

DATED

- (1) THE MEDICAL RESEARCH COUNCIL, AS PART OF UK RESEARCH AND INNOVATION, ACTING FOR THE NATIONAL CENTRE FOR THE REPLACEMENT, REFINEMENT AND REDUCTION OF ANIMALS IN RESEARCH

And

- (2) **[please insert CONTRACTOR name]**

## PARTIES AND RECITALS

This Agreement is made between

- (1) **MEDICAL RESEARCH COUNCIL**, as part of United Kingdom Research and Innovation (also known as UK Research and Innovation) a body corporate pursuant to section 91 of the Higher Education and Research Act 2017 whose address is Polaris House, North Star Avenue, Swindon, SN2 1FL ("UKRI") (hereinafter called "MRC"); and
- (2) **[Please insert contractor name]** ("the Contractor") .....

### WHEREAS:

1. The National Centre for the Replacement, Refinement and Reduction of Animals in Research whose office is at Gibbs Building 215 Euston Road, London NW1 2BE ("the NC3Rs") is an independent scientific organisation, tasked by Government with supporting the UK science base through the application of the replacement, reduction and refinement of the use of animals in research (the "3Rs"). Though it is represented legally by the MRC, which in turn is part of the executive non-departmental public body UK Research and Innovation, the NC3Rs is managed independently. To avoid doubt, references in this Agreement to the NC3Rs shall mean MRC as part of UK Research and Innovation.
2. The NC3Rs has initiated CRACK IT Challenges to facilitate the development of technologies with potential 3Rs benefits into new products and methodologies for the global biosciences research community (<https://www.nc3rs.org.uk/crackit/>) (the "CRACK IT Challenges").
3. The NC3Rs is commissioning a Study entitled **[project title]**, with project number **[project number]**, via the Contractor to be delivered in a specific timeline and for the Funding to meet the deliverables set out in Annex 1.
4. Following the completion of the Study, the Contractor submits a final report demonstrating the work undertaken during the Study and, if appropriate, an application for Phase 2 funding.
5. The Study is a public procurement exercise under the broad framework of Pre-Commercial Procurement.

IT IS HEREBY AGREED as follows

### Terms and conditions

#### 1. DEFINITIONS

|   |  |
|---|--|
| <b>"Agreement"</b>                        | means this Agreement concluded between the Parties including all sections to it;   |
| <b>"Background Intellectual Property"</b> | means in respect of each Party, any Intellectual Property owned by or licensed to that Party:<br><br>(a) before the start date of this Agreement; and/or<br><br>(b) which arises (or in the case of a licence commences) on or after the start date other than in the course of or in connection with the Study; |
| <b>"Business Day"</b>                     | a day that is not a Saturday, Sunday or public or bank holiday in England and/or Wales   |
| <b>"Completion Date"</b>                  | means the end date for Phase 2 applications as specified in Clause 2;  |
| <b>"Confidential Information"</b>         | means information in any form or media that is disclosed by or on behalf of a Party or its representatives to the other whether before, on or after the date of this Agreement and that relates (in whole or part) to the other  |

or its business or the terms of or subject matter of this Agreement or any discussions or documents in relation to it, including unpublished Background Intellectual Property and Data and information which relates to the affairs, properties, assets, trading practices, goods, Services, developments, trade secrets, Intellectual Property rights, know-how, personnel, customers and suppliers of either Party, all personal data and sensitive personal data within the meaning of the Data Protection Act 2018, information relating to the Project and generally any commercially sensitive information;

