request for Information.
- 19.4 In no event shall The Service Provider respond directly to a Request for Information unless expressly authorised to do so by The AHSN.
- 19.5 The Service Provider acknowledges that The AHSN may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations to disclose Information:
  - (a) without consulting with The Service Provider; or
  - (b) following consultation with The Service Provider and having taken its views into account,

provided always that where clause 19.5(b) applies The AHSN shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give The Service Provider advanced notice, or failing that, to draw the disclosure to The Service Provider's attention after any such disclosure.
- 19.6 The Service Provider shall ensure that all Information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit The AHSN to inspect such records as requested from time to time.
- 19.7 The Service Provider acknowledges that any lists or Schedules provided by it outlining Confidential Information are of indicative value only and that The AHSN may nevertheless be obliged to disclose Confidential Information in accordance with clause 19.5.

## **20. Data Protection**

- 20.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause 20.1 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 20.2 Notwithstanding the general obligation in clause 20.1, where The Service Provider is processing Personal Data on behalf of The AHSN, the Service Provider is the data processor and The AHSN is the data controller (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation). Schedule 4 sets out the scope, nature and purpose of processing by The Service Provider, the duration of the processing and the types of Personal Data and categories of Data Subject (both as defined in the Data Protection Legislation).
- 20.3 Without prejudice to the generality of Clause 20.1, The Service Provider shall, in relation to any Personal Data processed in connection with the performance by The Service Provider of its obligations under this Agreement:
- (a) process that Personal Data only on the written instructions of The AHSN;
  - (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by The AHSN, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
  - (c) ensure that all the Service Provider's Personnel (including any Sub-Contractor) who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
  - (d) not transfer any Personal Data outside of the United Kingdom unless the prior written consent of The AHSN has been obtained and the following conditions are fulfilled:
    - (i) The AHSN or The Service Provider has provided appropriate safeguards in relation to the transfer;

- (ii) the data subject has enforceable rights and effective legal remedies;
  - (iii) The Service Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
  - (iv) The Service Provider complies with reasonable instructions notified to it in advance by The AHSN with respect to the processing of the Personal Data;
- (e) assist The AHSN in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - (f) notify The AHSN without undue delay on becoming aware of a Personal Data breach;
  - (g) at the written direction of The AHSN, delete or return Personal Data and copies thereof to The AHSN on termination of this Agreement unless required by applicable law to store the Personal Data;
  - (h) maintain complete and accurate records and information to demonstrate its compliance with this Clause 20 and allow for audits by The AHSN or The AHSN's designated auditor; and
  - (i) indemnify The AHSN against any loss or damage suffered by The AHSN in relation to any breach by The Service Provider of its obligations under this clause 20.

20.4 The AHSN does not consent to The Service Provider appointing any third party processor of Personal Data under this agreement.

20.5 The AHSN may, at any time on not less than 30 days' notice, revise this Clause 20 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Agreement).

## **21. Confidentiality**

21.1 Subject to clause 21.2, the parties shall keep confidential all matters relating to this Agreement and shall use all reasonable endeavours to prevent their officers, employees, workers, advisers, agents, consultants and contractors (including any Sub-Contractor) from making any disclosure to any person of any matters relating hereto.

21.2 Clause 21.1 shall not apply to any disclosure of information:

- (a) required by any applicable law, provided that clause 19.1 shall apply to any disclosures required under the FOIA or the Environment Information Regulations;
- (b) that is reasonably required by persons engaged by a party in the performance of such party's obligations under this Agreement;
- (c) where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 21.1;
- (d) by The AHSN of any document to which it is a party and which the parties to this Agreement have agreed contains no commercially sensitive information;
- (e) to enable a determination to be made under clause 14;
- (f) which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
- (g) by The AHSN to any other department, office or agency of the Government; and
- (h) by The AHSN relating to this Agreement and in respect of which The Service Provider has given its prior written consent to disclosure.

21.3 On or before the Termination Date The Service Provider shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of The AHSNs' employees, rate-payers or service users, are delivered up to The AHSN or securely destroyed.

