

Contract for Services (General)

Date: *[insert date on which both parties have signed this Contract for Services]* (the “**Commencement Date**”)

Unique Contract Reference: *[to be inserted]*

Between:

(1) The Health Foundation

Registered Office: 8 Salisbury Square, London EC4Y 8AP

Registered Company Number: 1714937

Registered Charity Number: 286967 (“**Commissioner**”); and

(2) Provider Name:

[Registered Office/Principal address: *[to be inserted]*

Registered Company Number: *[to be inserted]*

Registered Charity Number *[to be inserted]*]

OR

[Full name of individual: *[to be inserted]*

Address of individual: *[to be inserted]*]

(“**Provider**”)

The Commissioner and Provider hereby agree as follows:

1.0 Interpretation and Definitions

- 1.1 The definitions in [Schedule 1](#) apply to this Contract.
- 1.2 The Schedules form part of this Contract and shall have effect as if set out in full in the body of this Contract. Any reference to this Contract includes the Schedules.
- 1.3 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.4 A reference to this Contract is as amended, waived, amended and/or supplemented from time to time.
- 1.5 Clause, Schedule and paragraph headings shall not affect the interpretation of this Contract.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.7 This Contract shall be binding on, and enure to the benefit of, the parties to this Contract and their respective personal representatives, successors and permitted

assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.

- 1.8 A reference to **writing** or **written** includes email.
- 1.9 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.10 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2.0 Purpose of Contract

- 2.1 The Provider confirms that it has the relevant expertise and experience required to deliver the Services.
- 2.2 In reliance on that expertise, the Commissioner wishes to appoint the Provider to provide the Services to it in accordance with this Contract.

3.0 Duration

- 3.1 This Contract is effective from and including the Commencement Date.
- 3.2 The Contract shall continue for the Contract Period, unless terminated earlier in accordance with Clause 11.0 (Termination) or other application provision of this Contract., this Contract

4.0 Specification of Services and support obligations

- 4.1 The Provider shall provide the Services in accordance with the Service Specification and the Timetable set out in [Schedule 2](#).
- 4.2 The Commissioner shall co-operate with the Provider in good faith and where reasonably necessary to assist the Provider's delivery of the Services, including by promptly responding to any reasonable requests of the Provider for further information or instruction, in each case as required to deliver the Services.

5.0 Provider's responsibilities

- 5.1 The Provider shall provide the Services and complete the Project:
 - 5.1.1 with the diligence, care, skill, application and precision to be reasonably expected of a competent provider of Services in relation to projects such as the Project;
 - 5.1.2 efficiently with the optimum use of resources so as to provide the Services at the lowest reasonably obtainable overall cost;
 - 5.1.3 to the extent that the Commissioner obtains any Intellectual Property Rights in relation to the Project, in a way which does not do anything which could be prejudicial to the Commissioner's goodwill, image,

reputation or such Intellectual Property Rights (in the Commissioner's view, acting reasonably);

- 5.1.4 in accordance with all legal and regulatory requirements, approvals and codes of practice applicable to the Services (including but not limited to all legal and regulatory obligations relating to health and safety, insurance, employment and confidentiality;
- 5.1.5 whilst obtaining and maintaining all relevant consents, authorisations and approvals required to provide the Services;
- 5.1.6 in compliance with the provisions and obligations contained in the Data Protection Legislation, including as set out in

- 5.1.7 [Schedule](#) and in accordance with all policies and procedures of the Provider in terms reasonably satisfactory to the Commissioner;
- 5.1.8 if applicable, utilising a team led by specified personnel as set out in Schedule 2 (subject to variation by the Parties by further written agreement) and otherwise engaging sufficient and appropriately qualified, skilled and experienced personnel to deliver the Services; and
- 5.1.9 in accordance with the policies and procedures of the Provider.

6.0 Payment for the Services

- 6.1 In consideration for the Provider's provision of the Services, the Commissioner will pay to the Provider the Price set out in, and on the Payment Terms specified in, [Schedule 3](#).
- 6.2 For the avoidance of doubt, the Price is inclusive of all expenses and disbursements, and also inclusive of VAT.