- "Contractor"** means the organisation of the successful CRACK IT Challenge Phase 1 applicant and a Party to this Agreement;
- "Contractor's Representative"** means a person authorised to represent the Contractor in respect of this Agreement;
- "Costs"** means all costs (on a full indemnity basis) including legal and other professional costs and costs of enforcement;
- "Deliverables"** means the deliverables set out in Annex 1;
- "EIR"** means the Environmental Information Regulations 2004 and any subordinate legislation made under it, any amendment or re-enactment of any of them; and any guidance and/or codes of practice issued by the Information Commissioner, the Ministry of Justice (previously the Department for Constitutional Affairs and/or the Lord Chancellor) and/or Cabinet Office, or the Department for Environment Food and Rural Affairs or decisions made by other appropriate legislative bodies (including in each case its successors or assigns) in relation to such legislation from time to time, all as amended, supplemented and/or replaced from time to time;
- "FOIA"** means the Freedom of Information Act 2000, all regulations made under it and any subordinate legislation made under them, any amendment or re-enactment of any of them; and any guidance and/or codes of practice issued by the Information Commissioner, the Ministry of Justice (previously the Department for Constitutional Affairs and/or the Lord Chancellor) and/or the Cabinet Office, the Department for Environment Food and Rural Affairs or the Department for Communities and Local Government ("DCLG"), including the DCLG Local Government Transparency Code 2015, or decisions made by other appropriate legislative bodies (including in each case its successors or assignees) in relation to such legislation from time to time, all as amended, supplemented and/or replaced from time to time;
- "FOIA Laws"** means the FOIA and/or the EIR (as applicable);
- "Force Majeure Event"**
- (a) means act of God;
  - (b) war, insurrection, riot, civil commotion, act or threat of terrorism;
  - (c) lightning, earthquake, fire, flood, storm or extreme weather condition;
  - (d) change in law; or
  - (e) any other event or circumstance to the extent it is beyond the reasonable control of the relevant Party, but excluding the following:
    - (i) strikes, lockouts and industrial disputes affecting its workforce and/or the workforce of its suppliers and/or sub-contractors;

- (ii) any failure to secure a supplier or sub-contractor or any failure or default of a supplier or sub-contractor;
- (iii) breakdown or failure of plant or machinery; and
- (iv) inability to obtain essential supplies or materials;

**“Foreground Intellectual Property”** means any and all Intellectual Property identified or developed in the course of or in connection with the Study or which subsists in any or all of the Study Results;

**“Funding”** means the fixed cost of £ [cost awarded];

**“Insolvent”** means a Party is Insolvent where it:

- (i) gives notice under section 84 Insolvency Act 1986 of or proposes or passes a resolution for, its winding up or in the case of a limited liability partnership proposes or determines that it will be wound up;
- (ii) has a winding up petition presented against it;
- (iii) has a winding-up order made or a notice of striking off filed in respect of it;
- (iv) has an administration order or an application for an administration order made in respect of it;
- (v) has a notice of appointment of an administrator or a notice of intention to appoint an administrator filed in respect of it at any court;
- (vi) proposes, makes or is subject to:
  - (a) a company voluntary arrangement;
  - (b) a composition with its creditors generally;
  - (c) an application to a court of competent jurisdiction for protection from its creditors generally; or
  - (d) a scheme of arrangement under Part 26 of the Companies Act 2006;
- (vii) has a receiver or a provisional liquidator appointed over any of its assets, undertaking or income;
- (viii) ceases to trade or appears, in the reasonable opinion of the terminating Party, to be likely to cease to trade;
- (ix) is unable to pay its debts as they fall due;
- (x) the value of its assets are less than its liabilities, including its contingent and prospective liabilities;
- (xi) is the subject of anything analogous to the foregoing under the laws of any applicable jurisdiction;
- (xii) is the subject of any proceeding in any Member State of the European Union which is capable of recognition under the EC Regulation on Insolvency Proceedings (EC 1346/2000) or the EU Regulation

on Insolvency Proceedings (Recast) (EU 2015/848);  
or

- (xiii) is the subject of an application for the recognition of a foreign insolvency proceeding under the Cross-Border Insolvency Regulations 2006 (SI 2006/1030);