## **22. Audit**

22.1 During the Term and for a period of three years after the Termination Date, The AHSN may conduct or be subject to an audit for the following purposes:

- (a) to verify the accuracy of Charges (and proposed or actual variations to them in accordance with this Agreement) and/or the costs of all suppliers (including Sub-Contractors) of the Services;
- (b) to review the integrity, confidentiality and security of any data relating to The AHSN or any service users;
- (c) to review The Service Provider's compliance with the DPA, the FOIA, in accordance with clause 20 (Data Protection) and clause 19 (Freedom of Information) and any other legislation applicable to the Services;
- (d) to review any records created during or in connection with the provision of the Services;
- (e) to review any books of account kept by The Service Provider in connection with the provision of the Services;

- (f) to carry out the audit and certification of The AHSN' s accounts;
  - (g) to verify the accuracy and completeness of the Management Reports delivered or required by this Agreement.
  
- 22.2 Except where an audit is imposed on The AHSN by a regulatory body, The AHSN may not conduct an audit under this clause 22 more than twice in any calendar year.
  
- 22.3 The AHSN shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt The Service Provider or delay the provision of the Services.
  
- 22.4 Subject to The AHSN 's obligations of confidentiality, The Service Provider shall on demand provide The AHSN and any relevant regulatory body (and/or their agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
  - (a) all information requested by the above persons within the permitted scope of the audit;
  - (b) reasonable access to any sites controlled by The Service Provider and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services; and
  - (c) access to the Service Provider's Personnel.
  
- 22.5 The AHSN shall endeavour to (but is not obliged to) provide at least 14 days' notice of its or, where possible, a regulatory body's, intention to conduct an audit.
  
- 22.6 The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause, unless the audit identifies a material failure to perform its obligations under this Agreement in any material manner by The Service Provider in which case The Service Provider shall reimburse The AHSN for all The AHSN 's reasonable costs incurred in the course of the audit.
  
- 22.7 If an audit identifies that:
  - (a) The Service Provider has failed to perform its obligations under this Agreement in any material manner, the parties shall agree and implement a remedial plan. If The Service Provider's failure relates to a failure to provide any information to The AHSN about the Charges, proposed Charges or The Service Provider's costs, then the remedial plan shall include a requirement for the provision of all such information;

- (b) The AHSN has overpaid any Charges, The Service Provider shall pay to The AHSN the amount overpaid within 21 days. The AHSN may deduct the relevant amount from the Charges if The Service Provider fails to make this payment; and
- (c) The AHSN has underpaid any Charges, The AHSN shall pay to The Service Provider the amount of the under-payment (less the cost of audit incurred by The AHSN if this was due to a default by The Service Provider in relation to invoicing) within 21 days.

## **23. Intellectual Property**

23.1 In relation to The AHSN Assets The AHSN and its licensors shall retain ownership of all Intellectual Property Rights in The AHSN Assets.

23.2 In relation to the Deliverables:

- (a) The Service Provider assigns to The AHSN, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the Deliverables;
- (b) The Service Provider shall obtain waivers of all moral rights in the Deliverables to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction; and
- (c) The Service Provider shall, promptly at The AHSN's request and without charge, do (or procure to be done) all such further acts and things and the execution of all such other documents as The AHSN may from time to time require for the purpose of securing for The AHSN all right, title and interest in and to the Intellectual Property Rights assigned to The AHSN in accordance with Clause 23.2(a).

23.3 The assignment under clause 23.2(a) shall either take effect on the Effective Date or as a present assignment of future rights that shall take effect immediately on the coming into existence of the relevant Deliverables.

23.4 The Service Provider:

- (a) warrants that the receipt, use and onward supply of the Services and the Deliverables (excluding The AHSN Assets) by The AHSN and its permitted sub-licensees shall not infringe the rights, including any Intellectual Property Rights, of any third party; and
- (b) shall indemnify The AHSN in full against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by The

AHSN arising out of, or in connection with, the receipt, use or supply of the Services and the Deliverables (excluding The AHSN Assets). This clause 23.4 shall survive termination of this Agreement.