7.0 Relationship management, monitoring and reporting provisions

7.1 Liaison

- 7.1.1 The Primary Contacts for each party are specified in [Schedule 2](#) and may be changed by reasonable written notice to the other party from time to time.
- 7.1.2 The parties shall each use their best efforts to ensure that their Primary Contacts liaise on a regular basis to facilitate the smooth running of the Contract and delivery of the Services and with the intention to identify concerns early enough to prevent disputes arising in relation to the Contract.

7.2 Monitoring

- 7.2.1 The Provider shall allow the Commissioner's Primary Contacts and other notified authorised officers to observe, monitor and inspect delivery of the Services from to time, in each case at any reasonable time on reasonable prior notice.

7.3 Maintaining records and reporting

- 7.3.1 The Provider shall inform the Commissioner promptly, and in any event within 3 Working Days of becoming so aware, of any factor that will, or may, materially affect and/or change the provision of the Services and/or the delivery of the Project.
- 7.3.2 The Provider shall inform the Commissioner promptly, and in any event within 3 Working Days of becoming so aware, of any potential, or actual, conflict of interest arising in relation to the provision of the Services or the delivery of the Project.
- 7.3.3 The Provider shall keep and maintain reasonable, full and accurate records of all activities undertaken, data collected, and material

produced in relation to the Services and report to the Commissioner in accordance with the Timetable.

7.3.4 The Provider shall retain all records contemplated by clause 7.3.3 and make them available to the Commissioner and permit the Commissioner to take copies of records at the Commissioner's reasonable request for a period of 6 Years from the end of the Year in which this Contract ends.

7.3.5 The Provider shall provide to the Commissioner, promptly on request, with any other information requested by the Commissioner from time to time in connection with the Services and/or the Project (including, for the avoidance of doubt, any information requested by the Commissioner's auditors or by law or regulation).

8.0 Publicity and Publications

8.1 No publicity or publications relating to this Contract will be issued by either party without the consent of the other (not to be unreasonably withheld) and no publicity, publications, or disclosure, written or oral, relating to the Project will be issued by the Provider without the written approval of the Commissioner.

8.2 The Commissioner may publish final Deliverables (if any) as, and in such media as, it considers appropriate.

8.3 [The Provider's rights to make use of the Deliverables are set out in [Schedule 5](#).]

9.0 Dispute Resolution

9.1 The Dispute Resolution Procedure in [Schedule 4](#) shall apply in relation to any disputes in relation to this Contract.

10.0 Termination

10.1 Without affecting any other right or remedy available to it, and subject to clause 18 (*Force Majeure*), either party may terminate this Contract with immediate effect by giving written notice to the other party if the other party:

10.1.1 has acted, or failed to act, in such a way as would constitute a Breach which Breach is irremediable or (if such Breach is remediable) fails to remedy that Breach within a period of 20 Working Days after being notified in writing to do so;

10.1.2 has repeated a Breach, or committed a series of Breaches, in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Contract;

10.1.3 suffers any Insolvency Event; or

10.1.4 suspends or ceases, or threatens to suspend or cease, carrying on all or

a substantial part of its business or activities;

- 10.2 The Commissioner may terminate this Contract by giving three months' prior notice in writing delivered to the Primary Contacts.
- 10.3 The Commissioner may suspend all or part of any payments due and payable by it under this Contract upon the occurrence of any termination event (in respect of the Provider) set out in Clause 11.1 above, in each case whilst such termination event is continuing.
- 10.4 The termination of this Contract shall not affect the right of either party that has arisen before termination.
- 10.5 Any provision of this Contract that is expressly, or by implication, intended to have effect after termination shall continue in force for the intended period.

11.0 Obligations on termination and expiry

- 11.1 11.1 On termination or expiry of this Contract the Provider shall:
 - 11.1.1 within five Working Days deliver the Deliverables (whether or not then complete), and return any materials supplied by the Commissioner to the Provider;
 - 11.1.2 within five Working Days refund any fees paid by the Commissioner in respect of any Services which have not been performed by the Provider by the date of termination or expiry;
 - 11.1.3 immediately cease to represent/describe itself as a service provider of the Commissioner; and
 - 11.1.4 upon notice of termination or expiry, if requested by the Commissioner the Provider shall co-operate fully with the Commissioner and/or any new provider of the Services appointed by the Commissioner in ensuring the smooth handover and continued running of the Services during such handover and, in particular, the Provider shall render such assistance to the Commissioner and/or the new provider as the Commissioner may reasonably request.