|                                     |   |
|-------------------------------------|---|
| <b>"Intellectual Property"</b>      | means all intellectual and industrial property of any kind including patents, supplementary protection certificates, rights in know-how, registered trademarks, registered designs, unregistered design rights, unregistered trademarks, rights to prevent passing off or unfair competition and copyright (whether in drawings, plans, specifications, designs and computer software or otherwise), database rights, topography rights, any rights in any invention, discovery or process, and applications for and rights to apply for any of the foregoing, in each case in the United Kingdom and all other countries in the world and together with all renewals, extensions, continuations, divisions, reissues, re-examinations and substitutions; |
| <b>"Losses"</b>                     | means all losses including all direct, indirect and consequential losses;   |
| <b>"NC3Rs Representative"</b>       | means a person authorised to represent the NC3Rs in respect of this Agreement;  |
| <b>"Parties"</b>                    | means the NC3Rs and the Contractor and includes their directors, employees and representatives and "Party" means either of the NC3Rs or the Contractor;   |
| <b>"Phase 1"</b>                    | means a six month proof-of-concept study;   |
| <b>"Phase 2"</b>                    | means a research contract to deliver the full CRACK IT Challenge;   |
| <b>"Pre-Commercial Procurement"</b> | means a public contract other than a public works or supplies contract having as its object the provision of services;  |
| <b>"Recoverable Liabilities"</b>    | means all Losses, liabilities, Costs, damages and expenses that the indemnified party does or will incur or suffer, all claims or proceedings made, brought or threatened against the indemnified party by any person and all Losses, liabilities, Costs, damages and expenses the indemnified party does or will incur or suffer as a result of defending or settling any such actual or threatened claim or proceeding;   |
| <b>"Request for Information"</b>    | means a request for information pursuant to the FOIA Laws received by either the NC3Rs or the Contractor, where the Confidential Information of the other Party (including the content of this Agreement) is requested;   |
| <b>"Sponsor(s)"</b>                 | means the Sponsor(s) of the CRACK IT Challenge;   |
| <b>"Study"</b>                      | means the proof of concept or "Phase 1" study for which the Funding has been awarded in relation to the CRACK IT Challenge;   |
| <b>"Study Results"</b>              | means the information, Intellectual Property, materials and products arising out of or in connection with the Study, and other tangible or intangible results and data of, any research, development or other work undertaken by or on behalf of the Contractor;  |
| <b>"Sub-contractor"</b>             | means a third party which has entered into an Agreement on business conditions with the Contractor, in order to carry out part of the work of the Study without the direct supervision of the Contractor and without a relationship of subordination.   |

## 2. DURATION

This Agreement shall be deemed to have commenced on the date it has been signed by both Parties and if not terminated earlier shall continue until [XX XX XXXX], the deadline for Phase 2 applications (the "Completion Date").

## 3. ADMINISTRATION AND DIRECTION OF THE STUDY

The Contractor is responsible for:

- 3.1 managing and completing the Study by meeting the Deliverables, within the agreed timeframe.
- 3.2 ensuring that sufficient resources are allocated to the Study and that staff, and other resources, are deployed flexibly to ensure that the Deliverables are met.
- 3.3 ensuring there are adequate terms and conditions in place with all Sub-contractors for the duration of the Study. Any sub-contracting will not relieve the Contractor from its liabilities to the NC3Rs. The Contractor will be liable to the NC3Rs for the acts and omissions of its sub-contracting in relation to this Agreement.

## 4. FUNDING PAYMENT SCHEDULE

- 4.1 The NC3Rs will use all reasonable endeavours to pay the Funding in full to the Contractor within [insert] days of receiving a signed copy of this Agreement. Time shall not be of the essence for such payment. In the event that the Contractor is unable to commence the Study until the Funding is received, it shall not be obliged to commence the Study until Funding is received provided that it provides written notice of this fact to the NC3Rs.

### 4.2 [insert either

***The Study will be funded by the NC3Rs; there will be no in-kind contributions from the Sponsors of the challenge during this phase.***

**OR**

***The Study will be funded by the NC3Rs and supported by in-kind contributions from the Sponsor(s) of the challenge as specified below.***

### ***Insert Sponsor's agreed in-kind contributions]***

- 4.3 The Contractor will comply with the requirements in Annex 2 and invoicing instructions received from the NC3Rs and will respond to any request for information from the NC3Rs and the UK Shared Business Services (UK SBS) to ensure payment can be set up promptly. The NC3Rs Finance Department will provide a purchase order number.
- 4.4 The NC3Rs reserves the right to have reasonable access to inspect the records and financial procedures associated with this contract or to appoint any other body or individual for the purpose of such inspection.
- 4.5 Payments to third parties are the responsibility of the Contractor who shall ensure that such payments are made promptly.

## 5. FINAL REPORT AND APPLICATIONS FOR PHASE 2 FUNDING

- 5.1 The Contractor is required to submit an end of Study report in the format sent to the Contractor by NC3Rs by 12 noon on [XX XX XXXX], regardless of whether the Contractor intends to continue to Phase 2.
- 5.2 Failure to provide an end of Study report demonstrating the work undertaken during the Study will result in the Contractor being disqualified from participation in future CRACK IT Challenges and all other competitions managed by the NC3Rs.
- 5.3 The Contractor shall provide a final expenditure statement to the NC3Rs within three (3) months of the Completion Date or date of termination demonstrating the expenditure incurred by the Project (***include title and number***). Any unspent Funding will be recovered. The NC3Rs may request at any time such evidence, as may reasonably be required, that the Contractor has used the amounts paid in accordance with clause 4 in connection with the Study. The Contractor shall maintain proper financial records relating to the Study at

all times during the Project Period and for a period of six (6) years after the end of the term of this Agreement. For the avoidance of doubt, the only sum payable by the NC3Rs to the Contractor is the Funding.

5.4 There will be no extensions or supplements to Funding and the Contractor is expected to complete the Study and, if so prepared, to submit an application for Phase 2 funding before 12 noon on **[XX XX XXXX]**.

5.5 The NC3Rs uses an online system to collect information on the outputs and outcomes of research and provides guidance on the use of the system and the timing and scope of reporting that is required. The Contractor must ensure that the system is used in accordance with the guidance provided. The NC3Rs also reserve the right not to consider further applications from a Contractor where the reporting requirements on previously awarded contracts are not observed.

## 6. CONFIDENTIALITY

6.1 In this Agreement “**Confidential Information**” means, subject to Clause 6.2, any information (whether written, oral, in electronic form or in any other media) that is disclosed by or on behalf of a Party (the “**Discloser**”) to the other Party (the “**Recipient**”) or its representatives whether before, on or after the date of this Agreement and that relates (in whole or in part) to the Discloser or its business or the terms of or subject matter of this Agreement or any discussions or documents in relation to it, and in respect of such information each Party will be deemed to be a Recipient.

6.2 The Recipient’s obligations under this Clause 6 will not extend to Confidential Information which:

6.2.1 the Discloser agrees in writing is not Confidential Information;

6.2.2 at the time of disclosure was in the public domain or subsequently enters into the public domain other than as the direct or indirect result of a breach of this Clause 6 by the Recipient or any of its representatives; or

6.2.3 the Recipient can prove:

6.2.3.1 has been received by the Recipient (or one of its representatives) at any time from a third party who did not acquire it in confidence and who is free to make it available to the Recipient (or the relevant representative); or

6.2.3.2 was independently developed by the Recipient (or one of its representatives) without any breach of this Agreement.

6.2.4 must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Recipient making the disclosure, including any requirements for disclosure under the FOIA Laws.

6.3 The Recipient will at all times:

6.3.1 keep the Confidential Information secret and will only disclose it in the manner and to the extent expressly permitted by this Clause 6 or as otherwise permitted by the Discloser in writing or as required by law or by any governmental or regulatory authority (including any stock or investment exchange or listing authority or the Panel on Takeovers and Mergers);

6.3.2 use the Confidential Information solely for the purpose of performing its obligations and exercising its rights under this Agreement; and

6.3.3 keep the Confidential Information safe and secure and apply to it documentary and electronic security measures that match or exceed those the Recipient operates in relation to its own confidential information and will never exercise less than reasonable care.

6.4 As part of the application for Phase 2, Study Results will be shared by the NC3Rs with members of the panel which decides Phase 2 awards. Panel members are required to sign a confidentiality agreement and treat all information relating to the panel as confidential.

## 7. ETHICS

The Contractor will ensure that any work carried out that is in any way connected with this Study is conducted in accordance with the NC3Rs guidelines as may be issued or referred to from time to time by the NC3Rs. The Contractor and its Sub-contractors must comply with the *Guidance on Responsibility in the Use of Animals in Bioscience Research* ([www.nc3rs.org.uk/responsibility](http://www.nc3rs.org.uk/responsibility)) as amended from time to time.

## 8. INTELLECTUAL PROPERTY

- 8.1 The Background Intellectual Property of each Party will remain the absolute unencumbered property of that Party. Neither Party will make any representation or do any act which may be taken to indicate that it has any right title or interest in or to the ownership or use of any of the Background Intellectual Property of the other Party except as expressly permitted by the terms of this Agreement. Save as expressly provided by this Agreement, neither Party has any right, title or interest in or to the Background Intellectual Property of the other Party.
- 8.2 The NC3Rs grants to the Contractor a non-exclusive, worldwide, royalty free licence during the term of this Agreement to use, copy, translate and amend such of the NC3Rs' Background Intellectual Property as is required for the purpose of the Contractor performing the Study and its other obligations under this Agreement.
- 8.3 The Foreground Intellectual Property will be the property of and vest in the Contractor absolutely from the time of its creation. The NC3Rs hereby assigns with full title guarantee to all Foreground Intellectual Property created by the Contractor.
- 8.4 The Contractor should nominate the IP manager for the Study. The NC3Rs does not provide a model agreement but suggests as a default that IP arising from the research should be jointly owned by the Contractor and its Sub-contractors in equal shares. Failing this, they should agree among themselves on the ownership of IP, for example, by adapting one of the Lambert Agreements (<http://www.ipo.gov.uk/lambert>).
- 8.5 Although the NC3Rs is not a joint owner of any IP arising from the Study, it is a condition of funding from the NC3Rs that work furthering the 3Rs must be made available to the rest of the bioscience sector. The protection of IP through filing of patents at the Contractor's cost should therefore be pursued without unreasonable delay, and access by third parties to 3Rs benefits must be provided through publication and dissemination, or by appropriate licences, royalty-free or royalty-bearing on fair and reasonable terms.
- 8.6 Sponsors are also **not** joint owners of any IP arising from the Study. Where Sponsors provide in-kind contributions to the Study, the Sponsor(s) and the Contractor will need to detail arrangements for access to IP arising from the Study in a separate agreement. The Contractor shall submit to the NC3Rs any contracts with Sponsors relating to the Study prior to entering into such contracts to enable the NC3Rs to satisfy itself that Foreground Intellectual Property shall be owned by the Contractor and its Sub-contractors as set out in clause 13.3 and not by the Sponsor.

## 9. TERMINATION

- 9.1 If the continued performance of the Agreement is prevented by reasons of:
- 9.1.1 Force Majeure Event;
  - 9.1.2 any breach or nonobservance by the Contractor of any of the terms and conditions herein contained;
  - 9.1.3 if the Contractor shall wilfully commit any act of misconduct which is likely to bring the Contractor or the NC3Rs into public disrepute; or
  - 9.1.4 the Contractor becoming Insolvent;
- the NC3Rs may forthwith terminate this Agreement by notice in writing subject without giving rise to any claim on the Contractor's part beyond a claim for payment of services rendered up to the point of expiration of such notice.
- 9.2 In the event of either Party wishing to withdraw from this Agreement for reasons other than those set out in Clause 9.1, a minimum of three months' notice in writing shall be provided, unless the time remaining to the end of the Study is less than three months in which case the notification time shall be the time remaining to the end of the Study.

9.3 In the event of termination by the NC3Rs under Clauses 9.1.2, 9.1.3 or termination by the Contractor under Clause 9.2, the Contractor shall repay to the NC3Rs the Funding on a pro rata basis as determined by the NC3Rs in its sole discretion.

## 10. **WARRANTIES AND INDEMNITIES**

10.1 The Contractor warrants and represents that:

10.1.1 the Contractor has full capacity and authority and all necessary licences, permits and consents to enter into and perform this Agreement;

10.1.2 this Agreement is executed by a duly authorised Contractor's Representative;

10.1.3 there are no actions, suits or proceedings pending or, to the Contractor's knowledge, threatened against or affecting the Contractor before any court or administrative body or tribunal that might affect the ability of the Contractor to meet and carry out its obligations under this Agreement;

10.1.4 the Study will be carried out by appropriately experienced, qualified and trained personnel with all due skill, care and diligence;

10.1.5 the Contractor will discharge its obligations hereunder with all due skill, care and diligence including, but not limited to, good scientific practice and (without limiting the generality of the foregoing) in accordance with its own established internal procedures;

10.1.6 the provision of the Study and the NC3Rs use thereof shall not infringe any Intellectual Property of any third party; and

10.1.7 the Contractor will ensure that all Sub-contractors comply with all relevant legislation.

10.2 The Contractor will indemnify the NC3Rs against the Recoverable Liabilities, in each case arising out of or in connection with any claim or proceedings made, brought or threatened against the NC3Rs by any person for actual or alleged infringement of a third party's Intellectual Property rights and which arises out of or in connection with the use of the Contractor's Background Intellectual Property and/or the Foreground Intellectual Property.

10.3 Each Party shall indemnify the other Party for any injury, death or Recoverable Liabilities occasioned by the negligence of the other Party, its servants or agents.

## 11. **LIABILITY**

11.1 Except as set out in Clause 10.2 and Clause 10.3, each Party shall have no responsibility or liability for any loss of or damage of any kind occasioned by or arising out of any work carried out in pursuance of this Agreement, unless occasioned by the negligence of that Party or its Sub-contractors.

11.2 Nothing in this Agreement limits or excludes either Party's liability for:

11.2.1 death or personal injury caused by its negligence;

11.2.2 any fraud or wrongdoing by that Party or any of its personnel; or

11.2.3 any matter which it is not permitted by law to exclude or limit, or to attempt to exclude or limit.

## 12. **ASSIGNABILITY**

12.1 The Contractor shall not sub-contract, transfer or assign the whole or any part of this Agreement without the prior written consent of the NC3Rs, whose consent shall not be unreasonably withheld, and may be subject to such terms and conditions as the NC3Rs may see fit to impose.

12.2 The Contractor shall be responsible for any acts and omissions in relation to this Agreement of its Sub-contractors as though they were its own.

13. **SEVERABILITY**

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

13.2 In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Agreement, the Parties shall immediately commence good faith negotiations to remedy such invalidity.

14. **WAIVER**

A delay in exercising or failure to exercise a right or remedy under or in connection with this Agreement will not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor will the single or partial exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and only in the circumstances and for the purpose for which it was given and will not constitute a waiver of any other right, remedy, breach or default.

15. **DISPUTE RESOLUTION**

15.1 Any dispute between the Parties arising out of or in connection with this Agreement (other than in relation to the payment of any money):

15.1.1 shall in the first instance be referred to the Contractor's Representative and the NC3Rs Representative for resolution. The Parties agree to work together in good faith to reach an agreed settlement of any such dispute.

15.1.2 If within fourteen (14) days of the meeting of the Contractor's Representative and the NC3Rs Representative the dispute has not been resolved, the Parties agree to submit the dispute to a director of the Contractor and the appropriate officer of the NC3Rs or such other person as the NC3Rs sees fit and who shall have responsibility to settle such dispute on behalf of the NC3Rs. The Parties shall meet within seven (7) days of the reference to them of any dispute and shall work together in good faith to resolve the dispute.

15.1.3 If within fourteen (14) days the dispute has not been resolved, the dispute may be referred, by either Party, to mediation, the mediator to be agreed between the Parties. The fee for the appointed mediator shall be shared equally between the Parties.

15.2 Nothing in Clause 15.1 shall preclude either Party from commencing an action in a court of law in England for a legal remedy where time is of the essence and the remedy sought is only available in a court of law. In all other circumstances the Parties shall attempt to resolve a dispute in accordance with Clause 15.1.2 before embarking on litigation.

15.3 If the matter cannot be resolved through mediation, the Parties will, at the request of either of them, attempt in good faith to resolve the dispute through an agreed alternative dispute resolution ("ADR") procedure.

15.4 If the matter has not been resolved by an agreed ADR procedure within one (1) month of the initiation of such procedure, the dispute shall be referred to a single arbitrator to be agreed upon by the Parties or in default of Agreement within fourteen (14) days to be nominated by the president for the time being of the Chartered Institute of Arbitrators in accordance with the Arbitration Act 1996. The arbitration shall take place in London and shall be in accordance with the Arbitration Act 1996 and such arbitration rules as the Parties may agree or, in default of Agreement, in accordance with the rules of the London Court of International Arbitration, which rules are deemed to be incorporated by reference into this Clause.

15.5 The decision of the arbitrator shall be final and binding on the Parties.

16. **FREEDOM OF INFORMATION**

16.1 Each Party acknowledges and agreement that:

16.1.1 the NC3Rs and the Contractor are respectively subject to the requirements of the FOIA Laws and may receive a Request for Information;

- 16.1.2 each Party that receives a Request for Information (the “**Request Recipient**”) shall be responsible for determining at its absolute discretion whether any requested information (including Confidential Information of the other Party) is subject to any exemption and/or exception from disclosure and/or publication in accordance with the relevant provisions of the FOIA Laws or is to be disclosed in response to a Request for Information, and nothing in this Agreement shall remove or in any way limit that discretion of the Request Recipient;
  - 16.1.3 it shall reasonably assist and cooperate with the Request Recipient to enable the Request Recipient to comply with its obligation under the FOIA Laws in relation to the Request for Information, including compliance with any time limits imposed under the FOIA Laws; and
  - 16.1.4 in some circumstances it may not be possible or reasonable for the Request Recipient to provide notice of any Request for Information or consider the comments of the other Parties in relation to it, prior to responding to such a request.
- 16.2 Subject to Clause 16.1, where the Request Recipient receives a Request for Information:
- 16.2.1 the Request Recipient will notify the Party whose Confidential Information is the subject of the Request for Information (the “**Affected Party**”) as soon as reasonably possible (and in any event within five (5) working days of receipt), confirming what Confidential Information is being requested; and
  - 16.2.2 the Request Recipient agrees to discuss in good faith with the Affected Party as to whether a relevant exemption/exception to the requirement to disclose the relevant Confidential Information under the FOIA Laws might be applicable, provided that the Affected Party makes itself available for such discussions within a reasonable time (and in any event within five (5) working days of being notified of the Request for Information) so that the Request Recipient has a reasonable opportunity to consider the Affected Party’s comments prior to the deadline for the Request Recipient to respond to the Request for Information.
- 16.3 Where a Party receives a Request for Information in relation to information or records held by the other Party on behalf of the Request Recipient, the other Party will within five (5) working days of the request (or such shorter time frame requested, where it is necessary to ensure the Request Recipient’s compliance with FOIA Laws), provide the Request Recipient with a copy of such information in the form reasonably requested.
- 16.4 Each Party 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 NC3Rs or Contractor as the case may be to inspect such records as requested from time to time.
17. **ANTI-CORRUPTION**
- 17.1 The Contractor will, and will procure that its officers, employees, agents, Sub-contractors and any other persons who perform services for or on behalf of it in connection with this Agreement will:
- 17.1.1 not commit any act or omission which causes or could cause it or the NC3Rs to breach, or commit an offence under, any laws relating to anti-bribery and/or anti-corruption, including the Bribery Act 2010;
  - 17.1.2 comply with the NC3Rs’s anti-bribery policy as updated from time to time/[its anti-bribery policy (as notified to the NC3Rs) and make such amendments to that anti-bribery policy as may be reasonably required by the NC3Rs from time to time;
  - 17.1.3 keep accurate and up to date records showing all payments made and received and all other advantages given and received by it in connection with this Agreement and the steps it takes to comply with this Clause 17.1.1, and permit the NC3Rs to inspect those records as reasonably required; promptly notify the NC3Rs of:
    - 17.1.3.1 any request or demand for any improper financial or other advantage received by it; and
    - 17.1.3.2 any improper financial or other advantage it gives or intends to give whether directly or indirectly in connection with this Agreement; and
  - 17.1.4 promptly give the NC3Rs written notice of any breach of this Clause 17.1.

- 17.2 The NC3Rs may terminate this Agreement immediately by giving written notice to that effect to the Contractor if the Contractor is in breach of Clause 17.1.1.
- 17.3 The Contractor will include in any sub-contract which it enters into in connection with this Agreement:
  - 17.3.1 a clause equivalent to this Clause 17; and
  - 17.3.2 a right under the Contracts (Rights of Third Parties) Act 1999 for the NC3Rs to exercise equivalent rights over the sub-contractor to those which it exercises over the Contractor in Clause 17.1.3.
- 17.4 The Contractor will indemnify the NC3Rs against all Recoverable Liabilities in each case arising out of or in connection with:
  - 17.4.1 any breach by the Contractor of Clause 17.1 (including any failure or delay in performing, or negligent performance or non-performance of, any of its obligations under Clause 17.1); and/or
  - 17.4.2 any breach by any sub-contractor of the Contractor of any equivalent provisions contained in the relevant sub-contract (including any failure or delay in performing, or negligent performance or non-performance of, any obligations).

18. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

- 18.1 A person who is not a Party to this Agreement shall have no right to enforce any terms of it which confer a benefit on him under the Contracts (Rights of Third Parties) Act 1999.

19. **NOTICE**

Any notice given under or in connection with this Agreement will be in the English language, marked for the attention of the specified representative of the Party to be given the notice and:

- 19.1.1 sent to that Party's address by pre-paid first class post or mail delivery service providing proof of delivery; or
- 19.1.2 delivered to or left at that Party's address (but not, in either case, by the methods set out in Clause 19.1.1); or

The address and representative for each Party are set out below and may be changed by that Party giving at least twenty (20) Business Days' notice in accordance with this Clause 19.

|  |  |
|--|--|
| NC3Rs                                      | Contractor                                 |
| <b>[Insert address and representative]</b> | <b>[Insert address and representative]</b> |

20. **RELATIONSHIPS**

- 20.1 This Agreement does not make either Party the employee, agent, partner or legal representative of the other Party for any purpose whatsoever. Neither Party is granted any right or authority to assume or create any obligation or responsibility, expressed or implied, on behalf of or in the name of the other Party. In fulfilling obligations pursuant to this Agreement the Contractor shall be acting as an independent contractor.

21. **ENTIRE AGREEMENT**

- 21.1 This Agreement constitutes the entire Agreement between the Parties relating to its subject matter and:
  - 21.1.1 each Party acknowledges that it has not entered into this Agreement on the basis of any warranty, representation, statement, agreement or undertaking (whether by the other Party or any other person and whether made to the other Party or any other person) except those expressly set out in this Agreement;
  - 21.1.2 each Party waives any claim for breach of this Agreement, or any right to rescind this Agreement, in respect of any representation which is not an express provision of this Agreement;

21.1.3 nothing in this Clause 21 will be interpreted or construed as limiting or excluding the liability for fraud, fraudulent misrepresentation or fraudulent concealment prior to the execution of this Agreement.

**22. LAW AND JURISDICTION**

22.1 This Agreement shall be considered as a contract made in England and be construed in accordance with English Law. The English courts will have exclusive jurisdiction to deal with any dispute which has arisen or may arise out of or in connection with this Agreement, except that either Party may bring proceedings for an injunction in any jurisdiction.

Signed by the duly authorised signatory for and on behalf of the Contractor

\_\_\_\_\_

(Title)

\_\_\_\_\_

Date

Signed by the duly authorised signatory for and on behalf of MRC, which is part of UKRI, and the NC3Rs

\_\_\_\_\_

(Chief Executive, NC3Rs)

\_\_\_\_\_

Date

**Annex 1: Deliverables**

**[Insert Deliverables as defined in the [ ] brief].**

## Annex 2: Financial Arrangements

### PAYMENT SCHEDULE

The NC3Rs will use all reasonable endeavours to pay the total amount specified in the attached Agreement within thirty (30) days of receiving a signed copy of the Agreement. If payment will not be made within this timeframe the NC3Rs will inform the Contractor of this. Time shall not be of the essence for such payment. In the event that the Contractor is unable to commence the Study until the Funding is received, it shall not be obliged to commence the Study until Funding is received provided that it provides written notice of this fact to the NC3Rs. Contract terms are fixed; no negotiation will be entered into.

The Contractor should respond to any request for information from the NC3Rs and the UK Shared Business Services (UK SBS) to ensure payment can be set up promptly.

#### **Payments cannot be made until this information has been received.**

The NC3Rs Finance Department will provide a purchase order number and invoicing instructions.

The total Funding amount to be paid by the NC3Rs is specified in the attached Agreement in British Pounds Sterling. All payments under this Agreement shall be in British Pounds Sterling (GBP) only.

For applications from organisations based outside of the United Kingdom, please note that a European Union (EU) reverse charge of VAT will be applied to your award. This will be charged at 20% and will need to be taken into consideration when costing your application, as the maximum amount that will be paid out, inclusive of VAT and EU Reverse Charges, will not exceed the total amount offered for the Challenge.