## Termination

### 24. Termination for Breach

24.1 The AHSN may terminate this Agreement with immediate effect by the service of written notice on The Service Provider in the following circumstances:

- (a) if The Service Provider is in breach of any material obligation under this Agreement provided that if the breach is capable of remedy, The AHSN may only terminate this Agreement under this clause 24.1 if The Service Provider has failed to remedy such breach within 28 days of receipt of notice from The AHSN (a **Remediation Notice**) to do so;
- (b) if a Consistent Failure has occurred;
- (c) if a Catastrophic Failure has occurred;
- (d) if a resolution is passed or an order is made for the winding up of The Service Provider (otherwise than for the purpose of solvent amalgamation or reconstruction) or The Service Provider becomes subject to an administration order or a receiver or administrative receiver is appointed over or an encumbrancer takes possession of any of The Service Provider's property or equipment;
- (e) if The Service Provider ceases or threatens to cease to carry on business in the United Kingdom;
- (f) if there is a change of control (as defined in section 574 of the Capital Allowances Act 2001) of The Service Provider to which The AHSN reasonably objects;
- (g) if the Agreement has been substantially amended to the extent that the Public Contracts Regulations require a new procurement procedure;
- (h) if The AHSN has become aware that The Service Provider should have been excluded under Regulation 57(1) or (2) of the Public Contracts Regulations from the procurement procedure leading to the award of this Agreement or appointment to the DPS; or
- (i) where The AHSN terminates any other contract awarded to The Service Provider under the DPS as a consequence of the default by The Service Provider (as defined in that contract).

24.2 The Service Provider shall notify The AHSN in writing immediately and in any event within 7 calendar days of The Service Provider becoming aware of any of the circumstances listed in clause 24.1(h) applying.

- 24.3 The AHSN may terminate this Agreement in accordance with the provisions of clause 25.7.
- 24.4 If this Agreement is terminated by The AHSN for cause such termination shall be at no loss or cost to The AHSN and The Service Provider hereby indemnifies The AHSN against any such losses or costs which The AHSN may suffer as a result of any such termination for cause.
- 24.5 The Service Provider may terminate this Agreement in the event that The AHSN commits a Termination Payment Default by giving 30 days' written notice to The AHSN. In the event that The AHSN remedies the Termination Payment Default in the 30 day notice period, The Service Provider's notice to terminate this Agreement shall be deemed to have been withdrawn.

## **25. Force Majeure**

- 25.1 Subject to the remaining provisions of this clause 25, neither party to this Agreement shall be liable to the other for any delay or non-performance of its obligations under this Agreement to the extent that such non-performance is due to a Force Majeure Event.
- 25.2 In the event that either party is delayed or prevented from performing its obligations under this Agreement by a Force Majeure Event, such party shall:
- (a) give notice in writing of such delay or prevention to the other party as soon as reasonably possible, stating the commencement date and extent of such delay or prevention, the cause thereof and its estimated duration;
  - (b) use all reasonable endeavours to mitigate the effects of such delay or prevention on the performance of its obligations under this Agreement; and
  - (c) resume performance of its obligations as soon as reasonably possible after the removal of the cause of the delay or prevention.
- 25.3 A party cannot claim relief if the Force Majeure Event is attributable to that party's wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event.
- 25.4 The Service Provider cannot claim relief if the Force Majeure Event is one where a reasonable service provider should have foreseen and provided for the cause in question.

- 25.5 As soon as practicable following the affected party's notification, the parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Agreement. Where The Service Provider is the affected party, it shall take and/or procure the taking of all steps to overcome or minimise the consequences of the Force Majeure Event in accordance with Best Industry Practice.
- 25.6 The affected party shall notify the other party as soon as practicable after the Force Majeure Event ceases or no longer causes the affected party to be unable to comply with its obligations under this Agreement. Following such notification, this Agreement shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure Event unless agreed otherwise by the parties.
- 25.7 The AHSN may, during the continuance of any Force Majeure Event, terminate this Agreement by written notice to The Service Provider if a Force Majeure Event occurs that affects all or a substantial part of the Services and which continues for more than 45 Working Days.

## **26. Prevention of Bribery**

- 26.1 The Service Provider:
- (a) shall not, and shall procure that any Service Provider Party and all Service Provider's Personnel shall not, in connection with this Agreement commit a Prohibited Act;
  - (b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by The AHSN, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to The AHSN before execution of this Agreement.
- 26.2 The Service Provider shall:
- (a) if requested, provide The AHSN with any reasonable assistance, at The AHSN 's reasonable cost, to enable The AHSN to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
  - (b) within 15 Working Days of prior written request, certify to The AHSN in writing (such certification to be signed by an officer of The Service Provider) compliance with this clause 26 by The Service Provider and all persons associated with it or other persons who are supplying goods or services in connection with this Agreement. The Service

Provider shall provide such supporting evidence of compliance as The AHSN may reasonably request.