12.0 Representations and Warranties

- 12.1 The Commissioner represents and warrants that it is duly incorporated and validly existing under the laws of England and Wales.
- 12.2 The Provider represents and warrants that it shall perform its obligations under this Contract in a manner that uses all reasonable endeavours not to infringe, or constitute an infringement or misappropriation of, any third-party Intellectual Property

Rights.

12.3 Each party represents and warrants to the other party that:

12.3.1 it has the requisite power and authority to enter into and perform its obligations under this Contract; and

12.3.2 this Contract when executed shall constitute valid, lawful and binding obligations on it, enforceable in accordance with its terms.

13.0 Limitation of Liability

13.1 Nothing in this Contract shall operate to exclude or limit the liability of either Party to the other for fraud, death or personal injury arising out of negligence or any other liability which cannot be excluded or limited by law.

13.2 A Party's ("**Party A**") liability to the other Party ("**Party B**") in respect of any indemnity given under this Contract (Including for the avoidance of doubt any obligations of Party A under this Contract relating to data privacy, or any liability of Party A under the Data Protection Legislation) shall be subject to the limitations set out in this Clause 14 and furthermore limited to the aggregate level of insurance coverage of Party A required under Clause 15.2 (*Provider insurance obligations*) (in relation to the Provider) or the existing levels of insurance coverage generally (in relation to the Commissioner).

13.3 Without prejudice to clauses 14.1, 14.2 and 14.4, neither Party shall be liable to the other Party for:

13.3.1 any business opportunities or damage to goodwill (whether direct or indirect); or

13.3.2 any indirect or consequential loss or damage,

in each case arising under or in relation to this Contract, even if the first Party was aware of the possibility that such loss or damage might be incurred by the other Party.

13.4 Subject to clauses 14.1 to 14.3 (inclusive), Party B shall be entitled (without limitation) to recover from Party A in full the following costs or losses incurred by Party B to the extent that they arise as a result of any act or omission of Party A in breach of its obligations under this Contract or the Data Protection Laws (each a "**Party A Default**"):

13.4.1 any additional operational and/or administrative costs and expenses incurred by Party B, including costs relating to time spent by or on behalf of Party B in dealing with the consequences of the Party A Default;

13.4.2 any wasted expenditure or charges rendered unnecessary; and/or

13.4.3 any fine, penalty or court judgment incurred by Party B and any related

legal costs incurred by Party B.

14.0 Protective provisions

14.1 Status of Provider

14.1.1 For the avoidance of doubt, any individual Provider is an independent contractor and is not an employee of the Commissioner and must not represent him/herself as such. Any individual Provider is responsible for the payment of national insurance contributions, personal tax and social security payments due in respect of any sum paid to an individual Provider under this Contract. Sums paid to individual Providers will be paid without deduction of tax.

14.2 Provider insurance obligations

14.2.1 During the term of this Contract (and for a period of 6 years after the expiry or termination of this Contract), the Provider shall take out and maintain in force, with a reputable insurer, policies of insurance reasonably appropriate to activities required to deliver the Services.

14.2.2 At a minimum, this shall include public liability insurance and professional liability / indemnity (which includes sufficient coverage in relation to data privacy), in each case for the following minimum amounts:

- Self-employed/sole trader - £1million
- Limited company/public body - £5million

14.2.3 On the Commissioner's reasonable request, the Provider shall provide the Commissioner with copies of the insurance policies and appropriate evidence that they are in force.

14.3 Assignment and sub-contracting

14.3.1 This Contract is particular to the Provider and the Provider may not assign the benefit or obligations under this Contract without the prior written consent of the Commissioner.

14.3.2 The Provider may only sub-contract performance of its obligations under this Contract to sub-contractors if agreed in writing by the Commissioner.

14.3.3 Clauses 15.3.1 and 15.3.2 shall survive termination of this Contract.

14.4 Confidential Information

14.4.1 Each party undertakes that it shall not at any time disclose to any person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party or, if applicable, of any

member of the group of companies to which the other party belongs, except as permitted by clause 15.4.2.