- 26.3 The Service Provider shall have an anti-bribery policy (which shall be disclosed to The AHSN) to prevent any Service Provider Party or Service Provider's Personnel from committing a Prohibited Act and shall enforce it where appropriate.
- 26.4 If any breach of clause 26.1 is suspected or known, The Service Provider must notify The AHSN immediately.
- 26.5 If The Service Provider notifies The AHSN that it suspects or knows that there may be a breach of clause 26.1, The Service Provider must respond promptly to The AHSN 's enquiries, co-operate with any investigation, and allow The AHSN to audit books, records and any other relevant documentation.
- 26.6 The AHSN may terminate this Agreement by written notice with immediate effect if The Service Provider, Service Provider Party or Service Provider's Personnel (in all cases whether or not acting with The Service Provider's knowledge) breaches clause 26.1.
- 26.7 Any notice of termination under clause 26.6 must specify:
- (a) the nature of the Prohibited Act;
  - (b) the identity of the party whom The AHSN believes has committed the Prohibited Act; and
  - (c) the date on which this Agreement will terminate.
- 26.8 Despite clause 14 (Dispute resolution), any dispute relating to:
- (a) the interpretation of clause 26; or
  - (b) the amount or value of any gift, consideration or commission,
- shall be determined by The AHSN and its decision shall be final and conclusive.
- 26.9 Any termination under clause 26.6 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to The AHSN.

## **27. Consequences of Termination**

- 27.1 On the expiry of the Term or if this Agreement is terminated in whole or in part for any reason the provisions of an agreed exit management plan shall come into effect and The Service Provider shall co-operate fully with The AHSN to

ensure an orderly migration of the Services to The AHSN or, at The AHSN 's request, a Replacement Service Provider.

27.2 On termination of this Agreement and on satisfactory completion of the exit management plan (or where reasonably so required by The AHSN before such completion) The Service Provider shall procure that all data and other material belonging to The AHSN (and all media of any nature containing information and data belonging to The AHSN or relating to the Services), shall be delivered to The AHSN forthwith and The Service Provider's Authorised Representative shall certify full compliance with this clause.

27.3 The provisions of clause 16 (Indemnities), clause 18 (Insurance), clause 19 (Freedom of Information), clause 20 (Data Protection), clause 22 (Audit), clause 24 (Termination for Breach) and this clause 27 (Consequences of termination) shall survive termination or expiry of this Agreement.

## **General Provisions**

### **28. Non-Solicitation**

Neither party shall (except with the prior written consent of the other) during the term of this Agreement, and for a period of one year thereafter, solicit the services of any senior staff of the other party who have been engaged in the provision of the Services or the management of this Agreement or any significant part thereof either as principal, agent, employee, independent contractor or in any other form of employment or engagement other than by means of an open regional advertising campaign and not specifically targeted at such staff of the other party.

### **29. Waiver**

No forbearance or delay by either party in enforcing its respective rights will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach. In particular, but without limitation to the generality of the foregoing, any prior acceptance or approval communicated by The AHSN to The Service Provider in respect of the Services or any omission on the part of The AHSN to communicate such prior acceptance or approval shall not relieve The Service Provider of its obligations to deliver the Services in accordance with the provisions of this Agreement.

### **30. Cumulation of Remedies**

Subject to the specific limitations set out in this Agreement, no remedy conferred by any provision of this Agreement is intended to be exclusive of any

other remedy except as expressly provided for in this Agreement and each and every remedy shall be cumulative and shall be in addition to every other remedy given thereunder or existing at law or in equity by statute or otherwise.

**31. Severability**

If any of the provisions of this Agreement is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced.

**32. Partnership or Agency**

Nothing in this Agreement shall be construed as constituting a partnership between the parties or as constituting either party as the agent of the other for any purpose whatsoever except as specified by the terms of this Agreement.

**33. Third Party Rights**

No term of this Agreement is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this Agreement.