14.4.2 Each party may disclose the other party's Confidential Information:

- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's Confidential Information comply with this clause 15.4; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. If a party is subject to any such disclosure provision, the other will reasonably co-operate with any relevant notified obligation, subject to any contrary obligation of confidentiality upon that party.

14.4.3 Clauses 15.4.1 to 15.4.2 shall survive termination of this Contract.

15.0 Intellectual Property Rights

15.1 The provisions of [Schedule 5](#) shall apply in relation to Intellectual Property Rights and the commercial exploitation of Intellectual Property Rights generated in connection with the Services.

16.0 Indemnity

16.1 Subject to clause 14 (Limitation of Liability), the Provider indemnifies the Commissioner against all loss and costs caused by any breach of this Contract by the Provider and/or any third party claim alleging breach of Intellectual Property Rights, or data protection, or confidentiality obligations, arising from the Commissioner's reliance on the Provider.

16.2 Clause 17.1 shall survive termination of this Contract.

17.0 Standard clauses

17.1 18.1 Force Majeure

17.1.1 Neither party shall be liable for any delay in performing any of its obligations under this Contract if such delay is caused by a Force Majeure Event.

17.1.2 A party experiencing a Force Majeure Event shall give the other party full particulars of the circumstances of the Force Majeure Event in writing promptly and use all reasonable endeavours to mitigate the effect of the

Force Majeure Event on its ability to perform its obligations under this Contract and to resume performance as soon as possible.

17.1.3 If the Force Majeure Event prevents, hinders or delays a party's performance of its obligations under this Contract for a continuous period of more than 8 weeks, the party not affected by the Force Majeure Event may terminate this Contract by giving 2 weeks' written notice to the affected party.

17.2 Notices

17.2.1 Any notice to be given by either party to the other under or in connection with this Contract shall be in writing and shall be:

- (a) delivered by hand or by first-class recorded delivery to the address of the other party as set out in the heading to this Contract, or as otherwise notified in writing, or by transmission; or
- (b) sent by e-mail, with due transmission receipt, to an e-mail address notified in writing for the purpose.

17.2.2 Any personally delivered or e-mailed notice shall be deemed received on the day it was delivered or sent, if it was delivered or sent on a Working Day before 5.00pm and otherwise on the next Working Day.

17.2.3 Any posted notice shall be deemed received on the second Working Day after posting.

17.3 Non-Waiver

17.3.1 Any failure or delay by either party in enforcing the provisions of this Contract shall not affect the rights of that party, nor shall any waiver of rights in respect of any Breach operate as a waiver of any rights in respect of any other Breach.

17.3.2 No right, power or remedy under this Contract is exclusive of any other available right, power or remedy and each such right, power or remedy may be cumulative.

17.4 Severability

17.4.1 If one or more of the provisions of this Contract are or become to any extent invalid or unenforceable under any applicable law then the remainder of this Contract shall continue in full force and effect.

17.4.2 If this happens then both parties shall negotiate in good faith to amend the provision concerned in such a way that as amended, it is valid and

enforceable and, to the maximum extent possible, meets the original intention of the parties.

17.5 Agency, Partnership and Joint Venture

17.5.1 This Contract is not intended to nor shall it create any agency, partnership or joint venture.

17.5.2 Neither party shall hold itself out as being entitled to represent or bind the other in any way.

17.6 Third Party Rights

17.6.1 This Contract does not and is not intended to provide any third party with any rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

17.7 Extent of Contract

17.7.1 This Contract is the exclusive statement of the agreement between the parties in relation to the Services. It supersedes all previous communications, representations, understandings arrangements and agreements between them in relation to the Services.

17.7.2 Neither party has relied on (and waives any right to make any claim in respect of) any representation, understanding arrangement, understanding or agreement not expressly set out in this Contract, including any provision in a tender not confirmed in this Contract.

17.8 Secure Data Environment

17.8.1 [Schedule 6](#) shall apply where any usage is made of the Commissioner's Secure Data Environment.

17.9 Variation

17.9.1 No variation to or waiver to this Contract is effective unless agreed in writing signed on behalf of both parties.

17.10 Costs and Expenses

17.10.1 Each party shall (except as expressly provided or otherwise mutually agreed) bear its own costs and expenses in connection with the preparation, negotiation, and execution of this Contract.

17.11 Governing Law

17.11.1 This Contract is governed by and shall be construed in accordance with the laws of England and Wales and the parties submit to the exclusive jurisdiction of the Courts of England and Wales.

Schedule 1

Definitions applicable in this Contract

In this Contract the following terms have the following meanings:

“Breach”	a failure by a party to fulfil its obligations under this Contract;
“Commencement Date”	the date both parties have signed this Contract;
“Confidential Information”	any information of a confidential nature (whether specifically marked as such or otherwise) obtained under, or relating to this Contract but not including information: <ul style="list-style-type: none">• in the public domain (otherwise than by Breach);• in the lawful possession of the receiving party before the date of this Contract (other than through liaison between the parties in anticipation of this Contract);• obtained from a third party free to divulge it;• required to be disclosed by a court or other competent authority; or• properly disclosed on a confidential basis to staff, agents or professional advisers of the respective parties, for the purposes of this Contract.
“Contract Period”	as specified in Schedule 2 ;
“Data Protection Legislation”	as applicable: <ul style="list-style-type: none">• the GDPR and any related legislation which applies in the UK, including (without being limited to) the Data Protection Act 2018;• the Privacy and Electronic Communications (EC Directive) Regulations (2003) and any successor or related legislation; and/or all other applicable laws and regulations relating to the processing of data and/or governing individuals’ rights to data privacy; including statutory instruments;

“Deliverables”	any outputs of the Services to be delivered by the Provider to the Commissioner as specified in Schedule 2 ;
“Employer’s Liability”	insurance that can pay the compensation amount and legal costs if an employee claims compensation from their employer for a work-related illness or injury;
“Force Majeure Event”	<p>any circumstance not within a party’s reasonable control including, without limitation:</p> <ul style="list-style-type: none"> • acts of God, flood, drought, earthquake or other natural disaster; • epidemic or pandemic; • terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; • nuclear, chemical or biological contamination or sonic boom; • any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; • collapse of buildings, fire, explosion or accident; • any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party); • non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and • interruption or failure of utility service.
“Insolvency Event”	the calling of any meeting of a party’s creditors; the appointment of any receiver, administrator, or administrative receiver over all or any part of its assets or undertaking; the suspension or cessation of its business; any threat to suspend or cease its business; the making of a winding-up order; the convening of a meeting to pass a

	winding-up resolution; or it entering into liquidation;
"Intellectual Property Rights"	all trademarks, business names, domain names, patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and know-how however arising for their full term and any renewals and extensions;
"Payment Dates"	the Payment Dates specified in Schedule 3 ;
"Price"	the price for the Services specified in Schedule 2 ;
"Primary Contacts"	the individuals appointed by the Commissioner and the Provider to primarily represent them under this Contract; the initial Primary Contacts are specified in Schedule 2 ;
Professional liability / indemnity	Professional liability / indemnity is one insurance class and covers the protection of professionals against making errors and omissions as part of their work and also insures them against legal defence costs and other costs.
Public liability	Insurance covering liability exposures for individuals and business owners which provides broad coverage, generally including all exposures for property damage and bodily injury.
"Records"	the records which the Provider is required to maintain and provide to the Commissioner under this Contract;
"Project"	a proposed or ongoing set of tasks, as specified in any Invitation to Tender and Tender leading to this Contract and as described in this Contract Schedule 2 ;
"Services"	the services to be provided by the Provider in relation to the Project;
"Timetable"	the timetable for delivery of the Services as specified in Schedule 2 ;
"Work"	as defined in Schedule 5 ;

"Work IP Rights"	as defined in Schedule 5 ;
"Working Days"	Monday to Friday inclusive but excluding bank holidays and public holidays in England and Wales;
"Year"	a year from the date and from each anniversary date of this Contract.