**34. Publicity**

The Service Provider shall not:

- (a) make any press announcements or publicise this Agreement or its contents in any way; or
- (b) use The AHSN 's name or brand in any promotion or marketing or announcement of orders,

without the prior written consent of The AHSN.

**35. Notices**

Notices shall be in writing, and shall be sent to the other party at the address set out for such party in this Agreement. Notices may be sent by first-class mail or email transmission. Correctly addressed notices sent by first-class mail shall be deemed to have been delivered 72 hours after posting and correctly directed email transmissions shall be deemed to have been received instantaneously on transmission.

If to The AHSN, notices under this Agreement may be sent via email to [legal@ahsn-nenc.org.uk](mailto:legal@ahsn-nenc.org.uk)

If to The Service Provider, notices under this Agreement may be sent via email to [email address for notices]

**36. Entire Agreement**

This Agreement, the schedules and the documents annexed to it or otherwise referred to in it contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

**37. Counterparts**

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement.

**38. Governing Law and Jurisdiction**

38.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England and Wales.

38.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter.

This Agreement has been entered into on the date stated at the beginning of it.

Signed by **Dr Nicola Hutchinson** )  
for and on behalf of **THE ACADEMIC** )  
**HEALTH SCIENCE NETWORK FOR** )  
**THE NORTH EAST AND NORTH** )  
**CUMBRIA LIMITED**

Authorised Signatory \_\_\_\_\_

Date \_\_\_\_\_

Signed by [name of Authorised )  
Signatory] )  
for and on behalf of [NAME OF THE )  
SERVICE PROVIDER]

Authorised Signatory \_\_\_\_\_

Date \_\_\_\_\_

## **Schedule 1 – The Services**

[Definition of the Services]

## Schedule 2 - Charges

<b>Services</b>	<b>Amount (ex VAT)</b>
<b>As defined in Schedule 1</b>	£[Amount excluding VAT]
<b>Total</b>	<b>£[Amount excluding VAT]</b>

### Payment Plan

<b>Instalment</b>	<b>Due</b>	<b>Amount (excl. VAT)</b>
1		
2		
<b>Total</b>		

Payment will be initiated within 30 days following the receipt of a valid invoice.

Invoices shall be addressed to The Academic Health Science Network for the North East and North Cumbria Limited, at the business address shown below, and shall be marked for the attention of Finance. Invoices shall also be sent via email to AHSN NENC Finance at the following email address: [finance@ahsn-nenc.org.uk](mailto:finance@ahsn-nenc.org.uk).

The Academic Health Science Network for the North East and North Cumbria Limited  
Room 2.13  
Biomedical Research Building  
The Campus for Ageing and Vitality  
Nuns Moor Road  
Newcastle upon Tyne  
NE4 5PL

## Schedule 3 - Contract Management

### **Authorised Representatives**

The AHSN's initial Authorised Representative: Dr Nicola Hutchinson, whose principal place of business is at Biomedical Research Building, Campus for Ageing and Vitality, University of Newcastle, Nuns Moor Road, Newcastle-upon-Tyne, NE4 5PL.

The Service Provider's initial Authorised Representative: [Name of The Service Provider's Authorised Representative], whose principal place of business is at [address].

### **Key Personnel**

For The Service Provider:

[Name] [(email address)]

[Add as many as required]

For The AHSN: [if required, otherwise delete]

[Name] [(email address)]

[Add as many as required]

Schedule 4 - Processing, Personal Data and Data Subjects

**1. PROCESSING BY THE SERVICE PROVIDER**

**1.1 SCOPE**

ANY SERVICES THAT THE AHSN ASKS THE SERVICE PROVIDER TO PROVIDE, UNDER THE TERMS OF THIS AGREEMENT.

**1.2 PURPOSE OF PROCESSING**

TO ENABLE THE SERVICE PROVIDER TO CARRY OUT SERVICES UNDER THIS AGREEMENT.

**1.3 DURATION OF THE PROCESSING**

THE DURATION OF THIS AGREEMENT

**2. CATEGORIES OF DATA SUBJECT**

PERSONAL DETAILS INCLUDING FULL NAME, ADDRESS, OCCUPATION, EMAIL ADDRESS, TELEPHONE NUMBER, AND ANY OTHER PERSONAL DETAILS IDENTIFIED UNDER THIS AGREEMENT.