Schedule 2

Service Specification

- 1.0 Description of the Services:
- 2.0 Contract Period: From the Commencement Date to [].
- 3.0 Delivery Timetable:
- 4.0 Liaison/meeting/review requirements:
- 5.0 Primary Contacts:
 - 5.1 For Commissioner: [contact details]
 - 5.2 For Provider: [contact details]

Schedule 3

Price and Payment Provisions

- 1.0 Price (inclusive of expenses and disbursements, as well as VAT): £[].
- 2.0 Payment Provisions:**
- 2.1 Payment will be made against proper invoices issued in accordance with the final agreed budget (attach as an Appendix if appropriate) and the payment schedule in 2.7 below, subject to the applicable conditions and upon the applicable triggers.
- 2.2 Payment shall be made within 30 days of receipt of invoice.
- 2.3 Payment shall be made by BACS. Please ensure all invoices include bank details and an email address for the remittance to be sent to.
- 2.4 Payment queries should quote the unique contract reference and date and be addressed to: finance.enquiries@health.org.uk
- 2.5 The Price may only be varied by written agreement between the Provider and the Commissioner.
- 2.6 If any additional payments (such as expenses) are agreed in writing, they must be included as an additional item in the invoice relating to the period in which the expenses were incurred and supported by reasonable evidence of having been properly incurred.
- 2.7 Invoice date(s)

Invoice Date	Amount	Conditions and triggers for payment
mm/yyyy	£	Contingent on...
mm/yyyy	£	Contingent on...
mm/yyyy	£	Contingent on...
Total	£	

Schedule 4

Dispute Resolution

- 1.0 Both parties shall do their utmost to attempt to resolve any dispute arising out of or in relation to this Contract through informal and good faith negotiations between the Primary Contacts (or such other persons who have the authority to settle the dispute in relation to this Contract).
- 2.0 If any dispute has not been resolved by the Primary Contacts within 10 Working Days, the matter shall be referred to be resolved by direct liaison between more senior officers representing both parties.
- 3.0 If any dispute has not been resolved by such senior officers within a further 10 Working Days, the matter may be referred at the option of either party within a further 10 Working days, to mediation in accordance with the Model Mediation Procedure for the time being of the Centre for Effective Dispute Resolution (www.cedr.com).
- 4.0 If a dispute is referred to the Centre for Effective Dispute Resolution the parties shall engage with the Model Mediation Procedure in good faith and neither party shall start legal proceedings until such procedure is complete.
- 5.0 The parties shall pay their own costs in relation to mediation, subject to any determination of the mediator formally requested by either party as part of the applicable mediation procedure.
- 6.0 If the parties remain unable to settle the dispute by following the applicable mediation procedure, the dispute shall be finally resolved by the courts of England and Wales in accordance with clause 18.10 of this Contract, or such other means as the parties may mutually agree.
- 7.0 This Schedule shall not apply after a notice of termination has been duly served.

Schedule 5

Intellectual Property Rights

Definitions:

Background Intellectual Property: means any Intellectual Property Rights (1) belonging to a Party to this Contract (or to a member of that Party's group) prior to the signing of this Contract, or (2) which has been developed independently by a Party without using any funding contemplated by this Agreement or any other contribution by the other Party.

Work: means the [*to be specified*] to be delivered by the Provider to the Commissioner on the terms and conditions of this Contract and all related preparatory and working data, documentation and materials.

Work IP Rights: means all Intellectual Property Rights in the Work.

1.0 Intellectual property rights and their commercial exploitation

- 1.1 Under this Contract, the Commissioner is commissioning the Work from the Provider. The Provider should notify the Commissioner promptly in writing when Work IP Rights arise and take reasonable steps to ensure that such Work IP Rights are protected and not published or otherwise disclosed publicly prior to protection (whilst at the same time ensuring that potential delays in publication are minimised). For the avoidance of doubt, the Commissioner shall have a right, but not a duty, to protect or manage such Work IP Rights.
- 1.2 The Work is intended to be used by the Commissioner for its charitable purposes. The Work is not intended to be used by the Provider for its purposes. Under this Contract, the mutual intention is that all Work IP Rights will be assigned to and owned by the Commissioner.
- 1.3 In consideration for payment under this Contract, the Provider hereby assigns to the Commissioner with full title guarantee in any and all Work IP Rights in and arising from the Work. All Intellectual Property Rights in the Work IP Rights shall be the property of the Commissioner.
- 1.4 For the avoidance of doubt, all Background Intellectual Property Rights belonging to a Party shall remain vested in that Party or the relevant member of that Party's group. In as far as the Provider has used its own Background Intellectual Property) in producing the Work and this Background Intellectual Property forms part of the Work, the Provider hereby grants to the Commissioner an irrevocable, perpetual and royalty-free licence to use this Background Intellectual Property as part of the Work.
- 1.5 The Provider hereby warrants to the Commissioner that, subject to paragraph 1.6 below, no third party has any Intellectual Property Rights in the Work and that the Work IP Rights are free of any encumbrances.

- 1.6 The Provider hereby warrants to the Commissioner that, to the extent that there are, or may be, any third party Intellectual Property Rights in the Work, the Provider has secured sufficient Intellectual Property Rights (whether through assignments of legal ownership, or the grant of assignable irrevocable, perpetual, royalty free licence rights) to ensure that the Commissioner, with the benefit of the assignment in paragraph 1.3 above will own the Work absolutely and be able freely to use the Work for any purpose.
- 1.7 The Provider's moral right to be identified as the creator of the Work shall be recognised by the Commissioner through every publication of the Work, or a substantial part of it (including in oral presentations) by, or through, the Commissioner, being accompanied substantively by the following statement: "*XXX*" *[project name]* is/was commissioned by the Health Foundation, an independent charity committed to bringing about better health and health care for people in the UK and produced by *[Provider]*, or such other wording as may be agreed between the parties from time to time.
- 1.8 If the Provider wishes to use the Work for its own purposes, it may make a written request to the Commissioner for an appropriate use licence, which the Commissioner will reasonably consider. The Commissioner may, or may not, grant any such licence in its discretion and may attach any terms and conditions to any such licence in its discretion.
- 1.9 For the avoidance of doubt, as the Commissioner is to be the absolute owner of the Work, the Commissioner will have the right, in its discretion, to exploit the Work commercially and the Provider will have no rights in relation to any such commercial exploitation.
- 1.10 The Provider hereby undertakes:
- 1.10.1 to take any and all further actions as may be necessary or reasonably desirable to procure the vesting in the Commissioner of all Work IP Rights;
 - 1.10.2 not to exploit or make any use of the applicable Work IP Rights other than as expressly authorised under this Contract or approved in advance by the Commissioner;
 - 1.10.3 not to do or omit to do anything which would or may jeopardise or invalidate any registration of the applicable Work IP Rights (where registration is possible) or which may assist or give rise to an application to remove the applicable registered Work IP Rights from any register or which might prejudice the right or title of the Commissioner to the applicable Work IP Rights;
 - 1.10.4 not to 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 applicable Work IP Rights; and
 - 1.10.5 that if it becomes aware of any unauthorised use or infringement of any of the applicable Work IP Rights or of any claims or actions in connection with any of the applicable Work IP Rights, it shall promptly notify the Commissioner with full details of any such unauthorised use or infringement and

shall make no comment or admission to any third party in respect of such circumstances.

Schedule 6

Use of Secure Data Environment (SDE)

1. Only Approved Users will be granted access to Information Assets held within The Health Foundation's Secure Data Environment (SDE) for the purpose of this Project.
2. Information Assets include special categories of personal data as described by the General Data Protection Regulation (GDPR) 4(1) and the Data Protection Act (DPA) 2018 s.3(2), concerning data that relate to an identified or identifiable natural person.
3. An Approved User is an individual who can meet the following criteria:
 - Has completed the SDE Training, and if necessary, the annual refresher course;
 - Has signed the SDE Non-Disclosure Agreement
 - Has read and signed the Terms and Conditions of Use pertaining to the SDE
 - Has completed The Health Foundation's Conflict of Interest declaration
4. It is the joint responsibility of The Health Foundation's Data Manager and the signatory of this Agreement to ensure that these criteria are met before access to the SDE commences.
5. The Provider will also ensure that any breach of this Agreement will be communicated to The Health Foundation, and that appropriate disciplinary action will be taken towards their employees and sub-contractors in the case of a serious breach.
6. The User will be subject to the schedule of the Data Protection Act 2018 and the General Data Protection Regulation, in addition to other legislation relevant to accessing Health and Social Care data. This will be explained at the SDE Training course.
7. The Approved User may act either as a Data Processor or as a Data Controller. This will depend on the nature of the Project undertaken.
8. The Data Protection Act 2018 and the General Data Protection Regulation (GDPR) affect the processing of personal data in connection with existing and new agreements and mandates that the processing of such personal data is governed by a written contract.
9. The parties hereby agree to the following terms:
 - 1.1 Access to the Information Assets is being provided for the statistical and analytical purposes as outlined in the relevant Data Sharing Agreement (exchanged between the Foundation and relevant Data Suppliers). Access to Information Assets shall not be used for any other purpose without the prior written consent of The Health Foundation, and where necessary, the Data Supplier.
 - 1.2 The Approved User shall not disclose nor compromise any of Information Assets that they access in the course of their use of the SDE.

- 1.3 The User shall not attempt to link Information Assets to any other files in order to relate the particulars to any identifiable individual person, unless such data linkage exercise has been explicitly approved at the time of the project application or approved subsequently as part of an amendment submitted to the Data Supplier or their delegated decision-making body.
- 1.4 The User will cite the source of the data they have used for their statistical purposes in any publications or outputs publicly distributed.
- 1.5 The Health Foundation reserves the right to monitor, record and audit, or to request a written report from the User regarding their use, and activities relating to the use, of the Information Assets during the Period of Use.
- 1.6 Any data security events must be reported immediately to the Data Manager in the first instance; or else, the SDE Management Group. The Approved User agrees to co-operate with any subsequent investigation which may be warranted.
- 1.7 The Information Assets accessed by the User remains the property of the Data Supplier.
- 1.8 Any outputs to be removed from the SDE must first be screened by staff at The Health Foundation to ensure that the risk of any Data Subject being re-identified, and/or any confidential information being released, is minimised. This is a process known as Statistical Disclosure Control (SDC). Approved Users are responsible for applying SDC concepts as advised by The Health Foundation staff as part of the SDE Training. The final decision to release an output remains with The Health Foundation and not the User or the User Organisation.

Schedule 7

Data Protection

The Data Protection Legislation affects the processing of personal data in connection with existing and new agreements and requires that the processing of such personal data is governed by a written contract.

The parties hereby agree to the following terms:

- 1.0 Processing of Personal Data. The Commissioner is the Data Controller and the Provider is the Data Processor of any personal data covered within the main contract/agreement. The Commissioner instructs the Data Processor to process any such personal data in accordance with the main contract and instructions in this Schedule save that the Data Processor may process personal data when required to do so by EU, Member State or UK law which applies to the Data Processor but, in such circumstances, the Data Processor must notify the Data Controller unless prohibited by law on important grounds of public interest. The Data Processor shall promptly inform the Data Controller if it reasonably believes that an instruction from the Data Controller infringes Data Protection Legislation or other EU, Member State or UK law.
- 2.0 Confidentiality and Security Measures. The Data Processor shall ensure that all personnel processing personal data have committed to process such personal data in confidence. Consistent with good practice the Data Processor is required to implement and maintain appropriate technical safeguards to protect any such personal data covered within this contract. Upon request the Data Processor shall make available to the Data Controller any information deemed reasonable to demonstrate compliance with the Data Protection Legislation and sufficient information to demonstrate the appropriate technical and organisational security measures have been implemented.
- 3.0 Personal Data Breach. The Data Processor should inform the Data Controller immediately and in any event within **[1]** Working Day of becoming aware of any actual or suspected personal data breaches in order that the Data Controller can comply with its obligations to inform the Information Commissioners Office (ICO) within 72 hours. The email address dpo@health.org.uk should be used to inform the Data Controller of any actual or suspected personal data breaches.
- 4.0 Third Parties. If the Data Controller has agreed to the Data Processor sub-contracting under clause 15.3 of this Contract, and the Data Processor sub-contracts any or all of the data processing to any third party then the Data Processor must ensure that obligations equivalent to this Schedule are imposed on any and all such third parties and the Data Processor shall remain fully liable for the performance of the obligations of such third parties.
- 5.0 Data Subject Rights. The Data Processor must provide all necessary assistance to the Data Controller on receipt of and in response to any requests from individuals either that it receives or the Data Controller receives. The legal timeframe to respond to such a request is 30 days, the Data Processor will therefore be required to respond to the requests of the Data Controller in order that the timetable may be met.

Position:

Date:

Signature: (2)

Name:

Position:

Date:

Signed for and on behalf of **[INSERT FULL LEGAL NAME]** in its capacity as the **Provider** by its authorised signatory:

Name:

Position:

Date:
