

## Construction Consultancy Services 2 Service Level Agreement (SLA)

### Framework Details

Title: **Construction Consultancy Services 2**  
 Reference: **SBS/17/NH/PZR/9256**  
 Framework Duration: **4 years**  
 Framework End Date: **31 March 2022**  
 NHS SBS Contact: **Dave Taylor (0161 212 3728)** [dave\\_taylor@nhs.net](mailto:dave_taylor@nhs.net)  
**John Cunningham (0161 212 3715)** [john\\_john.cunningham3@nhs.net](mailto:john_john.cunningham3@nhs.net)


### Service Level Agreement Details

This Service Level Agreement (SLA) is between the following parties and in accordance with the Terms and Conditions of the Framework Agreement.

Period of the Service Level Agreement (SLA)	Effective Date	<b>Monday 17 May 2021</b>	Expiry Date	<b>31 March 2024</b>
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Unless otherwise agreed by both parties, this SLA will remain in force until the expiry date agreed above. If no extension/renewal is agreed and the customer continues to access the supplier's services, the terms of this agreement shall apply on a rolling basis until the overarching Framework expiry date.

### Supplier SLA Signature panel

The "Supplier"	
Name of Supplier	Arcadis LLP
NHS SBS Supplier Reference #	SBS/17/NH/PZR/9256
Name of Supplier Authorised Signatory	Mel Manku
Job Title of Supplier Authorised Signatory	UK Regional Sector Director, Education, Science & Health
Address of Supplier	34 York Way London N1 9AB
Signature of Authorised Signatory	
Date of Signature	18 May 2021

### Customer SLA Signature panel

The "Customer"	
Name of Customer	Leeds Teaching Hospitals NHS Trust
Name of Customer Authorised Signatory	Mike Bacon
Job Title	Building the Leeds Way Programme Director
Contact Details email	<a href="mailto:mike.bacon@nhs.net">mike.bacon@nhs.net</a>
Contact Details phone	(07920) 081 694
Address of Customer	1 <sup>st</sup> , Floor, Trust HQ, St James University Hospital, Beckett Street, Leeds, LS9 7TF

Signature of Customer Authorised Signatory	
Date of Signature	21 May 2021

This service level agreement shall remain in force regardless of any change of organisational structure to the above named authority and shall be applicable to any successor organisations as agreed by both parties.

**PLEASE RETURN THE FINAL SIGNED COPY OF THIS DOCUMENT TO:**  
[john.cunningham3@nhs.net](mailto:john.cunningham3@nhs.net); [nsbs.construction@nhs.net](mailto:nsbs.construction@nhs.net)

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## 1. Agreement Overview

This Agreement represents a Service Level Agreement ("SLA" or "Agreement") between **Leeds Teaching Hospitals NHS Trust (the "Authority" as termed in the contract between the parties)** and **Arcadis LLP (the "Supplier" as termed in the contract between the parties)**, together the **"Parties"**, for the provision of Construction Consultancy Services. This Agreement (which shall include the LTHT consultancy terms and conditions of contract entered into by the parties (dated: 21 May 2021)) remains valid until superseded by a revised agreement mutually endorsed by both parties. This Agreement outlines the parameters for all Construction Consultancy Services covered as they are mutually understood by the primary stakeholders.

The Framework terms and conditions (including the specification of service) will apply in all instances, unless specifically agreed otherwise by both parties within this document. The parties have agreed that the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021), shall take precedence over all other Framework and other terms and conditions.

## 2. Goals & Objectives

The **purpose** of this Agreement is to ensure that the proper elements and commitments are in place to provide consistent Construction Consultancy Services to the Customer by the Supplier. The **goal** of this Agreement is to obtain mutual agreement for Construction Consultancy Services provision between the Supplier and Customer.

The **objectives** of this Agreement are to:

- Provide clear reference to service ownership, accountability, roles and/or responsibilities.
- Present a clear, concise and measurable description of service provision to the customer.

### 3. Stakeholders

The primary stakeholders from the Supplier and the Customer will be responsible for the day-to-date management of the Agreement and the delivery of the service. If different from the Authorised Signatory details listed on page 1 of this Agreement, please provide the names of the **primary stakeholders** associated with this SLA.

**Construction Consultancy Supplier Contact:** *Adam Foster (Project Manager)*

**Construction Consultancy Customer Contact:** *Mike Bacon (Building the Leeds Way Programme Director)*

### 4. Estimated Duration of Contract

This Agreement is valid from the **Effective Date** outlined herein and is valid until the **Expiry Date** as agreed.

### 5. Service Requirements

#### A. Services Provided

Please detail the service(s) that will be provided by the Supplier to the Customer

##### LOT 2 Project Management

The Scope of Services is detailed within the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021).

#### B. Business Hours

Suppliers are required to provide and operate a single point of contact through which the Customer can contact the Supplier

In accordance with the Scope of Services and terms and conditions of contract set out within the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021).

#### C. DBS

The Customer should detail the level of DBS check requirement

In accordance with the terms and conditions of contract set out within the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021).

#### D. Price/Rates inc. estimated total value

In accordance with the terms and conditions of contract set out within the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021).

#### E. Sub-contracting

Subcontracting of services by Suppliers is allowed, both to Framework suppliers and to non-Framework suppliers. Any Supplier sub-contracting will be fully responsible for liability and ensuring standards are maintained in line with the framework and this SLA.

In accordance with the terms and conditions of contract set out within the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021).

## **F. Management Information (MI)**

Suppliers should provide Management Information as standard on a monthly basis. Customers should detail any additional management information required and the frequency of provision here.

In accordance with the terms and conditions of contract set out within the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021).

## **G. Invoicing**

Please detail any specific invoicing requirements here

In accordance with the terms and conditions of contract set out within the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021).

## **H. Complaints/Escalation Procedure**

The standard procedure is detailed below

In the first instance, the Authority and the Supplier shall work together in an attempt to resolve any issues locally in accordance with the Services Contract entered into between the Parties and to which this SLA refers.

Should this approach fail to result in a satisfactory outcome for the Authority, the issue may be escalated in accordance with the escalation arrangements as stated in the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021). In the event that matters are not able to be resolved, then matters may (at the discretion of both parties) be escalated to NHS SBS who may also seek to resolve any issues and to the satisfaction of both parties. The Authority shall continue to reserve the right to terminate the agreement, for whatever reason and upon which any such termination shall immediately lead to the termination of this SLA.

## **I. Audit Process**

Please detail any Customer audit requirements

In accordance with the terms and conditions of contract set out within the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021).

## **J. Termination**

The standard procedure is detailed below

Termination shall be in accordance with the terms and conditions of contract set out within the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021). Upon termination of the terms and conditions of contract set out within the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021), this SLA shall be immediately terminated.

## **K. KPIs and Other Requirements**

Please list and agree the key requirements of the service

In accordance with the terms and conditions of contract set out within the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021).

**L. Variation to Standard Specification**

Please list any agreed variations to the specification of requirements.

Variations shall be managed in accordance with the terms and conditions of contract set out within the LTHT NHS Terms and Conditions of Contract, relating to the Services provided and as signed between the parties (dated: 21 May 2021).

# Leeds Teaching Hospitals NHS Trust

Building the Leeds Way Programme

**Acute Hospital Laboratory (“AHL”) Project**

Project Management Services

## NHS TERMS AND CONDITIONS FOR THE PROVISION OF SERVICES

<b>The Authority</b>	<b>The Leeds Teaching Hospitals NHS Trust</b> St James University Hospital Beckett Street, Leeds, LS9 7TF
<b>The Supplier</b>	<b>Arcadis LLP</b> Arcadis House 34, York Way, London, N1 9AB
<b>Supplier Registration No.</b>	OC368843
<b>Date</b>	<b>21 May 2021</b>
<b>Type of Services</b>	<b>Project Management Services</b>

This Contract is made on the date set out above subject to the terms set out in the schedules listed below ("**Schedules**"). The Authority and the Supplier undertake to comply with the provisions of the Schedules in the performance of this Contract.

The Supplier shall supply to the Authority, and the Authority shall receive and pay for, the Services on the terms of this Contract.

The Definitions in Schedule 4 apply to the use of all capitalised terms in this Contract.


**Schedules**

<b>Schedule 1</b>	Key Provisions
<b>Schedule 2</b>	General Terms and Conditions
<b>Schedule 3</b>	Information Governance Provisions
<b>Schedule 4</b>	Definitions and Interpretations
<b>Schedule 5</b>	Supplier Quotation
<b>Schedule 6</b>	Commercial Schedule

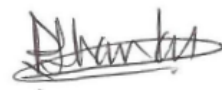


**Contract for the provision of specialist Project Management Services to support the LTHT Building the Leeds Way Programme and specifically the delivery of the Acute Hospital Laboratory Project.**

**Signed by the authorised representative of THE AUTHORITY**

Name:	Mike Bacon	Signature:	
Position:	Programme Director	Date:	21 May 2021

**Signed by the authorised representative of THE SUPPLIER**

Name:	Mel Manku	Signature:	
Position:	Regional Sector Director	Date:	18 May 2021

## **Schedule 1**

### **Key Provisions**

#### **Standard Key Provisions**

#### **1 Application of the Key Provisions**

- 1.1 The standard Key Provisions at Clauses 1 to 7 of this Schedule 1 shall apply to this Contract.
- 1.2 The optional Key Provisions at Clauses 8 to 23 of this Schedule 1 shall only apply to this Contract where they have been checked and information completed as applicable.
- 1.3 Extra Key Provisions shall only apply to this Contract where such provisions are set out at the end of this Schedule 1.

#### **2 Term**

- 2.1 This Contract shall commence on the Commencement Date (the date of this contract on page 1). The Term of this Contract shall expire on, or before 31 March 2024 unless the Term is extended in accordance with Clause 15.2 of Schedule 2 provided that the Term of this Contract shall be no longer than three (3) years in total.

#### **3 Contract Managers**

- 3.1 The Contract Managers at the commencement of this Contract are:
  - 3.1.1 for the Authority:  
**Mike Bacon (Programme Director)**
  - 3.1.2 for the Supplier:  
**Adam Foster (Project Manager)**

#### **4 Names and addresses for notices**

- 4.1 Notices served under this Contract are to be delivered to:
  - 4.1.1 for the Authority:  
**Mike Bacon**  
**Leeds Teaching Hospitals NHS Trust**  
Building the Leeds Way Programme Director  
1<sup>st</sup> Floor,  
Trust Headquarters  
St James's University Hospital  
Beckett Street,  
Leeds,  
West Yorkshire

LS9 7TF

4.1.2 for the Supplier:

**Adam Foster**

**Arcadis**

1, Whitehall Riverside,

Leeds,

LS1 4BN

4.2 Any Notice issued in accordance with Clause 27 of Schedule 2 ("General Terms and Conditions") that is delivered by hand or sent by prepaid first class recorded delivery shall also be issued on the same day (unless otherwise notified differently by the Contract Managers) as a copy in electronic e-mail form to the following:

4.2.1 for the Authority:

**Mike Bacon**

mike.bacon@nhs.net

4.2.2 for the Supplier:

**Adam Foster**

adam.foster@arcadis.com

## **5 Management levels for escalation and dispute resolution**

5.1 The management levels at which a dispute will be dealt with are as follows:

<b>Level</b>	<b>Authority representative</b>	<b>Supplier representative</b>
1	<b>Simon Worthington (Director of Finance)</b>	<b>Chris Waine Senior Director, Healthcare (North)</b>

## **6 Order of precedence**

6.1 Should there be a conflict between any parts of this Contract the order of priority shall be:

6.1.1 the provisions on the front page of this NHS Contract for the Provision of Services (where the Authority and Supplier details are confirmed)

6.1.2 Schedule 6: Commercial Schedule

6.1.3 Schedule 1: Key Provisions

6.1.4 Schedule 5 (Part 1): Specification (inclusive of all Parts)

- 6.1.5 Schedule 5 (Part 2): Tender Response Document (Quotation) (with the exception of payment provisions and commercial arrangements where Schedule 6 shall have a higher order of priority over Schedule 5 (Part 2))
- 6.1.6 Schedule 2: General Terms and Conditions
- 6.1.7 Schedule 3: Information Governance Provisions
- 6.1.8 Schedule 4: Definitions and Interpretations
- 6.1.9 the order in which all subsequent schedules, if any, appear; and
- 6.1.10 any other documentation forming part of the Contract in the date order in which such documentation was created with the more recent documentation taking precedence over older documentation to the extent only of any conflict.

## **7 Not Applicable**

7.1 Not Used.

### **Optional Key Provisions**

**8 Implementation phase ☐ (only applicable to the Contract if this box is checked and the Schedule inserted)**

8.1 Not Used.

**9 Services Commencement Date (where the Services are to start at a date after the Commencement Date) ☐ (only applicable to the Contract if this box is checked and the dates are inserted in Clause 9.1 of this Schedule 1)**

9.1 Not Used.

**10 Induction training ☐ (only applicable to the Contract if this box is checked)**

10.1 Not Used.

**11 Quality assurance standards ☒ (only applicable to the Contract if this box is checked and the standards are listed)**

11.1 The Supplier shall establish and implement quality control procedures that reflect

11.1.1 Good Industry Practice;

11.1.2 are relevant and appropriate to the nature of the services to be provided; and

11.1.3 are proportionate to the nature and size of this Contract.

11.2 The Supplier shall establish quality control procedures that reflect the nature and type of services to be provided and the duration of the Contract term and specifically are expected to include the preparation and submission of a Services Commission Quality Plan (that shall be produced within two (2) weeks of the Services Commencement Date) that documents:

- 11.2.1 the roles and responsibilities for quality assurance; and
- 11.2.2 appropriate and relevant processes and procedures that demonstrate and confirm how deliverables and services shall be quality assured.
- 11.3 The Supplier (and the staff) performing the required Services shall hold the relevant qualifications and be sufficiently experienced and trained in accordance with Good Industry Practice relevant to the Services to be provided.
- 12 Different levels and/or types of insurance ☐ (only applicable to the Contract if this box is checked and the table sets out the requirements)**
- 12.1 Not Used
- 13 Further Authority obligations ☐ (only applicable to the Contract if this box is checked and the Schedule inserted)**
- 13.1 Not Used.
- 14 Assignment of Intellectual Property Rights in deliverables, materials and outputs ☒ (only applicable to the Contract if this box is checked)**
- 14.1 The Supplier confirms and agrees that all Intellectual Property Rights in and to the deliverables, material and any other output developed by the Supplier as part of the Services in accordance with the Specification and Tender Response Document, shall be owned by the Authority. The Supplier hereby assigns with full title guarantee by way of present and future assignment all Intellectual Property Rights in and to such deliverables, material and other outputs. The Supplier shall ensure that all Staff assign any Intellectual Property Rights they may have in and to such deliverables, material and other outputs to the Supplier to give effect to Clause 14 of this Schedule 1 and that such Staff absolutely and irrevocably waive their moral rights in relation to such deliverables, material and other outputs. Clause 14 of this Schedule 1 shall continue notwithstanding the expiry or earlier termination of this Contract.
- 15 Inclusion of a Change Control Process ☐ (only applicable to the Contract if this box is checked and the Schedule inserted)**
- 15.1 Not Used.
- 16 Authority step-in rights ☐ (only applicable to the Contract if this box is checked and the Schedule inserted)**
- 16.1 Not Used
- 17 Grant of lease or licence ☐ (only applicable to the Contract if this box is checked)**
- 17.1 Not Used.
- 18 Guarantee ☐ (only applicable to the Contract if this box is checked)**
- 18.1 Not Used.

**19 Supplier as Data Processor ☒ (only applicable to the Contract if this box is checked)**

- 19.1 The Parties acknowledge that the Authority is the Data Controller and the Supplier is the Data Processor in respect of any Personal Data Processed under this Contract.

**20 Purchase Orders ☒ (only applicable to the Contract if this box is checked)**

- 20.1 The Authority shall issue a Purchase Order to the Supplier in respect of any Services to be supplied to the Authority under this Contract. The Supplier shall comply with the terms of such Purchase Order as a term of this Contract. For the avoidance of doubt, any actions or work undertaken by the Supplier under this Contract prior to the receipt of a Purchase Order covering the relevant Services shall be undertaken at the Supplier's risk and expense and the Supplier shall only be entitled to invoice for Services covered by a valid Purchase Order.

**21 Monthly payment profile ☒ (only applicable to the Contract if this box is checked)**

- 21.1 The payment profile for this Contract shall, for the time incurred, be invoiced monthly in arrears.
- 21.2 The payment profile shall be approved by the Authority.
- 21.3 All Invoices shall be addressed to:

ACCOUNTS PAYABLE DEPT.  
PO BOX 784  
Leeds General Infirmary  
Leeds,  
LS1 9LF

e-mail: [leedsth-tr.accountspayable@nhs.net](mailto:leedsth-tr.accountspayable@nhs.net)

- 21.4 A draft copy of all invoices shall be e-mailed direct to the Authority Contract Manager for approval prior to being issued to Accounts Payable Department.
- 21.5 Where invoices fail to be presented in accordance with clause 21 (and/or other requirements set out within this agreement) the Authority shall be under no obligation to make payment. In the event of conflict between the provisions of this clause 21.3 and other payment terms set out within this agreement, the provisions of this clause 21.3 shall take precedence.

**22 Termination for convenience ☒ (only applicable to the Contract if this box is checked and Clause 22.1 of this Schedule 1 is completed)**

- 22.1 The Authority may terminate this Contract forthwith in writing to the Supplier at any time, for whatever reason, on **one (1) week's** written notice. The Supplier shall comply with all reasonable instructions set out within any written notice to terminate this contract which may also include an instruction to undertake no further work and incur no further costs.

- 23 Right to terminate following a specified number of material breaches ☐ (only applicable to the Contract if this box is checked and Clause 23.1 of this Schedule 1 is completed)**

23.1 Not Used.

**Extra Key Provisions**

**24 Reporting**

- 24.1 The Supplier shall maintain regular contact with the Authority (and specifically the Programme Director) to provide up-dates on progress to complete the required Services. As a minimum this shall include a monthly progress report.

**25 Premises, locations and access**

- 25.1 The Services shall be performed at the Suppliers premises and where appropriate at the Authority premises.

**26 Staff**

- 26.1 The Supplier shall use all reasonable endeavours to ensure the continuity of all staff in the delivery of the Services. Any changes to staff/resources shall be subject to approval by the Authority.

## **Schedule 2**

### **General Terms and Conditions**

#### **Contents**

1. Provision of Services
2. Premises, locations and access
3. Cooperation with third parties
4. Use of Authority equipment
5. Staff
6. Business continuity
7. The Authority's obligations
8. Contract management
9. Price and payment
10. Warranties
11. Intellectual property
12. Indemnity
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15. Term and termination
16. Consequences of expiry or earlier termination of this Contract
17. NOT USED
18. Complaints
19. Sustainable development
20. Electronic services information
21. Change management
22. Dispute resolution
23. Force majeure
24. Records retention and right of audit
25. Conflicts of interest and the prevention of fraud
26. Equality and human rights
27. Notice
28. Assignment, novation and Sub-contracting
29. Prohibited Acts
30. General



## **1 Provision of Services**

### **1.1 The Authority appoints the Supplier and the Supplier agrees to provide the Services:**

- 1.1.1 promptly and in any event within any time limits as may be set out in this Contract;
- 1.1.2 in accordance with all other provisions of this Contract;
- 1.1.3 with reasonable skill and care and in accordance with any quality assurance standards as set out in the Key Provisions;
- 1.1.4 in accordance with the Law and with Guidance;
- 1.1.5 in accordance with Good Industry Practice;
- 1.1.6 in accordance with the Policies; and
- 1.1.7 in a professional and courteous manner.

In complying with its obligations under this Contract, the Supplier shall, and shall procure that all Staff shall, act in accordance with the NHS values as set out in the NHS Constitution from time to time.

### **1.2 The Supplier shall commence delivery of the Services on the Services Commencement Date.**

### **1.3 The Supplier shall comply fully with its obligations set out in the Specification and Tender Response Document.**

### **1.4 The Supplier shall ensure that all relevant consents, authorisations, licences and accreditations required to provide the Services are in place at the Commencement Date and are maintained throughout the Term.**

### **1.5 If the Services, or any part of them, are regulated by any regulatory body, the Supplier shall ensure that at the Commencement Date it has in place all relevant registrations and shall maintain such registrations during the Term. The Supplier shall notify the Authority forthwith in writing of any changes to such registration or any other matter relating to its registration that would affect the delivery or the quality of Services.**

### **1.6 The Supplier shall notify the Authority forthwith in writing:**

- 1.6.1 of any pending inspection of the Services, or any part of them, by a regulatory body immediately upon the Supplier becoming aware of such inspection; and
- 1.6.2 of any failure of the Services, or any part of them, to meet the quality standards required by a regulatory body, promptly and in any event within two (2) Business Days of the Supplier becoming aware of any such failure. This shall include without limitation any informal feedback received during or following an inspection raising concerns of any nature regarding the provision of the Services.

### **1.7 Following any inspection of the Services, or any part of them, by a regulatory body, the Supplier shall provide the Authority with a copy of any report or other communication**

published or provided by the relevant regulatory body in relation to the provision of the Services.

- 1.8 Upon receipt of notice pursuant to Clause 1.6 of this Schedule 2 or any report or communication pursuant to Clause 1.7 of this Schedule 2, the Authority shall be entitled to request further information from the Supplier and/or a meeting with the Supplier, and the Supplier shall cooperate fully with any such request.
- 1.9 Where applicable, the Supplier shall implement and comply with the Policies on reporting and responding to all incidents and accidents, including serious incidents requiring investigation, shall complete the Authority's incident and accident forms in accordance with the Policies and provide reasonable support and information as requested by the Authority to help the Authority deal with any incident or accident relevant to the Services. The Supplier shall ensure that its Contract Manager informs the Authority's Contract Manager in writing forthwith upon (a) becoming aware that any serious incidents requiring investigation and/or notifiable accidents have occurred; or (b) the Supplier's Contract Manager having reasonable cause to believe any serious incidents and/or notifiable accidents requiring investigation have occurred. The Supplier shall ensure that its Contract Manager informs the Authority's Contract Manager in writing within forty eight (48) hours of all other incidents and/or accidents that have or may have an impact on the Services.
- 1.10 Should the Authority be of the view, acting reasonably, that the Supplier can no longer provide the Services, then without prejudice to the Authority's rights and remedies under this Contract, the Authority shall be entitled to exercise its Step In Rights if the Key Provisions refer to the Authority having such rights under this Contract.
- 1.11 The Supplier shall be relieved from its obligations under this Contract to the extent that it is prevented from complying with any such obligations due to any acts, omissions or defaults of the Authority. To qualify for such relief, the Supplier must notify the Authority promptly (and in any event within five (5) Business Days) in writing of the occurrence of such act, omission, or default of the Authority together with the potential impact on the Supplier's obligations.

## **2 Premises, locations and access**

- 2.1 The Services shall be provided at such Authority premises and at such locations within those premises, as may be set out in the Specification and Tender Response Document or as otherwise agreed by the Parties in writing ("**Premises and Locations**").
- 2.2 Subject to the Supplier and its Staff complying with all relevant Policies applicable to such Premises and Locations, the Authority shall grant reasonable access to the Supplier and its Staff to such Premises and Locations to enable the Supplier to provide the Services.
- 2.3 Subject to Clause 2.4 of this Schedule 2, any access granted to the Supplier and its Staff under Clause 2.2 of this Schedule 2 shall be non-exclusive and revocable. Such access shall not be deemed to create any greater rights or interest than so granted (to include, without limitation, any relationship of landlord and tenant) in the Premises and Locations. The Supplier warrants that it shall carry out all such reasonable further acts to give effect to this Clause 2.3 of this Schedule 2.
- 2.4 Where, in order to provide the Services, the Supplier requires any greater rights to use or occupy any specific Premises and Locations over and above such reasonable

access rights granted in accordance with Clause 2.2 and Clause 2.3 of this Schedule 2, such further rights shall be limited to any rights granted to the Supplier by the Authority in accordance with any licence and/or lease entered into by the Supplier in accordance with the Key Provisions.

- 2.5 Where it is provided for by a specific mechanism set out in the Specification and Tender Response Document, the Authority may increase, reduce or otherwise vary the Premises and Locations in accordance with such mechanism subject to the provisions of any licence or lease entered into by the Parties as referred to at Clause 2.4 of this Schedule 2. Where there is no such specific mechanism set out in the Specification and Tender Response Document, any variations to the Premises and Locations where the Services are to be provided shall be agreed by the Parties in accordance with Clause 21 of this Schedule 2. If agreement cannot be reached the matter shall be referred to, and resolved in accordance with, the dispute resolution process set out in Clause 5 of the Key Provisions and Clause 22.3 of this Schedule 2.

### **3 Cooperation with third parties**

- 3.1 The Supplier shall, as reasonably required by the Authority, cooperate with any other service providers to the Authority and/or any other third parties as may be relevant in the provision of the Services.

### **4 Use of Authority equipment**

- 4.1 Unless otherwise set out in the Specification and Tender Response Document or otherwise agreed by the Parties in writing, any equipment or other items provided by the Authority for use by the Supplier:

- 4.1.1 shall be provided at the Authority's sole discretion;
- 4.1.2 shall be inspected by the Supplier in order that the Supplier can confirm to its reasonable satisfaction that such equipment and/or item is fit for its intended use and shall not be used by the Supplier until it has satisfied itself of this;
- 4.1.3 must be returned to the Authority within any agreed timescales for such return or otherwise upon the request of the Authority; and
- 4.1.4 shall be used by the Supplier at the Supplier's risk and the Supplier shall upon written request by the Authority reimburse the Authority for any loss or damage relating to such equipment or other items caused by the Supplier (fair wear and tear exempted).

### **5 Staff**

- 5.1 Subject to the requirements of this Contract and any Law, the Supplier shall be entirely responsible for the employment and conditions of service of Staff. The Supplier shall ensure that such conditions of employment are consistent with its obligations under this Contract.
- 5.2 The Supplier will employ sufficient Staff to ensure that it complies with its obligations under this Contract. This will include, but not be limited to, the Supplier providing a sufficient reserve of trained and competent Staff to provide the Services during Staff holidays or absence.

- 5.3 The Supplier shall use reasonable endeavours to ensure the continuity of all Staff in the provision of the Services and, where any member of Staff is designated as key to the provision of the Services as set out in the Specification and Tender Response Document or as otherwise agreed between the Parties in writing, any redeployment and/or replacement of such member of Staff by the Supplier shall be subject to the prior written approval of the Authority, such approval not to be unreasonably withheld or delayed.
- 5.4 The Supplier shall ensure that all Staff are aware of, and at all times comply with, the Policies.
- 5.5 The Supplier shall:
- 5.5.1 employ only those Staff who are careful, skilled and experienced in the duties required of them;
  - 5.5.2 ensure that every member of Staff is properly and sufficiently trained and instructed;
  - 5.5.3 ensure all Staff have the qualifications to carry out their duties;
  - 5.5.4 maintain throughout the Term all appropriate licences and registrations with any relevant bodies (at the Supplier's expense) in respect of the Staff; and
  - 5.5.5 ensure all Staff comply with such registration, continuing professional development and training requirements or recommendations appropriate to their role including those from time to time issued by the Department of Health or any relevant regulatory body or any industry body in relation to such Staff.
- 5.6 The Supplier shall not deploy in the provision of the Services any person who has suffered from, has signs of, is under treatment for, or who is suffering from any medical condition which is known to, or does potentially, place the health and safety of the Authority's staff, patients, service users or visitors at risk unless otherwise agreed in writing with the Authority.
- 5.7 The Supplier shall ensure that all potential Staff or persons performing any of the Services during the Term who may reasonably be expected in the course of performing any of the Services under this Contract to have access to or come into contact with children or other vulnerable persons and/or have access to or come into contact with persons receiving health care services:
- 5.7.1 are questioned concerning their Convictions; and
  - 5.7.2 obtain appropriate disclosures from the Disclosure and Barring Service (or other appropriate body) as required by Law and/or the Policies before the Supplier engages the potential staff or persons in the provision of the Services.
- 5.8 The Supplier shall take all necessary steps to ensure that such potential staff or persons obtain standard and enhanced disclosures from the Disclosure and Barring Service (or other appropriate body) and shall ensure all such disclosures are kept up to date. The obtaining of such disclosures shall be at the Supplier's cost and expense.

- 5.9 The Supplier shall ensure that no person is employed or otherwise engaged in the provision of the Services without the Authority's prior written consent if:
- 5.9.1 the person has disclosed any Convictions upon being questioned about their Convictions in accordance with Clause 5.7.1 of this Schedule 2;
  - 5.9.2 the person is found to have any Convictions following receipt of standard and/or enhanced disclosures from the Disclosure and Barring Service (or other appropriate body) in accordance with Clause 5.7.2 of this Schedule 2; or
  - 5.9.3 the person fails to obtain standard and/or enhanced disclosures from the Disclosure and Barring Service (or other appropriate body) upon request by the Supplier in accordance with Clause 5.7.2 of this Schedule 2.
- 5.10 In addition to the requirements of Clause 5.7 to Clause 5.9 of this Schedule 2, where the Services are or include regulated activities as defined by the Safeguarding Vulnerable Groups Act 2006 the Supplier:
- 5.10.1 warrants that it shall comply with all requirements placed on it by the Safeguarding Vulnerable Groups Act 2006;
  - 5.10.2 warrants that at all times it has and will have no reason to believe that any member of Staff is barred in accordance with the Safeguarding Vulnerable Groups Act 2006; and
  - 5.10.3 shall ensure that no person is employed or otherwise engaged in the provision of the Services if that person is barred from carrying out, or whose previous conduct or records indicate that they would not be suitable to carry out, any regulated activities as defined by the Safeguarding Vulnerable Groups Act 2006 or may present a risk to patients, service users or any other person.
- 5.11 The Supplier shall ensure that the Authority is kept advised at all times of any member of Staff who, subsequent to their commencement of employment as a member of Staff receives a Conviction or whose previous Convictions become known to the Supplier or whose conduct or records indicate that they are not suitable to carry out any regulated activities as defined by the Safeguarding Vulnerable Groups Act 2006 or may present a risk to patients, service users or any other person. The Supplier shall only be entitled to continue to engage or employ such member of Staff with the Authority's written consent and with such safeguards being put in place as the Authority may reasonably request. Should the Authority withhold consent the Supplier shall remove such member of Staff from the provision of the Services forthwith.
- 5.12 The Supplier shall immediately provide to the Authority any information that the Authority reasonably requests to enable the Authority to satisfy itself that the obligations set out in Clause 5.7 to Clause 5.11 of this Schedule 2 have been met.
- 5.13 The Authority may at any time request that the Supplier remove and replace any member of Staff from the provision of the Services, provided always that the Authority will act reasonably in making such a request. Prior to making any such request the Authority shall raise with the Supplier the Authority's concerns regarding the member of Staff in question with the aim of seeking a mutually agreeable resolution. The Authority shall be under no obligation to have such prior discussion should the Authority have concerns regarding patient or service user safety.

## **6 Business continuity**

- 6.1 The Supplier shall use reasonable endeavours to ensure its Business Continuity Plan operates effectively alongside the Authority's business continuity plan where relevant to the provision of the Services.
- 6.2 Throughout the Term, the Supplier will ensure its Business Continuity Plan provides for continuity during a Business Continuity Event. The Supplier confirms and agrees such Business Continuity Plan details and will continue to detail robust arrangements that are reasonable and proportionate to:
- 6.2.1 the criticality of this Contract to the Authority; and
- 6.2.2 the size and scope of the Supplier's business operations,
- regarding continuity of the provision of the Services during and following a Business Continuity Event.
- 6.3 During and following a Business Continuity Event, the Supplier shall use reasonable endeavours to continue to provide the Services in accordance with this Contract.

## **7 The Authority's obligations**

- 7.1 Subject to the Supplier providing the Services in accordance with this Contract, the Authority will pay the Supplier for the Services in accordance with Clause 9 of this Schedule 2.
- 7.2 The Authority shall, as appropriate, provide copies of or give the Supplier access to such of the Policies that are relevant to the provision of the Services.
- 7.3 The Authority shall provide the Supplier with any reasonable and proportionate cooperation necessary to enable the Supplier to comply with its obligations under this Contract. The Supplier shall at all times provide reasonable advance written notification to the Authority of any such cooperation necessary in circumstances where such cooperation will require the Authority to plan for and/or allocate specific resources in order to provide such cooperation.

## **8 Contract management**

- 8.1 Each Party shall appoint and retain a Contract Manager who shall be the primary point of contact for the other Party in relation to matters arising from this Contract. Should the Contract Manager be replaced, the Party replacing the Contract Manager shall promptly inform the other Party in writing of the name and contact details for the new Contract Manager. Any Contract Manager appointed shall be of sufficient seniority and experience to be able to make decisions on the day to day operation of the Contract. The Supplier confirms and agrees that it will be expected to work closely and cooperate fully with the Authority's Contract Manager.
- 8.2 Each Party shall ensure that its representatives (to include, without limitation, its Contract Manager) shall attend review meetings on a regular basis to review the performance of the Supplier under this Contract and to discuss matters arising generally under this Contract. Each Party shall ensure that those attending such meetings have the authority to make decisions regarding the day to day operation of the Contract. Review meetings shall take place at the frequency specified in the Specification and Tender Response Document and in accordance with Schedule 1

("Key Provisions"). Should the Specification and Tender Response Document not state the frequency, then the first such meeting shall take place on a date to be agreed on or around the end of the first month after the Commencement Date. Subsequent meetings shall take place at monthly intervals or as may otherwise be agreed in writing between the Parties.

- 8.3 Unless specified otherwise in the Specification and Tender Response Document, the Authority shall take minutes of each review meeting and shall circulate draft minutes to the Supplier within a reasonable time following such review meeting. The Supplier shall inform the Authority in writing of any suggested amendments to the minutes within five (5) Business Days of receipt of the draft minutes. If the Supplier does not respond to the Authority within such five (5) Business Days the minutes will be deemed to be approved. Where there are any differences in interpretation of the minutes, the Parties will use their reasonable endeavours to reach agreement. If agreement cannot be reached the matter shall be referred to, and resolved in accordance with, the dispute resolution process set out in Clause 5 of the Key Provisions and Clause 22.3 of this Schedule 2.
- 8.4 The Supplier shall provide such management information as the Authority may request from time to time within seven (7) Business Days of the date of the request. The Supplier shall supply the management information to the Authority in such form as may be specified by the Authority and, where requested to do so, the Supplier shall also provide such management information to another Contracting Authority, whose role it is to analyse such management information in accordance with UK government policy (to include, without limitation, for the purposes of analysing public sector expenditure and planning future procurement activities) ("**Third Party Body**"). The Supplier confirms and agrees that the Authority may itself provide the Third Party Body with management information relating to the Services purchased, any payments made under this Contract, and any other information relevant to the operation of this Contract.
- 8.5 Upon receipt of management information supplied by the Supplier to the Authority and/or the Third Party Body, or by the Authority to the Third Party Body, the Parties hereby consent to the Third Party Body and the Authority:
- 8.5.1 storing and analysing the management information and producing statistics; and
  - 8.5.2 sharing the management information or any statistics produced using the management information with any other Contracting Authority.
- 8.6 If the Third Party Body and/or the Authority shares the management information or any other information provided under Clause 8.5 of this Schedule 2, any Contracting Authority receiving the management information shall, where such management information is subject to obligations of confidence under this Contract and such management information is provided direct by the Authority to such Contracting Authority, be informed of the confidential nature of that information by the Authority and shall be requested by the Authority not to disclose it to any body that is not a Contracting Authority (unless required to do so by Law).
- 8.7 The Authority may make changes to the type of management information which the Supplier is required to supply and shall give the Supplier at least one (1) month's written notice of any changes.

## **9 Price and payment**

9.1 The Contract Price shall be calculated as set out in the Commercial Schedule.

9.2 Unless otherwise stated in the Commercial Schedule the Contract Price:

9.2.1 shall be payable from the Commencement Date;

9.2.2 shall remain fixed (as a capped fee) during the Term; and

9.2.3 is the entire price payable by the Authority to the Supplier in respect of the Services and includes, without limitation, any royalties, licence fees, supplies and all consumables used by the Supplier, travel costs, accommodation expenses and the cost of Staff.

9.3 Unless stated otherwise in the Commercial Schedule:

9.3.1 where the Key Provisions confirm that the payment profile for this Contract is monthly in arrears, the Supplier shall invoice the Authority, within fourteen (14) days of the end of each calendar month, the Contract Price in respect of the Services provided in compliance with this Contract in the preceding calendar month

Each invoice shall contain such information and be addressed to such individual as stated in Clause 21 of Schedule 1 ("Key Provisions") and/or as the Authority may reasonably inform the Supplier from time to time.

9.4 The Contract Price is exclusive of VAT, which, if properly chargeable, the Authority shall pay at the prevailing rate subject to receipt from the Supplier of a valid and accurate VAT invoice. Such VAT invoices shall show the VAT calculations as a separate line item.

9.5 The Authority shall verify and pay each valid and undisputed invoice received in accordance with Clause 9.3 of this Schedule 2 within thirty (30) days of receipt of such invoice at the latest. However, the Authority shall use its reasonable endeavours to pay such undisputed invoices sooner in accordance with any applicable government prompt payment targets. If there is undue delay in verifying the invoice in accordance with this Clause 9.5 of this Schedule 2, the invoice shall be regarded as valid and undisputed for the purposes this Clause 9.5 after a reasonable time has passed.

9.6 Where the Authority raises a query with respect to an invoice the Parties shall liaise with each other and agree a resolution to such query within thirty (30) days of the query being raised. If the Parties are unable to agree a resolution within thirty (30) days the query shall be referred to dispute resolution in accordance with Clause 22 of this Schedule 2. For the avoidance of doubt, the Authority shall not be in breach of any of any of its payment obligations under this Contract in relation to:

9.6.1 any queried or disputed invoice sums;

9.6.2 an invoice presented other than in accordance with the Authority requirements as described within this Contract; and

9.6.3 unless the process referred to in this Clause 9.6 of this Schedule 2 has been followed and it has been determined that the queried or disputed invoice



amount is properly due to the Supplier and the Authority has then failed to pay such sum within a reasonable period following such determination.

9.7 The Authority reserves the right to set-off:

9.7.1 any monies due to the Supplier from the Authority as against any monies due to the Authority from the Supplier under this Contract; and

9.7.2 any monies due to the Authority from the Supplier as against any monies due to the Supplier from the Authority under this Contract.

## **10 Warranties**

10.1 The Supplier warrants and undertakes that:

10.1.1 it has, and shall ensure its Staff shall have, and shall maintain throughout the Term, all appropriate licences and registrations with the relevant bodies to fulfil its obligations under this Contract;

10.1.2 it has all rights, consents, authorisations, licences and accreditations required to provide the Services and shall maintain such consents, authorisations, licences and accreditations throughout the Term;

10.1.3 it has and shall maintain a properly documented system of quality controls and processes covering all aspects of its obligations under this Contract and/or under Law and/or Guidance and shall at all times comply with such quality controls and processes;

10.1.4 it shall not make any significant changes to its system of quality controls and processes in relation to the Services without notifying the Authority in writing at least twenty one (21) days in advance of such change (such notice to include the details of the consequences which follow such change being implemented);

10.1.5 where any act of the Supplier requires the notification to and/or approval by any regulatory or other competent body in accordance with any Law and Guidance, the Supplier shall comply fully with such notification and/or approval requirements;

10.1.6 receipt of the Services by or on behalf of the Authority and use of the deliverables or of any other item or information supplied or made available to the Authority as part of the Services will not infringe any third party rights, to include without limitation any Intellectual Property Rights;

10.1.7 it will comply with all Law, Guidance and Policies in so far as is relevant to the provision of the Services;

10.1.8 it will provide the Services using reasonable skill and care and in accordance with Good Industry Practice and shall fulfil all requirements of this Contract using appropriately skilled, trained and experienced staff;

10.1.9 unless otherwise set out in the Specification and Tender Response Document and/or as otherwise agreed in writing by the Parties, it has and/or shall procure all resources, equipment, consumables and other items and facilities required to provide the Services;

- 10.1.10 without limitation to the generality of Clause 10.1.7 of this Schedule 2, it shall comply with all health and safety processes, requirements safeguards, controls, and training obligations in accordance with its own operational procedures, Law, Guidance, Policies, Good Industry Practice, the requirements of the Specification and Tender Response Document and any notices or instructions given to the Supplier by the Authority and/or any competent body, as relevant to the provision of the Services and the Supplier's access to the Premises and Locations in accordance with this Contract;
- 10.1.11 without prejudice to any specific notification requirements set out in this Contract, it will promptly notify the Authority of any health and safety hazard which has arisen, or the Supplier is aware may arise, in connection with the performance of the Services and take such steps as are reasonably necessary to ensure the health and safety of persons likely to be affected by such hazards;
- 10.1.12 any equipment it uses in the provision of the Services shall comply with all relevant Law and Guidance, be fit for its intended purpose and maintained fully in accordance with the manufacturer's specification and shall remain the Supplier's risk and responsibility at all times;
- 10.1.13 unless otherwise confirmed by the Authority in writing (to include, without limitation, as part of the Specification and Tender Response Document), it will ensure that any products purchased by the Supplier partially or wholly for the purposes of providing the Services will comply with requirements five (5) to eight (8), as set out in Annex 1 of the Cabinet Office Procurement Policy Note - Implementing Article 6 of the Energy Efficiency Directive (Action Note 07/14 3rd June 2014), to the extent such requirements apply to the relevant products being purchased;
- 10.1.14 it shall use Good Industry Practice to ensure that any information and communications technology systems and/or related hardware and/or software it uses are free from corrupt data, viruses, worms and any other computer programs or code which might cause harm or disruption to the Authority's information and communications technology systems;
- 10.1.15 it shall: (i) comply with all relevant Law and Guidance and shall use Good Industry Practice to ensure that there is no slavery or human trafficking in its supply chains; and (ii) notify the Authority immediately if it becomes aware of any actual or suspected incidents of slavery or human trafficking in its supply chains;
- 10.1.16 it shall at all times conduct its business in a manner that is consistent with any anti-slavery Policy of the Authority and shall provide to the Authority any reports or other information that the Authority may request as evidence of the Supplier's compliance with this Clause 10.1.16 and/or as may be requested or otherwise required by the Authority in accordance with its anti-slavery Policy;
- 10.1.17 it will promptly respond to all requests for information regarding this Contract and the provision of the Services at the frequency and in the format that the Authority may reasonably require;

- 10.1.18 it has used reasonable skill, care and diligence to ensure that all information included within the Supplier's responses to any documents issued by the Authority as part of the procurement relating to the award of this Contract (to include, without limitation, as referred to in the Specification and Tender Response Document and Commercial Schedule) and all accompanying materials is accurate;
  - 10.1.19 it has the right and authority to enter into this Contract and that it has the capability and capacity to fulfil its obligations under this Contract;
  - 10.1.20 it is a properly constituted entity and it is fully empowered by the terms of its constitutional documents to enter into and to carry out its obligations under this Contract and the documents referred to in this Contract;
  - 10.1.21 all necessary actions to authorise the execution of and performance of its obligations under this Contract have been taken before such execution;
  - 10.1.22 there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition, business or operations of the Supplier;
  - 10.1.23 there are no material agreements existing to which the Supplier is a party which prevent the Supplier from entering into or complying with this Contract;
  - 10.1.24 it has and will continue to have the capacity, funding and cash flow to meet all its obligations under this Contract; and
  - 10.1.25 it has satisfied itself as to the nature and extent of the risks assumed by it under this Contract and has gathered all information necessary to perform its obligations under this Contract and all other obligations assumed by it.
- 10.2 The Supplier warrants that all information, data and other records and documents required by the Authority as set out in the Specification and Tender Response Document shall be submitted to the Authority in the format and in accordance with any timescales set out in the Specification and Tender Response Document.
- 10.3 Without prejudice to the generality of Clause 10.2 of this Schedule 2, the Supplier acknowledges that a failure by the Supplier following the Commencement Date to submit accurate invoices and other information on time to the Authority may result in the commissioner of health services, or other entity responsible for reimbursing costs to the Authority, delaying or failing to make relevant payments to the Authority. Accordingly, the Supplier warrants that, from the Commencement Date, it shall submit accurate invoices and other information on time to the Authority.
- 10.4 The Supplier warrants and undertakes to the Authority that it shall comply with any eProcurement Guidance as it may apply to the Supplier and shall carry out all reasonable acts required of the Supplier to enable the Authority to comply with such eProcurement Guidance.
- 10.5 The Supplier warrants and undertakes to the Authority that, as at the Commencement Date, it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance. If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:

- 10.5.1 notify the Authority in writing of such fact within five (5) Business Days of its occurrence; and
- 10.5.2 promptly provide to the Authority:
- (i) details of the steps which the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
  - (ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.
- 10.6 The Supplier further warrants and undertakes to the Authority that it will inform the Authority in writing immediately upon becoming aware that any of the warranties set out in Clause 10 of this Schedule 2 have been breached or there is a risk that any warranties may be breached.
- 10.7 Any warranties provided under this Contract are both independent and cumulative and may be enforced independently or collectively at the sole discretion of the enforcing Party.

## **11 Intellectual property**

- 11.1 The Supplier warrants and undertakes to the Authority that either it owns or is entitled to use and will continue to own or be entitled to use all Intellectual Property Rights used in the development and provision of the Services and/or necessary to give effect to the Services and/or to use any deliverables, matter or any other output supplied to the Authority as part of the Services.
- 11.2 Unless specified otherwise in the Key Provisions and/or in the Specification and Tender Response Document, the Supplier hereby grants to the Authority, for the life of the use by the Authority of any deliverables, material or any other output supplied to the Authority in any format as part of the Services, an irrevocable, royalty-free, non-exclusive licence to use, modify, adapt or enhance such items in the course of the Authority's normal business operations. For the avoidance of doubt, unless specified otherwise in the Key Provisions and/or in the Specification and Tender Response Document, the Authority shall have no rights to commercially exploit (e.g. by selling to third parties) any deliverables, matter or any other output supplied to the Authority in any format as part of the Services.

## **12 Indemnity**

- 12.1 The Supplier shall be liable to the Authority for, and shall indemnify and keep the Authority indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings in respect of:
- 12.1.1 any injury or allegation of injury to any person, including injury resulting in death;
  - 12.1.2 any loss of or damage to property (whether real or personal);
  - 12.1.3 any breach of Clause 10.1.6 and/or Clause 11 of this Schedule 2; and/or

- 12.1.4 any failure by the Supplier to commence the delivery of the Services by the Services Commencement Date;

that arise or result from the Supplier's negligent acts or omissions or breach of contract in connection with the performance of this Contract including the provision of the Services, except to the extent that such loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings have been caused by any act or omission by, or on behalf of, or in accordance with the instructions of, the Authority.

- 12.2 Liability under Clauses 12.1.1 and 12.1.3 of this Schedule 2 and Clause 2.6 of Schedule 3 shall be unlimited. Liability under Clauses 12.1.2 and 12.1.4 of this Schedule 2 shall be subject to the limitation of liability set out in Clause 13 of this Schedule 2.

- 12.3 In relation to all third party claims against the Authority, which are the subject of any indemnity given by the Supplier under this Contract, the Authority shall use its reasonable endeavours, upon a written request from the Supplier, to transfer the conduct of such claims to the Supplier unless restricted from doing so. Such restrictions may include, without limitation, any restrictions:

12.3.1 relating to any legal, regulatory, governance, information governance, or confidentiality obligations on the Authority; and/or

12.3.2 relating to the Authority's membership of any indemnity and/or risk pooling arrangements.

Such transfer shall be subject to the Parties agreeing appropriate terms for such conduct of the third party claim by the Supplier (to include, without limitation, the right of the Authority to be informed and consulted on the ongoing conduct of the claim following such transfer and any reasonable cooperation required by the Supplier from the Authority).

### **13 Limitation of liability**

- 13.1 Nothing in this Contract shall exclude or restrict the liability of either Party:

13.1.1 for death or personal injury resulting from its negligence;

13.1.2 for fraud or fraudulent misrepresentation; or

13.1.3 in any other circumstances where liability may not be limited or excluded under any applicable law.

- 13.2 Subject to Clauses 12.2, 13.1 and 13.3 of this Schedule 2, the total liability of each Party to the other under or in connection with this Contract whether arising in contract, tort, negligence, breach of statutory duty or otherwise shall be limited in aggregate to five million GBP (£5,000,000).

- 13.3 There shall be no right to claim losses, damages and/or other costs and expenses under or in connection with this Contract whether arising in contract (to include, without limitation, under any relevant indemnity), tort, negligence, breach of statutory duty or otherwise to the extent that any losses, damages and/or other costs and expenses claimed are in respect of loss of production, loss of business opportunity or are in respect of indirect loss of any nature suffered or alleged. For the avoidance of doubt,

without limitation, the Parties agree that for the purposes of this Contract the following costs, expenses and/or loss of income shall be direct recoverable losses (to include under any relevant indemnity) provided such costs, expenses and/or loss of income are properly evidenced by the claiming Party:

- 13.3.1 extra costs incurred purchasing replacement or alternative services;
- 13.3.2 costs associated with advising, screening, testing, treating, retreating or otherwise providing healthcare to patients;
- 13.3.3 the costs of extra management time; and/or
- 13.3.4 loss of income due to an inability to provide health care services,

in each case to the extent to which such costs, expenses and/or loss of income arise or result from the other Party's breach of contract, negligent act or omission, breach of statutory duty, and/or other liability under or in connection with this Contract.

- 13.4 Each Party shall at all times take all reasonable steps to minimise and mitigate any loss for which that Party is entitled to bring a claim against the other pursuant to this Contract.
- 13.5 Clause 13 of this Schedule 2 shall survive the expiry of or earlier termination of this Contract for any reason.

#### **14 Insurance**

- 14.1 Subject to Clauses 14.2 and 14.3 of this Schedule 2 and unless otherwise confirmed in writing by the Authority, as a minimum level of protection, the Supplier shall put in place and/or maintain in force at its own cost with a reputable commercial insurer, insurance arrangements in respect of:
  - 14.1.1 public liability in accordance with Good Industry Practice of ten million pounds (£10,000,000) (each and every claim) or any sum as required by Law unless otherwise agreed with the Authority in writing;
  - 14.1.2 employer's liability in accordance with Good Industry Practice with the minimum cover per claim of ten million pounds (£10,000,000) (each and every claim) or any sum as required by Law unless otherwise agreed with the Authority in writing;
  - 14.1.3 professional indemnity insurance in accordance with Good Industry Practice of five million pounds (£5,000,000) (each and every claim) or any sum as required by Law unless otherwise agreed with the Authority in writing;

Such requirements shall not apply to the extent that the Supplier is a member and maintains membership of each of the indemnity schemes run by the NHS Litigation Authority.

- 14.2 Without limitation to any insurance arrangements as required by Law, the Supplier shall put in place and/or maintain the different types and/or levels of indemnity arrangements explicitly required by the Authority, if specified in the Key Provisions.
- 14.3 Provided that the Supplier maintains all indemnity arrangements required by Law, the Supplier may self insure in order to meet other relevant requirements referred to at

Clauses 14.1 and 14.2 of this Schedule 2 on condition that such self insurance arrangements offer the appropriate levels of protection and are approved by the Authority in writing prior to the Commencement Date.

- 14.4 The amount of any indemnity cover and/or self insurance arrangements shall not relieve the Supplier of any liabilities under this Contract. It shall be the responsibility of the Supplier to determine the amount of indemnity and/or self insurance cover that will be adequate to enable it to satisfy its potential liabilities under this Contract. Accordingly, the Supplier shall be liable to make good any deficiency if the proceeds of any indemnity cover and/or self insurance arrangement is insufficient to cover the settlement of any claim.
- 14.5 The Supplier warrants that it shall not take any action or fail to take any reasonable action or (in so far as it is reasonable and within its power) permit or allow others to take or fail to take any action, as a result of which its insurance cover may be rendered void, voidable, unenforceable, or be suspended or impaired in whole or in part, or which may otherwise render any sum paid out under such insurances repayable in whole or in part.
- 14.6 The Supplier shall from time to time and in any event within five (5) Business Days of written demand provide documentary evidence to the Authority that insurance arrangements taken out by the Supplier pursuant to Clause 14 of this Schedule 2 and the Key Provisions are fully maintained and that any premiums on them and/or contributions in respect of them (if any) are fully paid.
- 14.7 Upon the expiry or earlier termination of this Contract, the Supplier shall ensure that any ongoing liability it has or may have arising out of this Contract shall continue to be the subject of appropriate indemnity arrangements for the period of six (6) years from termination or expiry of this Contract or until such earlier date as that liability may reasonably be considered to have ceased to exist.

## **15 Term and termination**

- 15.1 This Contract shall commence on the Commencement Date and, unless terminated earlier in accordance with the terms of this Contract or the general law, shall continue until the end of the Term.
- 15.2 The Authority shall be entitled to extend the Term on one or more occasions by giving the Supplier written notice no less than four (4) weeks prior to the date on which this Contract would otherwise have expired (unless otherwise agreed by the parties in writing), provided that the duration of this Contract shall be no longer than the total term specified in the Key Provisions.
- 15.3 In the case of a breach of any of the terms of this Contract by either Party that is capable of remedy (subject to Clause 9.6 of this Schedule 2, any breach of any payment obligations under this Contract), the non-breaching Party shall, without prejudice to its other rights and remedies under this Contract, issue notice of the breach and allow the Party in breach the opportunity to remedy such breach in the first instance via a remedial proposal put forward by the Party in breach ("**Remedial Proposal**") before exercising any right to terminate this Contract in accordance with Clause 15.4(ii) of this Schedule 2. Such Remedial Proposal must be agreed with the non-breaching Party (such agreement not to be unreasonably withheld or delayed) and must be implemented by the Party in breach in accordance with the timescales referred to in the agreed Remedial Proposal. Once agreed, any changes to a Remedial

Proposal must be approved by the Parties in writing. Any failure by the Party in breach to:

- 15.3.1 put forward and agree a Remedial Proposal with the non-breaching Party in relation to the relevant default or breach within a period of ten (10) Business Days (or such other period as the non-breaching Party may agree in writing) from written notification of the relevant default or breach from the non-breaching Party;
- 15.3.2 comply with such Remedial Proposal (including, without limitation, as to its timescales for implementation, which shall be thirty (30) days unless otherwise agreed between the Parties); and/or
- 15.3.3 remedy the default or breach notwithstanding the implementation of such Remedial Proposal in accordance with the agreed timescales for implementation,

shall be deemed, for the purposes of Clause 15.4(ii) of this Schedule 2, a material breach of this Contract by the Party in breach not remedied in accordance with an agreed Remedial Proposal.

- 15.4 Either Party may terminate this Contract forthwith by notice in writing to the other Party if such other Party commits a material breach of any of the terms of this Contract which is:

- (i) not capable of remedy; or
- (ii) in the case of a breach capable of remedy, which is not remedied in accordance with a Remedial Proposal.

- 15.5 The Authority may terminate this Contract forthwith by notice in writing to the Supplier if:

- 15.5.1 the Supplier, or any third party guaranteeing the obligations of the Supplier under this Contract, ceases or threatens to cease carrying on its business; suspends making payments on any of its debts or announces an intention to do so; is, or is deemed for the purposes of any Law to be, unable to pay its debts as they fall due or insolvent; enters into or proposes any composition, assignment or arrangement with its creditors generally; takes any step or suffers any step to be taken in relation to its winding-up, dissolution, administration (whether out of court or otherwise) or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) otherwise than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation; has a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed (in each case, whether out of court or otherwise) in respect of it or any of its assets; has any security over any of its assets enforced; or any analogous procedure or step is taken in any jurisdiction;
- 15.5.2 the Supplier undergoes a change of control within the meaning of sections 450 and 451 of the Corporation Tax Act 2010 (other than for an intra-group change of control) without the prior written consent of the Authority and the Authority shall be entitled to withhold such consent if, in the reasonable



opinion of the Authority, the proposed change of control will have a material impact on the performance of this Contract or the reputation of the Authority;

- 15.5.3 the Supplier purports to assign, Sub-contract, novate, create a trust in or otherwise transfer or dispose of this Contract in breach of Clause 28.1 of this Schedule 2;
  - 15.5.4 pursuant to and in accordance with the Key Provisions and Clauses 15.6, 23.8; 25.2; 25.4 and 29.2 of this Schedule 2; or
  - 15.5.5 the warranty given by the Supplier pursuant to Clause 10.5 of this Schedule 2 is materially untrue, the Supplier commits a material breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance as required by Clause 10.5 of this Schedule 2, or the Supplier fails to provide details of proposed mitigating factors as required by Clause 10.5 of this Schedule 2 that in the reasonable opinion of the Authority are acceptable.
- 15.6 If the Authority, acting reasonably, has good cause to believe that there has been a material deterioration in the financial circumstances of the Supplier and/or any third party guaranteeing the obligations of the Supplier under this Contract and/or any material Sub-contractor of the Supplier when compared to any information provided to and/or assessed by the Authority as part of any procurement process or other due diligence leading to the award of this Contract to the Supplier or the entering into a Sub-contract by the Supplier, the following process shall apply:
- 15.6.1 the Authority may (but shall not be obliged to) give notice to the Supplier requesting adequate financial or other security and/or assurances for due performance of its material obligations under this Contract on such reasonable and proportionate terms as the Authority may require within a reasonable time period as specified in such notice;
  - 15.6.2 a failure or refusal by the Supplier to provide the financial or other security and/or assurances requested in accordance with Clause 15.6 of this Schedule 2 in accordance with any reasonable timescales specified in any such notice issued by the Authority shall be deemed a breach of this Contract by the Supplier and shall be referred to and resolved in accordance with the Dispute Resolution Procedure; and
  - 15.6.3 a failure to resolve such breach in accordance with such Dispute Resolution Procedure by the end of the escalation stage of such process (as set out in Clause 22.3 of this Schedule 2) shall entitle, but shall not compel, the Authority to terminate this Contract in accordance with Clause 15.4(i) of this Schedule 2.

In order that the Authority may act reasonably in exercising its discretion in accordance with Clause 15.6 of this Schedule 2, the Supplier shall provide the Authority with such reasonable and proportionate up-to-date financial or other information relating to the Supplier or any relevant third party entity upon request.

- 15.7 The Authority may terminate this Contract forthwith by notice in writing to the Supplier where:
- 15.7.1 the Contract has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure;

- 15.7.2 the Authority has become aware that the Supplier should have been excluded under Regulation 57(1) or (2) of the Public Contracts Regulations 2015 from the procurement procedure leading to the award of this Contract;
  - 15.7.3 the Contract should not have been awarded to the Supplier in view of a serious infringement of obligations under European law declared by the Court of Justice of the European Union under Article 258 of the Treaty on the Functioning of the EU; or
  - 15.7.4 there has been a failure by the Supplier and/or one its Sub-contractors to comply with legal obligations in the fields of environmental, social or labour Law. Where the failure to comply with legal obligations in the fields of environmental, social or labour Law is a failure by one of the Supplier's Sub-contractors, the Authority may request the replacement of such Sub-contractor and the Supplier shall comply with such request as an alternative to the Authority terminating this Contract under this Clause 15.7.4.
- 15.8 If the Authority novates this Contract to any body that is not a Contracting Authority, from the effective date of such novation, the rights of the Authority to terminate this Contract in accordance with Clause 15.5.1 to Clause 15.5.3 of this Schedule 2 shall be deemed mutual termination rights and the Supplier may terminate this Contract forthwith by notice in writing to the entity assuming the position of the Authority if any of the circumstances referred to in such Clauses apply to the entity assuming the position of the Authority.

## **16 Consequences of expiry or earlier termination of this Contract**

- 16.1 Upon expiry or earlier termination of this Contract, the Authority agrees to pay the Supplier for the Services which have been completed by the Supplier in accordance with this Contract prior to expiry or earlier termination of this Contract.
- 16.2 Immediately following expiry or earlier termination of this Contract:
- 16.2.1 all data, including without limitation Personal Data, documents and records (whether stored electronically or otherwise) relating in whole or in part to the Services, including without limitation relating to patients or other service users, and all other items provided on loan or otherwise to the Supplier by the Authority shall be delivered by the Supplier to the Authority provided that the Supplier shall be entitled to keep copies to the extent that: (a) the content does not relate solely to the Services; (b) the Supplier is required by Law and/or Guidance to keep copies; or (c) the Supplier was in possession of such data, documents and records prior to the Commencement Date.
- 16.3 The Supplier shall retain all data relating to the provision of the Services that are not transferred pursuant to Clause 16.2 of this Schedule 2 for the period set out in Clause 24.1 of this Schedule 2.
- 16.4 Immediately upon expiry or earlier termination of this Contract any licence or lease entered into in accordance with the Key Provisions shall automatically terminate.
- 16.5 The expiry or earlier termination of this Contract for whatever reason shall not affect any rights or obligations of either Party which accrued prior to such expiry or earlier termination.

- 16.6 The expiry or earlier termination of this Contract shall not affect any obligations which expressly or by implication are intended to come into or continue in force on or after such expiry or earlier termination.

**17 Not Used**

**18 Complaints**

- 18.1 To the extent relevant to the Services, the Supplier shall have in place and operate a complaints procedure which complies with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- 18.2 Each Party shall inform the other of all complaints from or on behalf of patients, staff or other service users arising out of or in connection with the provision of the Services within twenty four (24) hours of receipt of each complaint and shall keep the other Party updated on the manner of resolution of any such complaints.

**19 Sustainable development**

- 19.1 The Supplier shall comply in all material respects with applicable environmental and social and labour Law requirements in force from time to time in relation to the Services. Where the provisions of any such Law are implemented by the use of voluntary agreements, the Supplier shall comply with such agreements as if they were incorporated into English law subject to those voluntary agreements being cited in the Specification and Tender Response Document. Without prejudice to the generality of the foregoing, the Supplier shall:
- 19.1.1 comply with all Policies and/or procedures and requirements set out in the Specification and Tender Response Document in relation to any stated environmental and social and labour requirements, characteristics and impacts of the Services and the Supplier's supply chain;
  - 19.1.2 maintain relevant policy statements documenting the Supplier's significant labour, social and environmental aspects as relevant to the Services being provided and as proportionate to the nature and scale of the Supplier's business operations; and
  - 19.1.3 maintain plans and procedures that support the commitments made as part of the Supplier's significant labour, social and environmental policies, as referred to at Clause 19.1.2 of this Schedule 2.
- 19.2 The Supplier shall meet reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of Clause 19 of this Schedule 2.

**20 Electronic services information**

- 20.1 Where requested by the Authority, the Supplier shall provide the Authority the Services Information in such manner and upon such media as agreed between the Supplier and the Authority from time to time for the sole use by the Authority.
- 20.2 The Supplier warrants that it has used reasonable skill, care and diligence to ensure that the Services Information is complete and accurate as at the date upon which it is delivered to the Authority and that the Services Information shall not contain any data

or statement which gives rise to any liability on the part of the Authority following publication of the same in accordance with Clause 20 of this Schedule 2.

- 20.3 If the Services Information ceases to be complete and accurate, the Supplier shall promptly notify the Authority in writing of any modification or addition to or any inaccuracy or omission in the Services Information.
- 20.4 The Supplier grants the Authority a perpetual, non-exclusive, royalty free licence to use and exploit the Services Information and any Intellectual Property Rights in the Services Information for the purpose of illustrating the range of goods and services (including, without limitation, the Services) available pursuant to the Authority's contracts from time to time. Subject to Clause 20.5 of this Schedule 2, no obligation to illustrate or advertise the Services Information is imposed on the Authority, as a consequence of the licence conferred by this Clause 20.4 of this Schedule 2.
- 20.5 The Authority may reproduce for its sole use the Services Information provided by the Supplier in the Authority's services catalogue from time to time which may be made available on any NHS communications networks in electronic format and/or made available on the Authority's external website and/or made available on other digital media from time to time.
- 20.6 Before any publication of the Services Information (electronic or otherwise) is made by the Authority, the Authority will submit a copy of the relevant sections of the Authority's services catalogue to the Supplier for approval, such approval not to be unreasonably withheld or delayed. For the avoidance of doubt the Supplier shall have no right to compel the Authority to exhibit the Services Information in any services catalogue as a result of the approval given by it pursuant to this Clause 20.6 of this Schedule 2 or otherwise under the terms of this Contract.
- 20.7 If requested in writing by the Authority, and to the extent not already agreed as part of the Specification and Tender Response Document, the Supplier and the Authority shall discuss and seek to agree in good faith arrangements to use any Electronic Trading System.

## **21 Change management**

- 21.1 The Supplier acknowledges to the Authority that the Authority's requirements for the Services may change during the Term and the Supplier shall not unreasonably withhold or delay its consent to any reasonable variation or addition to the Specification and Tender Response Document, as may be requested by the Authority from time to time.
- 21.2 Any change to the Services or other variation to this Contract shall only be binding once it has been agreed either: (a) in accordance with the Change Control Process if the Key Provisions specify that changes are subject to a formal change control process; or (b) if the Key Provisions make no such reference, in writing and signed by an authorised representative of both Parties.

## **22 Dispute resolution**

- 22.1 During any dispute, including a dispute as to the validity of this Contract, it is agreed that the Supplier shall continue its performance of the provisions of the Contract (unless the Authority requests in writing that the Supplier does not do so).

- 22.2 In the case of a dispute arising out of or in connection with this Contract the Supplier and the Authority shall make every reasonable effort to communicate and cooperate with each other with a view to resolving the dispute and follow the procedure set out in Clause 22.3 of this Schedule 2 as the first stage in the Dispute Resolution Procedure.
- 22.3 If any dispute arises out of the Contract either Party may serve a notice on the other Party to commence formal resolution of the dispute. The Parties shall first seek to resolve the dispute by escalation in accordance with the management levels as set out in Clause 5 of the Key Provisions. Respective representatives at each level, as set out in Clause 5 of the Key Provisions, shall have five (5) Business Days at each level during which they will use their reasonable endeavours to resolve the dispute before escalating the matter to the next levels until all level have been exhausted. Level 1 will commence on the date of service of the dispute notice. The final level of the escalation process shall be deemed exhausted on the expiry of five (5) Business Days following escalation to that level unless otherwise agreed by the Parties in writing.
- 22.4 If the procedure set out in Clause 22.3 of this Schedule 2 above has been exhausted and fails to resolve such dispute, as part of the Dispute Resolution Procedure, the Parties will attempt to settle it by mediation. The Parties, shall acting reasonably, attempt to agree upon a mediator. In the event that the Parties fail to agree a mediator within five (5) Business Days following the exhaustion of all levels of the escalation procedure at Clause 22.3 of this Schedule 2, the mediator shall be nominated and confirmed by the Centre for Effective Dispute Resolution, London.
- 22.5 The mediation shall commence within twenty eight (28) days of the confirmation of the mediator in accordance with Clause 22.4 of this Schedule 2 or at such other time as may be agreed by the Parties in writing. Neither Party will terminate such mediation process until each Party has made its opening presentation and the mediator has met each Party separately for at least one hour or one Party has failed to participate in the mediation process. After this time, either Party may terminate the mediation process by notification to the other Party (such notification may be verbal provided that it is followed up by written confirmation). The Authority and the Supplier will cooperate with any person appointed as mediator providing them with such information and other assistance as they shall require and will pay their costs, as they shall determine or in the absence of such determination such costs will be shared equally.
- 22.6 Nothing in this Contract shall prevent:
- 22.6.1 the Authority taking action in any court in relation to any death or personal injury arising or allegedly arising in connection with the provision of the Services; or
- 22.6.2 either Party seeking from any court any interim or provisional relief that may be necessary to protect the rights or property of that Party or that relates to the safety of patients and other service users or the security of Confidential Information, pending resolution of the relevant dispute in accordance with the Dispute Resolution Procedure.
- 22.7 Clause 22 of this Schedule 2 shall survive the expiry of or earlier termination of this Contract for any reason.
- 23 Force majeure**
- 23.1 Subject to Clause 23.2 of this Schedule 2 neither Party shall be liable to the other for any failure to perform all or any of its obligations under this Contract nor liable to the

other Party for any loss or damage arising out of the failure to perform its obligations to the extent only that such performance is rendered impossible by a Force Majeure Event.

- 23.2 The Supplier shall only be entitled to rely on a Force Majeure Event and the relief set out in Clause 23 of this Schedule 2 and will not be considered to be in default or liable for breach of any obligations under this Contract if:
- 23.2.1 the Supplier has fulfilled its obligations pursuant to Clause 6 of this Schedule 2;
  - 23.2.2 the Force Majeure Event does not arise directly or indirectly as a result of any wilful or negligent act or default of the Supplier; and
  - 23.2.3 the Supplier has complied with the procedural requirements set out in Clause 23 of this Schedule 2.
- 23.3 Where a Party is (or claims to be) affected by a Force Majeure Event it shall use reasonable endeavours to mitigate the consequences of such a Force Majeure Event upon the performance of its obligations under this Contract, and to resume the performance of its obligations affected by the Force Majeure Event as soon as practicable.
- 23.4 Where the Force Majeure Event affects the Supplier's ability to perform part of its obligations under the Contract the Supplier shall fulfil all such contractual obligations that are not so affected and shall not be relieved from its liability to do so.
- 23.5 If either Party is prevented or delayed in the performance of its obligations under this Contract by a Force Majeure Event, that Party shall as soon as reasonably practicable serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to its failure to perform or any anticipated delay in performance of its obligations.
- 23.6 Subject to service of such notice, the Party affected by such circumstances shall have no liability for its failure to perform or for any delay in performance of its obligations affected by the Force Majeure Event only for so long as such circumstances continue and for such time after they cease as is necessary for that Party, using its best endeavours, to recommence its affected operations in order for it to perform its obligations.
- 23.7 The Party claiming relief shall notify the other in writing as soon as the consequences of the Force Majeure Event have ceased and of when performance of its affected obligations can be resumed.
- 23.8 If the Supplier is prevented from performance of its obligations as a result of a Force Majeure Event, the Authority may at any time if the Force Majeure Event subsists for thirty (30) days or more, terminate this Contract on service of written notice on the Supplier.
- 23.9 Following such termination in accordance with Clause 23.8 of this Schedule 2 and subject to Clause 23.10 of this Schedule 2, neither Party shall have any liability to the other.

- 23.10 Any rights and liabilities of either Party which have accrued prior to such termination in accordance with Clause 23.8 of this Schedule 2 shall continue in full force and effect unless otherwise specified in this Contract.

**24 Records retention and right of audit**

- 24.1 Subject to any statutory requirement and Clause 24.2 of this Schedule 2, the Supplier shall keep secure and maintain for the Term and six (6) years afterwards, or such longer period as may be agreed between the Parties, full and accurate records of all matters relating to this Contract.
- 24.2 Where any records could be relevant to a claim for personal injury such records shall be kept secure and maintained for a period of twenty one (21) years from the date of expiry or earlier termination of this Contract.
- 24.3 The Authority shall have the right to audit the Supplier's compliance with this Contract. The Supplier shall permit or procure permission for the Authority or its authorised representative during normal business hours having given advance written notice of no less than five (5) Business Days, access to any premises and facilities, books and records reasonably required to audit the Supplier's compliance with its obligations under this Contract.
- 24.4 Should the Supplier Sub-contract any of its obligations under this Contract, the Authority shall have the right to audit and inspect such third party. The Supplier shall procure permission for the Authority or its authorised representative during normal business hours no more than once in any twelve (12) months, having given advance written notice of no less than five (5) Business Days, access to any premises and facilities, books and records used in the performance of the Supplier's obligations under this Contract that are Sub-contracted to such third party. The Supplier shall cooperate with such audit and inspection and accompany the Authority or its authorised representative if requested.
- 24.5 The Supplier shall grant to the Authority or its authorised representative, such access to those records as they may reasonably require in order to check the Supplier's compliance with this Contract for the purposes of:
- 24.5.1 the examination and certification of the Authority's accounts; or
- 24.5.2 any examination pursuant to section 6(1) of the National Audit Act 1983 of the economic efficiency and effectiveness with which the Authority has used its resources.
- 24.6 The Comptroller and Auditor General may examine such documents as they may reasonably require which are owned, held or otherwise within the control of the Supplier and may require the Supplier to provide such oral and/or written explanations as they consider necessary. Clause 24 of this Schedule 2 does not constitute a requirement or agreement for the examination, certification or inspection of the accounts of the Supplier under sections 6(3)(d) and 6(5) of the National Audit Act 1983.
- 24.7 The Supplier shall provide reasonable cooperation to the Authority, its representatives and any regulatory body in relation to any audit, review, investigation or enquiry carried out in relation to the subject matter of this Contract.

- 24.8 The Supplier shall provide all reasonable information as may be reasonably requested by the Authority to evidence the Supplier's compliance with the requirements of this Contract.

**25 Conflicts of interest and the prevention of fraud**

- 25.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Staff are placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the provisions of this Contract. The Supplier will disclose to the Authority full particulars of any such conflict of interest which may arise.
- 25.2 The Authority reserves the right to terminate this Contract immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the provisions of this Contract. The actions of the Authority pursuant to this Clause 25.2 of this Schedule 2 shall not prejudice or affect any right of action or remedy which shall have accrued or shall subsequently accrue to the Authority.
- 25.3 The Supplier shall take all reasonable steps to prevent Fraud by Staff and the Supplier (including its owners, members and directors). The Supplier shall notify the Authority immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- 25.4 If the Supplier or its Staff commits Fraud the Authority may terminate this Contract and recover from the Supplier the amount of any direct loss suffered by the Authority resulting from the termination.

**26 Equality and human rights**

- 26.1 The Supplier shall:
- 26.1.1 ensure that (a) it does not, whether as employer or as provider of the Services, engage in any act or omission that would contravene the Equality Legislation, and (b) it complies with all its obligations as an employer or provider of the Services as set out in the Equality Legislation and take reasonable endeavours to ensure its Staff do not unlawfully discriminate within the meaning of the Equality Legislation;
  - 26.1.2 in the management of its affairs and the development of its equality and diversity policies, cooperate with the Authority in light of the Authority's obligations to comply with its statutory equality duties whether under the Equality Act 2010 or otherwise. The Supplier shall take such reasonable and proportionate steps as the Authority considers appropriate to promote equality and diversity, including race equality, equality of opportunity for disabled people, gender equality, and equality relating to religion and belief, sexual orientation and age; and
  - 26.1.3 the Supplier shall impose on all its Sub-contractors and suppliers, obligations substantially similar to those imposed on the Supplier by Clause 26 of this Schedule 2.



- 26.2 The Supplier shall meet reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of Clause 26 of this Schedule 2.

**27 Notice**

- 27.1 Subject to Clause 22.5 of Schedule 2, any notice required to be given by either Party under this Contract shall be in writing quoting the date of the Contract and shall be delivered by hand or sent by prepaid first class recorded delivery or by email to the person referred to in the Key Provisions or such other person as one Party may inform the other Party in writing from time to time.

- 27.2 A notice shall be treated as having been received:

27.2.1 if delivered by hand within normal business hours when so delivered or, if delivered by hand outside normal business hours, at the next start of normal business hours; or

27.2.2 if sent by first class recorded delivery mail on a normal Business Day, at 9.00 am on the second Business Day subsequent to the day of posting, or, if the notice was not posted on a Business Day, at 9.00 am on the third Business Day subsequent to the day of posting; or

27.2.3 if sent by email, if sent within normal business hours when so sent or, if sent outside normal business hours, at the next start of normal business hours provided the sender has either received an electronic confirmation of delivery or has telephoned the recipient to inform the recipient that the email has been sent.

**28 Assignment, novation and Sub-contracting**

- 28.1 The Supplier shall not, except where Clause 28.2 of this Schedule 2 applies, assign, Sub-contract, novate, create a trust in, or in any other way dispose of the whole or any part of this Contract without the prior consent in writing of the Authority such consent not to be unreasonably withheld or delayed. If the Supplier Sub-contracts any of its obligations under this Contract, every act or omission of the Sub-contractor shall for the purposes of this Contract be deemed to be the act or omission of the Supplier and the Supplier shall be liable to the Authority as if such act or omission had been committed or omitted by the Supplier itself.

- 28.2 Notwithstanding Clause 28.1 of this Schedule 2, the Supplier may assign to a third party ("**Assignee**") the right to receive payment of any sums due and owing to the Supplier under this Contract for which an invoice has been issued. Any assignment under this Clause 28.2 of this Schedule 2 shall be subject to:

28.2.1 the deduction of any sums in respect of which the Authority exercises its right of recovery under Clause 9.7 of this Schedule 2;

28.2.2 all related rights of the Authority in relation to the recovery of sums due but unpaid;

28.2.3 the Authority receiving notification of the assignment and the date upon which the assignment becomes effective together with the Assignee's contact information and bank account details to which the Authority shall make payment;

- 28.2.4 the provisions of Clause 9 of this Schedule 2 continuing to apply in all other respects after the assignment which shall not be amended without the prior written approval of the Authority; and
  - 28.2.5 payment to the Assignee being full and complete satisfaction of the Authority's obligation to pay the relevant sums in accordance with this Contract.
- 28.3 Any authority given by the Authority for the Supplier to Sub-contract any of its obligations under this Contract shall not impose any duty on the Authority to enquire as to the competency of any authorised Sub-contractor. The Supplier shall ensure that any authorised Sub-contractor has the appropriate capability and capacity to perform the relevant obligations and that the obligations carried out by such Sub-contractor are fully in accordance with this Contract.
- 28.4 Where the Supplier enters into a Sub-contract in respect of any of its obligations under this Contract relating to the provision of the Services, the Supplier shall include provisions in each such Sub-contract, unless otherwise agreed with the Authority in writing, which:
- 28.4.1 contain at least equivalent obligations as set out in this Contract in relation to the performance of the Services to the extent relevant to such Sub-contracting;
  - 28.4.2 contain at least equivalent obligations as set out in this Contract in respect of confidentiality, information security, data protection, Intellectual Property Rights, compliance with Law and Guidance and record keeping;
  - 28.4.3 contain a prohibition on the Sub-contractor Sub-contracting, assigning or novating any of its rights or obligations under such Sub-contract without the prior written approval of the Authority (such approval not to be unreasonably withheld or delayed);
  - 28.4.4 contain a right for the Authority to take an assignment or novation of the Sub-contract (or part of it) upon expiry or earlier termination of this Contract;
  - 28.4.5 requires the Supplier or other party receiving services under the contract to consider and verify invoices under that contract in a timely fashion;
  - 28.4.6 provides that if the Supplier or other party fails to consider and verify an invoice in accordance with Clause 28.4.5 of this Schedule 2, the invoice shall be regarded as valid and undisputed for the purpose of Clause 28.4.7 after a reasonable time has passed;
  - 28.4.7 requires the Supplier or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding thirty (30) days of verifying that the invoice is valid and undisputed;
  - 28.4.8 permitting the Supplier to terminate, or procure the termination of, the relevant Sub-contract in the event the Sub-contractor fails to comply in the performance of its Sub-contract with legal obligations in the fields of environmental, social or labour Law where the Supplier is required to replace such Sub-contractor in accordance with Clause 15.7.4 of this Schedule 2;

- 28.4.9 permitting the Supplier to terminate, or to procure the termination of, the relevant Sub-contract where the Supplier is required to replace such Sub-contractor in accordance with Clause 28.5 of this Schedule 2; and
- 28.4.10 requires the Sub-contractor to include a clause to the same effect as this Clause 28.4 of this Schedule 2 in any Sub-contract which it awards.
- 28.5 Where the Authority considers that the grounds for exclusion under Regulation 57 of the Public Contracts Regulations 2015 apply to any Sub-contractor, then:
- 28.5.1 if the Authority finds there are compulsory grounds for exclusion, the Supplier shall ensure, or shall procure, that such Sub-contractor is replaced or not appointed; or
- 28.5.2 if the Authority finds there are non-compulsory grounds for exclusion, the Authority may require the Supplier to ensure, or to procure, that such Sub-contractor is replaced or not appointed and the Supplier shall comply with such a requirement.
- 28.6 The Supplier shall pay any undisputed sums which are due from it to a Sub-contractor within thirty (30) days of verifying that the invoice is valid and undisputed. Where the Authority pays the Supplier's valid and undisputed invoices earlier than thirty (30) days from verification in accordance with any applicable government prompt payment targets, the Supplier shall use its reasonable endeavours to pay its relevant Sub-contractors within a comparable timeframe from verifying that an invoice is valid and undisputed.
- 28.7 The Authority shall upon written request have the right to review any Sub-contract entered into by the Supplier in respect of the provision of the Services and the Supplier shall provide a certified copy of any Sub-contract within five (5) Business Days of the date of a written request from the Authority. For the avoidance of doubt, the Supplier shall have the right to redact any confidential pricing information in relation to such copies of Sub-contracts.
- 28.8 The Authority may at any time transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Contract or any part of this Contract and the Supplier warrants that it will carry out all such reasonable further acts required to effect such transfer, assignment, novation, sub-contracting or disposal. If the Authority novates this Contract to any body that is not a Contracting Authority, from the effective date of such novation, the party assuming the position of the Authority shall not further transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Contract or any part of this Contract without the prior written consent of the Supplier, such consent not to be unreasonably withheld or delayed by the Supplier.

## **29 Prohibited Acts**

- 29.1 The Supplier warrants and represents that:
- 29.1.1 it has not committed any offence under the Bribery Act 2010 or done any of the following ("**Prohibited Acts**"):
- (i) offered, given or agreed to give any officer or employee of the Authority any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining or performance of this or any

other agreement with the Authority or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the Authority; or

- (ii) in connection with this Contract paid or agreed to pay any commission other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to the Authority; and

29.1.2 it has in place adequate procedures to prevent bribery and corruption, as contemplated by section 7 of the Bribery Act 2010.

29.2 If the Supplier or its Staff (or anyone acting on its or their behalf) has done or does any of the Prohibited Acts or has committed or commits any offence under the Bribery Act 2010 with or without the knowledge of the Supplier in relation to this or any other agreement with the Authority:

29.2.1 the Authority shall be entitled:

- (i) to terminate this Contract and recover from the Supplier the amount of any loss resulting from the termination;
- (ii) to recover from the Supplier the amount or value of any gift, consideration or commission concerned; and
- (iii) to recover from the Supplier any other loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence under the Bribery Act 2010;

29.2.2 any termination under Clause 29.2.1 of this Schedule 2 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Authority; and

29.2.3 notwithstanding Clause 22 of this Schedule 2, any dispute relating to:

- (i) the interpretation of Clause 29 of this Schedule 2; or
- (ii) the amount or value of any gift, consideration or commission,

shall be determined by the Authority, acting reasonably, and the decision shall be final and conclusive.

### **30 General**

30.1 Each of the Parties is independent of the other and nothing contained in this Contract shall be construed to imply that there is any relationship between the Parties of partnership or of principal/agent or of employer/employee nor are the Parties hereby engaging in a joint venture and accordingly neither of the Parties shall have any right or authority to act on behalf of the other nor to bind the other by agreement or otherwise, unless expressly permitted by the terms of this Contract.

30.2 Failure or delay by either Party to exercise an option or right conferred by this Contract shall not of itself constitute a waiver of such option or right.

- 30.3 The delay or failure by either Party to insist upon the strict performance of any provision, term or condition of this Contract or to exercise any right or remedy consequent upon such breach shall not constitute a waiver of any such breach or any subsequent breach of such provision, term or condition.
- 30.4 Any provision of this Contract which is held to be invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions of this Contract and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.
- 30.5 Each Party acknowledges and agrees that it has not relied on any representation, warranty or undertaking (whether written or oral) in relation to the subject matter of this Contract and therefore irrevocably and unconditionally waives any rights it may have to claim damages against the other Party for any misrepresentation or undertaking (whether made carelessly or not) or for breach of any warranty unless the representation, undertaking or warranty relied upon is set out in this Contract or unless such representation, undertaking or warranty was made fraudulently.
- 30.6 Each Party shall bear its own expenses in relation to the preparation and execution of this Contract including all costs, legal fees and other expenses so incurred.
- 30.7 The rights and remedies provided in this Contract are cumulative and not exclusive of any rights or remedies provided by general law, or by any other contract or document. In this Clause 30.7 of this Schedule 2, right includes any power, privilege, remedy, or proprietary or security interest.
- 30.8 Unless otherwise expressly stated in this Contract, a person who is not a party to this Contract shall have no right to enforce any terms of it which confer a benefit on such person except that a Successor and/or a Third Party may directly enforce any indemnities or other rights provided to it under this Contract. No such person shall be entitled to object to or be required to consent to any amendment to the provisions of this Contract.
- 30.9 This Contract, any variation in writing signed by an authorised representative of each Party and any document referred to (explicitly or by implication) in this Contract or any variation to this Contract, contain the entire understanding between the Supplier and the Authority relating to the Services to the exclusion of all previous agreements, confirmations and understandings and there are no promises, terms, conditions or obligations whether oral or written, express or implied other than those contained or referred to in this Contract. Nothing in this Contract seeks to exclude either Party's liability for Fraud. Any tender conditions and/or disclaimers set out in the Authority's procurement documentation leading to the award of this Contract shall form part of this Contract.
- 30.10 This Contract, and any dispute or claim arising out of or in connection with it or its subject matter (including any non-contractual claims), shall be governed by, and construed in accordance with, the laws of England and Wales.
- 30.11 Subject to Clause 22 of this Schedule 2, the Parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Contract or its subject matter.
- 30.12 All written and oral communications and all written material referred to under this Contract shall be in English.

### Schedule 3

#### Information Governance Provisions

##### **1 Confidentiality**

- 1.1 In respect of any Confidential Information it may receive directly or indirectly from the other Party ("**Discloser**") and subject always to the remainder of Clause 1 of this Schedule 3, each Party ("**Recipient**") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party without the Discloser's prior written consent provided that:
- 1.1.1 the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the Commencement Date;
- 1.1.2 the provisions of Clause 1 of this Schedule 3 shall not apply to any Confidential Information:
- (i) which is in or enters the public domain other than by breach of this Contract or other act or omissions of the Recipient;
  - (ii) which is obtained from a third party who is lawfully authorised to disclose such information without any obligation of confidentiality;
  - (iii) which is authorised for disclosure by the prior written consent of the Discloser;
  - (iv) which the Recipient can demonstrate was in its possession without any obligation of confidentiality prior to receipt of the Confidential Information from the Discloser; or
  - (v) which the Recipient is required to disclose purely to the extent to comply with the requirements of any relevant stock exchange.
- 1.2 Nothing in Clause 1 of this Schedule 3 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable Law, including the Freedom of Information Act 2000 ("**FOIA**"), Codes of Practice on Access to Government Information, on the Discharge of Public Authorities' Functions or on the Management of Records ("**Codes of Practice**") or the Environmental Information Regulations 2004 ("**Environmental Regulations**").
- 1.3 The Authority may disclose the Supplier's Confidential Information:
- 1.3.1 on a confidential basis, to any Contracting Authority (the Parties agree that all Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Contracting Authority);
- 1.3.2 on a confidential basis, to any consultant, contractor or other person engaged by the Authority and/or the Contracting Authority receiving such information;

- 1.3.3 to any relevant party for the purpose of the examination and certification of the Authority's accounts;
- 1.3.4 to any relevant party for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
- 1.3.5 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirements; or
- 1.3.6 on a confidential basis to a proposed successor body in connection with any proposed or actual, assignment, novation or other disposal of rights, obligations, liabilities or property in connection with this Contract;

and for the purposes of this Contract, references to disclosure "on a confidential basis" shall mean the Authority making clear the confidential nature of such information and that it must not be further disclosed except in accordance with Law or this Clause 1.3 of this Schedule 3.

- 1.4 The Supplier may only disclose the Authority's Confidential Information, and any other information provided to the Supplier by the Authority in relation this Contract, to the Supplier's Staff or professional advisors who are directly involved in the performance of or advising on the Supplier's obligations under this Contract. The Supplier shall ensure that such Staff or professional advisors are aware of and shall comply with the obligations in Clause 1 of this Schedule 3 as to confidentiality and that all information, including Confidential Information, is held securely, protected against unauthorised use or loss and, at the Authority's written discretion, destroyed securely or returned to the Authority when it is no longer required. The Supplier shall not, and shall ensure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of performing the Supplier's obligations in this Contract.
- 1.5 For the avoidance of doubt, save as required by Law or as otherwise set out in this Schedule 3, the Supplier shall not, without the prior written consent of the Authority (such consent not to be unreasonably withheld or delayed), announce that it has entered into this Contract and/or that it has been appointed as a Supplier to the Authority and/or make any other announcements about this Contract.
- 1.6 Clause 1 of this Schedule 3 shall remain in force:
  - 1.6.1 without limit in time in respect of Confidential Information which comprises Personal Data, Sensitive Personal Data or which relates to national security; and
  - 1.6.2 for all other Confidential Information for a period of three (3) years after the expiry or earlier termination of this Contract unless otherwise agreed in writing by the Parties.

## **2 Data protection**

- 2.1 The Parties acknowledge their respective duties under Data Protection Legislation and shall give each other all reasonable assistance as appropriate or necessary to enable each other to comply with those duties.

- 2.2 Where the Supplier is Processing Personal Data under or in connection with this Contract, the Supplier must, in particular, but without limitation:
- 2.2.1 only Process such Personal Data as is necessary to perform its obligations under this Contract, and only in accordance with any instructions given by the Authority under this Contract;
  - 2.2.2 put in place appropriate technical and organisational measures against any unauthorised or unlawful Processing of that Personal Data, and against the accidental loss or destruction of or damage to such Personal Data having regard to the specific requirements of Clause 2 of this Schedule 3, the state of technical development and the level of harm that may be suffered by a Data Subject whose Personal Data is affected by unauthorised or unlawful Processing or by its loss, damage or destruction;
  - 2.2.3 take reasonable steps to ensure the reliability of Staff who will have access to Personal Data, and ensure that those Staff are aware of and trained in the policies and procedures identified in Clause 2 of this Schedule 3; and
  - 2.2.4 not cause or allow Personal Data to be transferred outside the European Economic Area without the prior consent of the Authority.
- 2.3 The Supplier and the Authority shall ensure that Personal Data is safeguarded at all times in accordance with the Law, and this obligation will include (if transferred electronically) only transferring Personal Data (a) if essential, having regard to the purpose for which the transfer is conducted; and (b) that is encrypted in accordance with any international data encryption standards for healthcare, and as otherwise required by those standards applicable to the Authority under any Law and Guidance (this includes, data transferred over wireless or wired networks, held on laptops, CDs, memory sticks and tapes).
- 2.4 Where, as a requirement of this Contract, the Supplier is Processing Personal Data (to include, without limitation, Sensitive Personal Data) relating to patients and/or service users as part of the Services, the Supplier shall:
- 2.4.1 complete and publish an annual information governance assessment using the NHS information governance toolkit;
  - 2.4.2 achieve a minimum level 2 performance against all requirements in the relevant NHS information governance toolkit;
  - 2.4.3 nominate an information governance lead able to communicate with the Supplier's board of directors or equivalent governance body, who will be responsible for information governance and from whom the Supplier's board of directors or equivalent governance body will receive regular reports on information governance matters including, but not limited to, details of all incidents of data loss and breach of confidence;
  - 2.4.4 report all incidents of data loss and breach of confidence in accordance with Department of Health and/or the NHS England and/or Health and Social Care Information Centre guidelines;
  - 2.4.5 put in place and maintain policies that describe individual personal responsibilities for handling Personal Data and apply those policies vigorously;



- 2.4.6 put in place and maintain a policy that supports its obligations under the NHS Care Records Guarantee (being the rules which govern information held in the NHS Care Records Service, which is the electronic patient/service user record management service providing authorised healthcare professionals access to a patient's integrated electronic care record);
  - 2.4.7 put in place and maintain agreed protocols for the lawful sharing of Personal Data with other NHS organisations and (as appropriate) with non-NHS organisations in circumstances in which sharing of that data is required under this Contract; and
  - 2.4.8 where appropriate, have a system in place and a policy for the recording of any telephone calls in relation to the Services, including the retention and disposal of those recordings.
- 2.5 Where any Personal Data is Processed by any Sub-contractor of the Supplier in connection with this Contract, the Supplier shall procure that such Sub-contractor shall comply with the relevant obligations set out in Clause 2 of this Schedule 3, as if such Sub-contractor were the Supplier.
- 2.6 The Supplier shall indemnify and keep the Authority indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings whatsoever or howsoever arising from the Supplier's unlawful or unauthorised Processing, destruction and/or damage to Personal Data in connection with this Contract.
- 3 Freedom of Information and Transparency**
- 3.1 The Parties acknowledge the duties of Contracting Authorities under the FOIA, Codes of Practice and Environmental Regulations and shall give each other all reasonable assistance as appropriate or necessary to enable compliance with those duties.
- 3.2 The Supplier shall assist and cooperate with the Authority to enable it to comply with its disclosure obligations under the FOIA, Codes of Practice and Environmental Regulations. The Supplier agrees:
- 3.2.1 that this Contract and any recorded information held by the Supplier on the Authority's behalf for the purposes of this Contract are subject to the obligations and commitments of the Authority under the FOIA, Codes of Practice and Environmental Regulations;
  - 3.2.2 that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under the FOIA, Codes of Practice and Environmental Regulations is a decision solely for the Authority;
  - 3.2.3 that where the Supplier receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Supplier itself is subject to the FOIA, Codes of Practice and Environmental Regulations it will liaise with the Authority as to the contents of any response before a response to a request is issued and will promptly (and in any event within two (2) Business Days) provide a copy of the request and any response to the Authority;

- 3.2.4 that where the Supplier receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Supplier is not itself subject to the FOIA, Codes of Practice and Environmental Regulations, it will not respond to that request (unless directed to do so by the Authority) and will promptly (and in any event within two (2) Business Days) transfer the request to the Authority;
- 3.2.5 that the Authority, acting in accordance with the Codes of Practice issued and revised from time to time under both section 45 of FOIA, and regulation 16 of the Environmental Regulations, may disclose information concerning the Supplier and this Contract; and
- 3.2.6 to assist the Authority in responding to a request for information, by processing information or environmental information (as the same are defined in FOIA and the Environmental Regulations) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of FOIA, and providing copies of all information requested by the Authority within five (5) Business Days of that request and without charge.
- 3.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, Codes of Practice and Environmental Regulations, the content of this Contract is not Confidential Information.
- 3.4 Notwithstanding any other term of this Contract, the Supplier consents to the publication of this Contract in its entirety (including variations), subject only to the redaction of information that is exempt from disclosure in accordance with the provisions of the FOIA, Codes of Practice and Environmental Regulations.
- 3.5 In preparing a copy of this Contract for publication under Clause 3.4 of this Schedule 3, the Authority may consult with the Supplier to inform decision making regarding any redactions but the final decision in relation to the redaction of information will be at the Authority's absolute discretion.
- 3.6 The Supplier shall assist and cooperate with the Authority to enable the Authority to publish this Contract.
- 3.7 Where any information is held by any Sub-contractor of the Supplier in connection with this Contract, the Supplier shall procure that such Sub-contractor shall comply with the relevant obligations set out in Clause 3 of this Schedule 3, as if such Sub-contractor were the Supplier.

#### **4 Information Security**

- 4.1 Without limitation to any other information governance requirements set out in this Schedule 3, the Supplier shall:
- 4.1.1 notify the Authority forthwith of any information security breaches or near misses (including without limitation any potential or actual breaches of confidentiality or actual information security breaches) in line with the Authority's information governance Policies; and
- 4.1.2 fully cooperate with any audits or investigations relating to information security and any privacy impact assessments undertaken by the Authority

and shall provide full information as may be reasonably requested by the Authority in relation to such audits, investigations and assessments.

- 4.2 Where required in accordance with the Specification and Tender Response Document, the Supplier will ensure that it puts in place and maintains an information security management plan appropriate to the Services and the obligations placed on the Supplier under this Contract. The Supplier shall ensure that such plan is consistent with any relevant Policies, Guidance, Good Industry Practice and with any relevant quality standards as may be set out in the Key Provisions and/or the Specification and Tender Response Document.
- 4.3 Where required in accordance with the Specification and Tender Response Document, the Supplier shall obtain and maintain certification under the HM Government Cyber Essentials Scheme at the level set out in the Specification and Tender Response Document.

## **Schedule 4**

### **Definitions and Interpretations**

#### **1 Definitions**

1.1 In this Contract the following words shall have the following meanings unless the context requires otherwise:

<b>“Authority”</b>	means the authority named on the form of Contract on the first page;
<b>“Authority’s Obligations”</b>	means the Authority’s further obligations, if any, referred to in the Key Provisions;
<b>“Business Continuity Event”</b>	means any event or issue that could impact on the operations of the Supplier and its ability to provide the Services including an influenza pandemic and any Force Majeure Event;
<b>“Business Continuity Plan”</b>	means the Supplier’s business continuity plan which includes its plans for continuity of the Services during a Business Continuity Event;
<b>“Business Day”</b>	means any day other than Saturday, Sunday, Christmas Day, Good Friday or a statutory bank holiday in England and Wales;
<b>“Cabinet Office Statement”</b>	the Cabinet Office Statement of Practice – Staff Transfers in the Public Sector 2000 (as revised 2013) as may be amended or replaced;
<b>“Change Control Process”</b>	means the change control process, if any, referred to in the Key Provisions;
<b>“Codes of Practice”</b>	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
<b>“Commencement Date”</b>	means the date of this Contract;
<b>“Commercial Schedule”</b>	means the document set out at Schedule 6;
<b>“Confidential Information”</b>	<p>means information, data and material of any nature, which either Party may receive or obtain in connection with the conclusion and/or operation of the Contract including any procurement process which is:</p> <p>(a) Personal Data or Sensitive Personal Data including without limitation which relates to any patient or other service user or his or her treatment or clinical or care history;</p>

	<p>(b) designated as confidential by either party or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored); and/or</p> <p>(c) Policies and such other documents which the Supplier may obtain or have access to through the Authority's intranet;</p>
<b>“Contract”</b>	means the form of contract at the front of this document and all schedules attached to the form of contract;
<b>“Contracting Authority”</b>	means any contracting authority as defined in regulation 3 of the Public Contracts Regulations 2015 (SI 2015/102) (as amended), other than the Authority;
<b>“Contract Manager”</b>	means for the Authority and for the Supplier the individuals specified in the Key Provisions; or such other person notified by a Party to the other Party from time to time in accordance with Clause 8.1 of Schedule 2;
<b>“Contract Price”</b>	means the price exclusive of VAT that is payable to the Supplier by the Authority under the Contract for the full and proper performance by the Supplier of its obligations under the Contract;
<b>“Convictions”</b>	means, other than in relation to minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding-over orders (including any spent convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 or any replacement or amendment to that Act);
<b>“Data Protection Legislation”</b>	means the Data Protection Act 1998 and any other Law relating to the protection of personal data and the privacy of individuals, including where applicable guidance and codes of practice issued by the Information Commissioner;
<b>“Data Subject”</b>	shall have the same meaning as set out in the Data Protection Act 1998;
<b>“Dispute Resolution Procedure”</b>	means the process for resolving disputes as set out in Clause 22 of Schedule 2;
<b>“DOTAS”</b>	means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue and Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992;

<b>“Electronic Trading System(s)”</b>	means such electronic data interchange system and/or world wide web application and/or other application with such message standards and protocols as the Authority may specify from time to time;
<b>“Environmental Regulations”</b>	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
<b>“eProcurement Guidance”</b>	means the NHS eProcurement Strategy available via: <a href="http://www.gov.uk/government/collections/nhs-procurement">http://www.gov.uk/government/collections/nhs-procurement</a> together with any further Guidance issued by the Department of Health in connection with it;
<b>“Equality Legislation”</b>	means any and all legislation, applicable guidance and statutory codes of practice relating to equality, diversity, non-discrimination and human rights as may be in force in England and Wales from time to time including, but not limited to, the Equality Act 2010, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 (SI 2002/2034) and the Human Rights Act 1998;
<b>“FOIA”</b>	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
<b>“Force Majeure Event”</b>	means any event beyond the reasonable control of the Party in question to include, without limitation:  (a) war including civil war (whether declared or undeclared), riot, civil commotion or armed conflict materially affecting either Party’s ability to perform its obligations under this Contract;  (b) acts of terrorism;  (c) flood, storm or other natural disasters;  (d) fire;  (e) unavailability of public utilities and/or access to transport networks to the extent no diligent supplier could reasonably have planned for such unavailability as part of its business continuity planning;  (f) government requisition or impoundment to the extent such requisition or impoundment does not result from any failure by the Supplier to comply with any relevant regulations, laws or procedures (including such laws or regulations relating to the payment of any duties or taxes) and subject to the Supplier having used all reasonable legal means to resist such requisition or impoundment  (g) compliance with any local law or governmental order, rule, regulation or direction that could not have been reasonably foreseen;

	<p>(h) industrial action which affects the ability of the Supplier to provide the Services, but which is not confined to the workforce of the Supplier or the workforce of any Sub-contractor of the Supplier; and</p> <p>(i) a failure in the Supplier's and/or Authority's supply chain to the extent that such failure is due to any event suffered by a member of such supply chain, which would also qualify as a Force Majeure Event in accordance with this definition had it been suffered by one of the Parties;</p>
<b>"Fraud"</b>	means any offence under any law in respect of fraud in relation to this Contract or defrauding or attempting to defraud or conspiring to defraud the government, parliament or any Contracting Authority;
<b>"General Anti-Abuse Rule"</b>	<p>means</p> <p>(a) the legislation in Part 5 of the Finance Act 2013; and</p> <p>(b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;</p>
<b>"Good Industry Practice"</b>	means the exercise of that degree of skill, diligence, prudence, risk management, quality management and foresight which would reasonably and ordinarily be expected from a skilled and experienced service provider engaged in the provision of services similar to the Services under the same or similar circumstances as those applicable to this Contract, including in accordance with any codes of practice published by relevant trade associations;
<b>"Guidance"</b>	means any applicable guidance, direction or determination and any policies, advice or industry alerts which apply to the Services, to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Supplier by the Authority and/or have been published and/or notified to the Supplier by the Department of Health, Monitor, NHS England, the Medicines and Healthcare Products Regulatory Agency, the European Medicine Agency, the European Commission, the Care Quality Commission and/or any other regulator or competent body;
<b>"Halifax Abuse Principle"</b>	means the principle explained in the CJEU Case C-255/02 Halifax and others;
<b>"HM Government Cyber Essentials Scheme"</b>	<p>means the HM Government Cyber Essentials Scheme as further defined in the documents relating to this scheme published at:</p> <p><a href="https://www.gov.uk/government/publications/cyber-essentials-scheme-overview">https://www.gov.uk/government/publications/cyber-essentials-scheme-overview</a>;</p>
<b>"Implementation Plan"</b>	means the implementation plan, if any, referred to in the Key Provisions;

<b>“Intellectual Property Rights”</b>	means all patents, copyright, design rights, registered designs, trade marks, know-how, database rights, confidential formulae and any other intellectual property rights and the rights to apply for patents and trade marks and registered designs;
<b>“Interested Party”</b>	means any organisation which has a legitimate interest in providing services of the same or similar nature to the Services in immediate or proximate succession to the Supplier or any Sub-contractor and who had confirmed such interest in writing to the Authority;
<b>“Key Provisions”</b>	means the key provisions set out in Schedule 1;
<b>“Law”</b>	means any applicable legal requirements including, without limitation: (a) any applicable statute or proclamation or any delegated or subordinate legislation or regulation as applicable in England and Wales; (b) any applicable European Union directive, regulation, decision or law; (c) any enforceable community right within the meaning of section 2(1) European Communities Act 1972; (d) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales; (e) requirements set by any regulatory body as applicable in England and Wales; and (f) any relevant code of practice as applicable in England and Wales; (g) any relevant collective agreement and/or international law provisions (to include, without limitation, as referred to in (a) to (f) above).
<b>“Losses”</b>	all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services) proceedings, demands and charges whether arising under statute, contract or at common law;
<b>“NHS”</b>	means the National Health Service;
<b>“NHS Body”</b>	has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012;
<b>“Occasion of Tax Non-Compliance”</b>	means: (a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of: (i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or



	<p>legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</p> <p>(ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or</p> <p>(b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a civil penalty for fraud or evasion;</p>
<b>“Party”</b>	means the Authority or the Supplier as appropriate and Parties means both the Authority and the Supplier;
<b>“Personal Data”</b>	means personal data as defined in the Data Protection Act 1998;
<b>“Policies”</b>	means the policies, rules and procedures of the Authority as notified to the Supplier from time to time;
<b>“Premises and Locations”</b>	has the meaning given under Clause 2.1 of Schedule 2;
<b>“Process”</b>	has the meaning given to it under the Data Protection Legislation and, for the purposes of this Contract, it shall include both manual and automatic processing. Processing and Processed shall be construed accordingly;
<b>“Purchase Order”</b>	means the purchase order required by the Authority’s financial systems, if a purchase order is referred to in the Key Provisions;
<b>“Relevant Tax Authority”</b>	means HM Revenue and Customs, or, if applicable, a tax authority in the jurisdiction in which the Supplier is established;
<b>“Remedial Proposal”</b>	has the meaning given under Clause 15.3 of Schedule 2;
<b>“Sensitive Personal Data”</b>	means sensitive personal data as defined in the Data Protection Act 1998;
<b>“Services”</b>	means the services set out in this Contract (including, without limitation, Schedule 5 which sets out the requirements of the Authority as issued to tenderers as part of the procurement process and the Supplier’s response to these requirements);
<b>“Services Commencement Date”</b>	means the date delivery of the Services shall commence as specified in the Key Provisions. If no date is specified in the Key Provisions this date shall be the Commencement Date;
<b>“Services Information”</b>	means information concerning the Services as may be reasonably requested by the Authority and supplied by the Supplier to the Authority in accordance with Clause 20 of

	Schedule 2 for inclusion in the Authority's services catalogue from time to time;
<b>“Specification and Tender Response Document”</b>	means the documents set out in Schedule 5 as amended and/or updated in accordance with this Contract;
<b>“Staff”</b>	means all persons employed or engaged by the Supplier to perform its obligations under this Contract including any Sub-contractors and person employed or engaged by such Sub-contractors;
<b>“Step In Rights”</b>	means the step in rights, if any, referred to in the Key Provisions;
<b>“Sub-contract”</b>	means a contract between two or more suppliers, at any stage of remoteness from the Supplier in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract;
<b>Sub-contractor</b>	means a party to a Sub-contract other than the Supplier;
<b>“Successor”</b>	means any third party who provides services fundamentally the same as the Services (either in whole or in part) in immediate or subsequent succession to the Supplier upon the expiry or earlier termination of this Contract;
<b>“Supplier”</b>	means the supplier named on the form of Contract on the first page;
<b>“Supplier Personnel”</b>	means any employee, agent, consultant and/or contractor of the Supplier or Sub-contractor who is either partially or fully engaged in the performance of the Services;
<b>“Term”</b>	means the term as set out in the Key Provisions;
<b>“Third Party”</b>	means any supplier of services fundamentally the same as the Services (either in whole or in part) immediately before the Transfer Date;
<b>“Third Party Body”</b>	has the meaning given under Clause 8.4 of Schedule 2;
<b>“VAT”</b>	means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax.

- 1.2 References to any statute or order shall include any statutory extension, modification or re-enactment, and any order, regulation, bye-law or other subordinate legislation.
- 1.3 References to any legal entity shall include any body that takes over responsibility for the functions of such entity.
- 1.4 References in this Contract to a “Schedule”, “Appendix”, “Paragraph” or to a “Clause” are to schedules, appendices, paragraphs and clauses of this Contract.

- 1.5 References in this Contract to a day or to the calculation of time frames are references to a calendar day unless expressly specified as a Business Day.
- 1.6 Unless set out in the Commercial Schedule as a chargeable item and subject to Clause 30.6 of Schedule 2, the Supplier shall bear the cost of complying with its obligations under this Contract.
- 1.7 The headings are for convenience only and shall not affect the interpretation of this Contract.
- 1.8 Words denoting the singular shall include the plural and vice versa.
- 1.9 Where a term of this Contract provides for a list of one or more items following the word “including” or “includes” then such list is not to be interpreted as an exhaustive list. Any such list shall not be treated as excluding any item that might have been included in such list having regard to the context of the contractual term in question. General words are not to be given a restrictive meaning where they are followed by examples intended to be included within the general words.
- 1.10 Where there is a conflict between the Supplier’s responses to the Authority’s requirements (the Supplier’s responses being set out in Schedule 5) and any other part of this Contract, such other part of this Contract shall prevail.
- 1.11 Where a document is required under this Contract, the Parties may agree in writing that this shall be in electronic format only.
- 1.12 Where there is an obligation on the Authority to procure any course of action from any third party, this shall mean that the Authority shall use its reasonable endeavours to procure such course of action from that third party.
- 1.13 Any guidance notes in grey text do not form part of this Contract.

**Schedule 5**

**Specification and Tender Response Document**

## **Schedule 5 (Part 1)**

### **Specification**

#### **Purpose**

The Authority requires the Supplier to provide specialist Project Management Services in connection with the delivery of a new Pathology Acute Hospital Laboratory ("AHL") at the Leeds Teaching Hospitals NHS Trust's ("LTHT") Leeds General Infirmary ("LGI") site. The Services shall include the provision of specialist Project Management services to the preparation of tender documentation, the tendering and appointment of a contractor, and in providing on-going specialist Project Management services throughout the design, construction, handover and defects stages.

#### **Background**

In December 2018, the Trust ("Authority") formally secured, through the West Yorkshire & Harrogate ("WY&H") Sustainability & Transformation Partnership ("STP") Wave 4 Funding Process, investment that will seek to centralise its Pathology Services as one of several newly established hubs across WY&H. The plans are to build a new high tech and efficiently designed Pathology facility at the St James University Hospitals ("SJUH") site in the region of c. 5,500m<sup>2</sup>. This new facility is intended to be one of three specialist Blood Sciences hubs and the single Microbiology hub for WY&H. As a result of relocating the Trust's Pathology services to the St James University Hospital site, the Trust needs to retain an AHL at the LGI site with the primary objective of meeting in-patient and urgent out-patient requirements and in supporting clinical teams in delivering an effective and safe service to patients. The AHL will deliver urgent, near-patient blood sciences testing through a mixture of Point of Care Testing ("POCT") and laboratory testing.

The characteristics of the AHL at the LGI site include:

- 24/7 service operation;
- blood transfusion, haematology, chemistry and urgent microbiology on-site testing;
- CSF screening for glucose and protein testing;
- blood culture incubations for the first stage of the testing process; and
- providing pathology services for trauma, neuro and cardiac intensive care patients, paediatrics, maternity and cancer services.

The Trust has completed an outline RIBA Stage 2 design solution that seeks to refurbish an existing area of the Jubilee Wing at the LGI site. A concept design and allowance of 214m<sup>2</sup> of laboratory area has been identified along with 77m<sup>2</sup> of open plan workspace. The open plan workspace will be used by the following users/services:

- Duty Biochemistry Manager and Blood Sciences Leads
- HTT
- POCT
- Administrative staff
- Blood Bank

The form of contract is not currently determined, but is likely to be NEC 3/4 or JCT. The specific nature of the Procurement Strategy needs to be formalised with the preparation of a full procurement strategy report.

## **The Services Required**

The Supplier accepts that this specification/scope of services does not provide, or define an exhaustive set of activities, tasks and deliverables that may be required and therefore the Supplier accepts that additional activities, tasks and deliverables may be necessary where reasonably required and related to the primary scope of Services. Such additional activities, tasks and deliverables shall be performed at no additional cost to the Authority. The Supplier accepts that the Programme is indicative and may extend beyond the indicative key milestone dates. The Supplier accepts that any changes shall not necessarily entitle the Supplier to additional fees, unless changes are of a material nature.

The Authority requires the Supplier to provide Project Management Services to oversee and lead the delivery of an AHL Project at the LGI site. The Supplier is advised that there is no guaranteed maximum or minimum period or number of days to the Services required which may be concluded at any point as deemed appropriate by the Authority. Furthermore, the Authority shall reserve the absolute right to discontinue the Services in accordance with the notice period specified in this Agreement for whatever reason and specifically if, in the opinion of the Authority, the Project Manager does not demonstrate competently the necessary experience and skills required of the Project Manager to perform the Services relating to the nature of the works.

The Project Manager is expected to work due diligently and efficiently in performing the required Services. Whilst the Trust shall reserve the right to vary the number of days required as it sees appropriate (increase or decrease), the Supplier is expected to initially allocate no more than 2.5 days per week (assumption of 7.5 hours per day) (18.75 hours per week) to deliver the required Services. The Supplier accepts that it shall supply, as may be required, the time inputs flexibly as the project requires i.e. the three (2.5) days per week may be provided over a five (5) day period each week and the three (3) days may not all be provided as full days.

The Supplier shall be competent and experienced in the supply of specialist Project Management services relating to Pathology and laboratory solutions and shall demonstrate a strong understanding of technical matters relating to the delivery of design and construction projects and specifically pathology/ laboratory projects including refurbishment works. The Supplier shall work collaboratively with all other members of the Authority, its design team and any contractor throughout the performance of all services. The Supplier shall be required to work diligently and efficiently in performing the required services.

Throughout all RIBA Stages, the Supplier shall be competent to work from their own initiative, shall have a good understanding of the NEC3/4 and JCT Contracts, healthcare design, design and build procurement and public procurement, and shall be able to perform the required duties proactively, with minimal supervision and in a timely manner. The Supplier is expected to work due diligently and efficiently in performing the required Services and to be responsible for the development and implementation of robust communication processes to support the delivery of the design and construction processes.

The Supplier shall provide continuation in the delivery of the Services required and therefore during periods of annual leave etc. the Supplier shall identify an equivalent person to temporarily manage and/or deliver the required Services. With specific reference to key resources, then any equivalent resources shall be agreed by the Authority's BtLW Programme Director. The Authority shall reserve the right to reject proposed temporary resources where it deems the replacement resources are not equivalent.

The Authority has established a dedicated Programme Office (adjacent to the LGI site) to support the delivery of the Project. It is expected that the Supplier shall co-locate and/or be

in attendance at the Authority's Programme Offices to support the successful delivery of the Project.

The submitted fee proposal shall be fully inclusive of attending all meetings/workshops/user group/stakeholder meetings and site attendance necessary to perform the required Services and as may be requested by the Authority. Whilst the Authority shall take a pragmatic approach as to how and where these meetings/workshops are held, the Supplier shall assume that a significant level of site attendance shall be necessary throughout all RIBA Design Stages, and that the Supplier shall attend meetings/workshops at site as and when necessary and without a cap being applied as to the number of onsite meetings attended save for where there are material changes to the scope of services. The Supplier shall assume that all meetings will be held at the Leeds General Infirmary site, the Trust's 2 Park Lane Offices, the St James University Hospitals site, or within the City of Leeds boundary.

The Authority will comply with UK Government guidance (and specifically any guidance and rules to be applied in England) with reference to COVID-19 and specifically any restrictions on travel and social distancing. However, it is expected that the appointed Supplier shall be required to attend site throughout all RIBA Stages and as and when the Authority requires unless official travel restrictions are imposed by Governments.

The Authority shall reserve the right to progress with all or some RIBA Work Stages and/or parts of RIBA Work Stages and elements as described within this scope of Services. The Authority shall also reserve the right to vary the scope of Services. Where there are variations to the scope of Services, the Authority shall not be liable for additional costs unless there are material changes to the scope of Services and/or such services are not considered to fall within the responsibility of the Supplier in accordance with the terms of the appointment and as implied within this scope of Services. Further variation to the scope of services must be agreed in writing, in advance.

The Supplier accepts that some hours may need to be incurred outside of normal (Monday to Friday, 9am-5pm) working hours (e.g. evenings and/or Saturdays/Sundays). It is expected that any such allowance is provided for within the activity schedule and associated fees. The Trust shall not be liable for any additional costs.

With specific reference to the principles and scope of this appointment, and specifically the Services required and the general scope of the contract, the Supplier shall perform the following Services where the Supplier shall be expected to demonstrate added value and strong experience in the performance of the stated activities and deliverables. Specifically, the Supplier shall provide the following Services (as appropriate) to the Authority throughout the duration of the contract:

1. establish and maintain effective relationships with all members of the Authority Project Delivery Team and other Project stakeholders to include staff within the Pathology Department;
2. regularly liaise, communicate and provide up-dates and information to the Authority Project Manager, Authority Technical Project Manager, the Project Manager as well as the BtLW Programme Director;
3. regularly liaise and communicate with the Authority, all key stakeholders, the Consultant Design Team, the Project Manager, the Supervisor and the Contractor (and sub-contractors and design specialists) to support the efficient and effective management and delivery of the project;
4. attend (and where required, Chair) meetings related to the scope of Services.

5. manage and co-ordinate the project in accordance with best practice project and contract management practices;
6. provide effective project management support to the general co-ordination, planning, management and delivery of the Project throughout all stages;
7. co-ordinate the work of the Authority technical team and the production of design deliverables in accordance with agreed programmes;
8. establish a full set of effective project management processes and procedures to support the effective Project Management and technical delivery of each delivery stage and provide full project management support to the delivery of each stage;
9. contribute to the preparation of Lessons Learned Reports throughout the delivery of the Project;
10. develop, implement and maintain robust risk, issues, change management and cost control processes;
11. develop and implement effective stakeholder management processes and management information reporting;
12. working with the Authority, Contractor and Consultants, prepare and support maintaining a stakeholder engagement plan and matrix throughout the delivery of each stage;
13. be responsible for confirming, clarifying and recording the Authority's requirements throughout all stages;
14. prepare, in a timely manner, Action Plans to support the effective and efficient delivery of processes at each stage and to ensure the Authority is fully aware of the inputs it is required to provide and the timescales for providing such inputs;
15. input into the preparation of design, procurement and delivery programmes and support the co-ordination and planning of the inputs of stakeholders, designers and the Authority Adviser Team;
16. take the lead in establishing and monitoring progress against key dates, programmes, activity schedules, information required schedules and other related design and scheduling information for the Project and advise the Authority on all key programming matters and provide regular monthly up-dates to the Authority;
17. support (and where required lead) the preparation and management of up-dates to the Project Initiation Document ("PID") at each stage of the delivery process;
18. review Contractor Programmes (initial and up-dates) to ensure that all key activities and critical path activities are incorporated, and that Programmes are aligned to contract requirements, and that the Authority is aware of key inputs and the timelines for information that the Authority is required to provide;
19. co-ordinate and manage designers and Authority technical adviser specialists to review and input into the design process and development and review of information throughout the delivery of the Services;
20. be responsible for confirming key decisions with the Authority and communicating such key decisions to the Authority Team and/or contractor;
21. prepare a detailed monthly Project Progress Report for the BtLW Programme Director that:



- a. confirms progress against agreed plans;
- b. highlights key communication and stakeholder/user-engagement matters;
- c. identifies risks and issues and the mitigation measures implemented to manage such issues and provides recommendations on further controls to be implemented;
- d. identifies health and safety matters and plans in place to confirm safety procedures are effective and appropriate and provides recommendations on further controls to be implemented;
- e. highlight any key information requirements to be provided by the Authority and the dates by when such information is required highlighting the impact if information is not provided;
- f. provides an up-date against the forward look and key decisions plan;
- g. a summary of contract administration matters;
- h. provides a cost report up-date; and
- i. includes a clear look-ahead plan of all works that need completing during the next reporting period.

It is expected that the Project Manager shall work with the Authority Project Manager and other members of the delivery team to develop and deliver the Monthly Project Progress Report.

- 22. attend site meetings as may be necessary in order to satisfactorily perform the scope of Services;
- 23. support the Authority in the procurement of specialist advisers to the Authority including technical adviser roles, Supervisor and the procurement of surveys as may be necessary;
- 24. allocate appropriate time to the effective management and performance of the Services;
- 25. provide, in a timely manner, specialist advice, knowledge and support to the Authority;
- 26. contribute to the preparation and delivery of technical and non-technical presentations to Authority and WY&H staff and management;
- 27. contribute to (and/or prepare standalone reports as may be necessary and required) the preparation of project reports (e.g. monthly project reports, tender evaluation reports, etc.) as may be requested by the Authority BtLW Programme Director;
- 28. as may be required, advise the BtLW Programme Director and other members of the Authority Team on all project matters and prepare and submit cost review progress and assurance reports for the Authority BtLW Programme Director;
- 29. attend stakeholder user group meetings as may be necessary in connection with the delivery of the Project;
- 30. review and comment on all design information and co-ordinate and obtain comments from the Authority Technical and Project Delivery Team, in a timely manner, clearly identifying any risks throughout all stages;
- 31. co-ordinate and obtain from the Authority Technical Team independent assurance reports on design proposals and provide written advice to support briefing and decision-making processes;

32. review RIBA Stage Reports and co-ordinate and obtain reports, identifying any key risks;
33. prepare and implement a Procurement Strategy relating to the delivery of the Project and Works;
34. prepare and maintain all relevant project delivery documentation to include a robust project delivery plan;
35. support the preparation of an OBC as may be required;
36. lead the co-ordination and initial preparation (and up-dates) of the Authority Works Information, Contract Data and Authority's Requirements prior to entering into Works contracts;
37. co-ordinate the preparation and review of the formal Project contract documents;
38. support the preparation of an FBC as may be required;
39. support negotiation for agreement of GMP, as necessary;
40. monitor and review the performance of relevant contract administration adopted and issued by the contractor throughout the pre-construction and construction stages;
41. advise the Authority in the review and assessment of Compensation Events;
42. review and comment on submitted Programmes, Activity Schedules, information required schedules, etc.;
43. attend meetings on behalf of the Authority and represent the Authority's interests as may be necessary and prepare briefing notes for the Authority;
44. prepare briefing notes for the Authority as and when necessary in connection with the scope of Services;
45. lead risk management processes and activities (to include attendance at and leading risk management workshops) and support the process to effectively identify, assess, and manage risk;
46. effectively maintain risk registers;
47. lead the collation of the Early Warning Register and co-ordinate risk reduction meetings as may be required and as requested by the Project Manager;
48. lead value management & value engineering processes;
49. monitor and advise the Authority and the contractor on progress to develop the design within agreed budgets and highlight any key risks; and
50. effectively and efficiently lead the management and administration of the Works Contract (NEC or JCT) and specifically (and where appropriate with the support of the Authority Cost Manager):
  - lead the process to monitor the Accepted Programme;
  - monitor expenditure against the Contractors Stage and Project expenditure profile;
  - review and support the process to confirm the acceptance of proposed subcontractors (as necessary for this stage);
  - review and support the early warning and risk reduction duties;
  - perform assessment and valuation duties;
  - review the contractors assessment application;
  - prepare assessment documents and certification for issue by the Project Manager;
  - support the preparation of compensation event notifications for the Project Manager;
  - evaluate compensation quotations and advise on cost implications and contractual

- acceptability;
- confirm contractor timesheets have been completed and review for completeness/alignment with stage fee proposals and any changes;

### **Appointment of a Contractor and/or any Specialist Sub-Contractors**

It is expected that the Supplier shall provide, in addition to the general services, the following, specifically with reference to the tendering and appointment of a Principal Contractor, the support for which shall include:

1. lead the planning, drafting and co-ordinate the preparation of tender processes and tender documentation etc.;
2. lead the planning, drafting and co-ordinate the preparation of ITT documentation and evaluation processes/methodologies;
3. lead and co-ordinate the preparation of a Works Information Document and Employers Requirements document to support the suite of tender documents;
4. advise on any specialist works packages and contractor/specialist sub-contractor tendering lists;
5. advise on any special conditions of contract, relevant to the sub-contract packages;
6. manage the tender process, co-ordinate tender clarification processes and provide support to the Authority in responding to tender clarifications;
7. lead and chair meetings as may be necessary during the tender and evaluation processes;
8. lead and co-ordinate the evaluation of tenders; and
9. lead the preparation and drafting of a tender evaluation report.

Specifically, with reference to the tendering and appointment of specialist sub-contractors to the Principal Contractor, the support shall include:

10. review and comment on any scopes and advise on proposed tender appointments and cost information.

### **RIBA Work Stages 5-7**

It is expected that the Consultant shall provide the following which shall be considered to be a non-exhaustive scope of the services required during these Stages:

1. support the Authority and Contractor in co-ordinating and planning the delivery of this stage of the process to include the preparation of relevant design and the co-ordination of any Reviewable Design Data ("RDD");
2. confirm and review the Contractor Construction Stage (Health and Safety) Plan (CPP) prior to commencement of work on Site, liaise with the CDM Health & Safety Advisor to collate any comments regarding the CPP and feed them back to the Contractor;
3. confirm the requirements for financial reporting throughout the stage;
4. obtain confirmation from the Contractor that local and other statutory authority procedures are complied with;
5. confirm that the Supervisor is arranging and undertaking inspection procedures in

accordance with their contract of engagement, and the provisions of the Project Works Information document and is managing Contractor responses to Defects take any actions required;

6. review Works inspection reports prepared by the Supervisor and monitor the rectification/ completion of all subsequent actions for correction of Defects;
7. liaise with the Authority and Contractor to co-ordinate and arrange for stakeholder groups to visit site throughout the works and to gain familiarity with the building and engineering services and to support operational planning;
8. arrange for the Authority to receive the building and associated certificates, record drawings;
9. confirm and report to the Authority that Completion is certified, and obtain confirmation that all statutory requirements have been complied with;
10. manage the process of the final amount due to the Contractor;
11. advise the Authority of any Authority involvement as a party to the contract in the consideration of claims, any dispute or difference relating to the Works or any financial adjustment such as the deduction of Delay Damages (provided always that such advice shall not relate to the detailed examination of financial claims or extend to advising the Authority in the taking of any step in or towards litigation or arbitration, without specific instructions from the Authority;
12. review that the Supervisor is maintaining the process for monitoring the resolution of Defects that they are reported and rectified during the Defects Date and confirm that pro forma communications certificate of making good defects is issued; and
13. confirm that final Defects Certificate is issued by the Supervisor and all reported Defects have been rectified and inspected prior to issue of the certificate;
14. review and co-ordinate the Authority Commissioning inputs and the Supervisor in performing commissioning duties (the Contractor shall remain responsible for planning the Commissioning activities throughout the Works); and
15. support any handover processes and arrangements.

## **Programme**

The Authority expects that the tender, design and works will run from June 2021 through to March 2023. The Supplier accepts that at this stage of the process, the Programme dates are considered to be a “best estimate” and will be subject to further development and refinement in discussion with the design team once appointed and that they may be further modified by the Contractor once appointed. The Authority shall not be liable for any additional costs associated with the acceleration or extension of programmes.

## **Quality Control**

The Supplier shall establish and implement quality control procedures that reflect:

- Good Industry Practice;
- are relevant and appropriate to the nature of the services to be provided; and
- are proportionate to the nature and size of this Contract.

The Supplier shall establish quality control procedures that reflect the nature and type of services to be provided and the duration of the Contract term and specifically are expected to include the preparation and submission of a Services Commission Quality Plan (that shall be produced within two (2) weeks of the Contract Date) that documents:

- the roles and responsibilities for quality assurance; and
- appropriate and relevant processes and procedures that demonstrate and confirm how deliverables and services shall be quality assured.

The staff performing the required Services shall hold the relevant qualifications and be sufficiently experienced and trained in accordance with Good Industry Practice relevant to the Services to be provided.

## **Fees**

Hourly rates for the contract Services shall be capped for the duration of the Agreement.

## **Behavioural Attributes:**

The Project Manager is expected to be self-motivated and be confident in managing the delivery of those Services required and specifically the Services required in the context of the LGI Enabling Project described by the Authority. In addition, the Project Manager is expected to be confident in delivering complex projects within operational hospital sites. As the Project Manager is expected to be on site for a majority of the time, they shall be expected to be familiar with and deliver the Project in a manner that promotes the values of the Leeds Teaching Hospitals NHS Trust and specifically its "*Leeds Way Values*". The role may be required to liaise directly with senior people across the Trust including clinical and non-clinical Directors/Managers as well as other internal and external stakeholders and therefore the Project Manager shall be confident in dealing with such stakeholders and in representing the Building the Leeds Way Programme Team and Trust. It is important that the Building the Leeds Way Programme viewed is positively across the Trust and is delivered in a controlled and efficient manner whilst engaging staff across all levels.

## **Schedule 5 (Part 2)**

### **Tender Response Document (Quotation)**

The Supplier shall deliver the Services as described in the specification Schedule 5 (Part 1).

The Services shall be delivered by Adam Foster with oversight and support (as necessary) from Emma Cochrane and Chris Waine.

The fee shall be in accordance with Schedule 6.

## ADAM FOSTER

### Senior Project Manager



**“A NEC 4 Accredited Project Manager specialising in Healthcare, whose enthusiasm and ability to deliver excellence ensure high levels of Client satisfaction”**

#### CORE SKILLS

1. Feasibility and Design Management
2. Project Management – Inception to Completion
3. Value and Risk Management
4. Change Control and Contract Administration (NEC & JCT)
5. Procurement and Contract Advice

#### POSITION

- Senior Project Manager

#### QUALIFICATIONS

- BTEC ONC Building Studies
- BTEC HNC Building Studies
- NEC 4 Accredited Project Manager

Adam is a Senior Project Manager with over 18 years of industry experience working across multiple sectors and in various client focused roles.

Specialising in delivering projects from inception through to completion within the Healthcare sector, Adam has a strong understanding of the management and implementation of projects encompassing all stages of the project lifecycle.

Adam is a NEC 4 Accredited Project Manager and has delivered a wide range of projects successfully in his career working on major schemes throughout. With extensive experience with various forms of contract having managed projects under JCT, NEC and ICE. He has also worked under a number of procurement routes including Frameworks, such as the Department for Health & Social Care's Procure 21+ & Procure 22

#### Project Experience

##### Emergency Care Centre – £34m

Gateshead Health NHS Foundation Trust

Project Manager, working directly for the Director of Estates & Facilities, as part of the executive team responsible for overseeing corporate objective from inception to completion of a unique and innovative design, the development of a new state-of-the-art 12,000m<sup>2</sup> building spread across three storeys for emergency services at the Queen Elizabeth Hospital, Gateshead. Whereby the design principles were based on a patient-centred model of care and optimised use of space by developing standardised flexible treatment rooms. Comprising of Accident & Emergency, Walk In Centre, GP Services, 36 Bed Medical & Surgical Assessment, Urgent Children's Services and ancillary support in the form of Health Records, Linen Services, Stores, Office Accommodation, Pharmacy Stores and on-site retail facilities. Providing 56 identical treatment and assessment rooms, designed as an eight-room pod, providing flexible space to adapt to the ever-changing clinical demand. The facility was nestled in the middle of the live hospital site requiring careful planning and coordination to enable no disruption was caused to the site and neighbouring departments. The project was procured and delivered under the P21+ Framework using an NEC 3 Form of Contract.

## Project Experience Continued

### Pathology Centre of Excellence

Gateshead Health NHS Foundation Trust - £12m

Project Manager, working directly for the Director of Estates & Facilities, as part of the executive team responsible for overseeing corporate objective from inception to completion for the transformation a decommissioned 1970's bespoke laundry building to a centre of excellence for Pathology Services amalgamating specialist pathology services from City Hospitals Sunderland Foundation Trust, South Tyneside Foundation Trust and Gateshead Health NHS Foundation Trust. Comprising a series of laboratories including, automated blood science, microbiology and histopathology, accommodating specialist staff and equipment needed to undertake clinical diagnostic tests of human tissue samples delivered from the South of Tyne Acute Hospitals and GP surgeries spread across two storeys and 4000m<sup>2</sup>. The facility was nestled in the middle of the live hospital site requiring careful planning and coordination, to ensure minimal disruption to day-to-day activities and operations throughout the site by implementing a one-way system. The project was procured and delivered under the P21+ Framework using an NEC 3 Form of Contract.

### South of Tyne & Wear Bigger Picture

City Hospitals Sunderland Foundation Trust, Gateshead Health NHS Foundation Trust & South Tyneside Foundation Trust - £1-3m Range

Project Manager, working directly for the Director of Estates & Facilities and Programme Director, as part of the executive team responsible for overseeing corporate objective from inception to completion. Upon completion of the Pathology Centre of Excellence at the Queen Elizabeth Hospital, Gateshead works were required to reassess the existing pathology services as the City Hospitals Sunderland Foundation Trust and South Tyneside Foundation Trust to establish the requirements for retained pathology services on both sites in the form of a Hub responsible for hot samples (Test with 90min or less turnaround) and working with each Trust to realise the potential of the recently vacated space. This involved working with each Trust understanding what services needed to retain on-site and ancillary accommodation required to support each Hub by working with stakeholders and consultants to establish a scope of works and design to meeting the requirements of each site.

### Covid 19 Vaccination Centre, Elland Road, Leeds

Leeds Teaching Hospitals NHS Trust - £Confidential

Project Lead working in partnership with the Trust to provide project delivery assurance and commercial management services. The fast-track programme of works created a temporary vaccination centre with a capacity of delivering 6000+ vaccinations per day as part of the national vaccination programme. Assisting the Trust in site appraisals and costings associated with each option, to ensuring a timely design, procurement and delivery of the works on-site to meet the requirement set out by government.

### Endoscopy Unit

York Teaching Hospitals - £9.5m

Project Manager for the development of the new Endoscopy Unit at York Hospital was complex. Positioned on top of the existing physiotherapy unit, the site was live and extremely restricted, with the sleep sciences and renal units on either side of the physiotherapy unit in close proximity. Due to the location of the new facility a series of decants and relocation of existing departments were required to facilitate contractor access throughout the works, ensuring careful planning and coordination of all aspects of the works to mitigate any disruption to the hospital sites one-way system and supplies deliveries. The project was procured and delivered under the P21+ Framework using an NEC 3 Form of Contract.



## Project Experience Continued

### **The Roost, Key Worker Accommodation**

Northern Lincolnshire & Goole NHS Foundation Trust - £15.7m

Project Manager for the modern 'key worker' accommodation built by Kier Northern, the 13,500m<sup>2</sup> facility spread over three and four storeys consists of 96 student units and 124 studio apartments designed to house hard to recruit staff including doctors and nurses. The new building was named by a member of staff as 'The Roost', meaning a place to settle or congregate for rest or sleep. Whilst on the outskirts of the hospital grounds, the one-way system implemented on-site meant that close coordination with the Client was required and to ensure deliveries and certain works were carried out at agreed times. The project was procured and delivered under the P21+ Framework using an NEC 3 Form of Contract.

TO WHOM IT MAY CONCERN

## CERTIFICATE OF INSURANCE

*This certificate is issued as a matter of information only and confers no rights upon the holder. It does not amend, extend or alter the coverage afforded by the policy/policies listed. It is provided as a summary only of the cover provided and is current only during the period of insurance. If the policy is changed during the period of insurance no obligations to inform the holder is accepted by Aon. In case of claims only the current policy terms and conditions shall prevail. For full particulars reference must be made to the current policy wording.*

We, Aon, Insurance Brokers & Risk Consultants, hereby certify that the hereunder-described insurance is in force at this date, policy number V0100100000, placed with XL Insurance Company SE, Netherlands Branch, which includes any local policy issued by a XL company or representative, and for which the premium has been paid by the insured.

### Named Insured

ARCADIS NV and subsidiary companies, as now exists or may hereafter be constituted and as more fully stated in the attached list of Insured.

### Type of Insurance

Public Liability.

### Period of Insurance

From 1 June 2020 to 1 June 2021

### Limit of Indemnity

**GBP 5,000,000** any one occurrence / unlimited, however

**GBP 5,000,000** any one occurrence and in the aggregate with respect to products liability only, to cover claims against the insured for loss or damages, including consequential loss resulting there from, as a result of injury and/or property damage.

Rotterdam, 28 May 2020

Aon



List of Insured

Arcadis UK (Holdings) Ltd  
 Arcadis (UK) Ltd  
 Arcadis (BAC) Ltd  
 Arcadis Group Ltd  
 Arcadis LLP  
 Arcadis International Holdings Ltd  
 Arcadis International Ltd  
 Arcadis Solutions Ltd  
 Arcadis Human Resources Ltd  
 Somers Rent Limited  
 Arcadis Asset Management Limited  
 Vectra (Middle East) Ltd  
 Christal Construction Management Ltd  
 Arcadis Consulting (UK) Ltd  
 Power Systems Projects and Consultancy Ltd  
 Arcadis Nuclear Safety & Risk Consultancy Limited  
 SR3C Management Ltd  
 Hyder Consulting Group Holdings Ltd  
 Arcadis Consulting Group Ltd  
 Hyder Consulting Overseas Holdings Ltd  
 Arcadis Consulting Europe Ltd  
 Arcadis Consulting Holdings Ltd  
 Arcadis Ireland Limited  
 CallisonRTKL - UK Ltd  
 CallisonRTKL - ME Ltd  
 Callison Europe Ltd.  
 CallisonRTKL-UK Ltd (Dubai Branch)  
 CallisonRTKL-UK Ltd Abu Dhabi  
 Skipworth Engelhardt Asset Management Strategists Limited  
 SEAMS (Global) Limited  
 TECHT Ltd  
 JacksonHyder Ltd  
 Arcadis Services Ltd  
 Arnold Project Services Ltd.  
 Corporate Property Advisers Ltd  
 Acer Partnerships Ltd  
 Acer Sir Bruce White Ltd  
 Cresswell Associates (Environmental Consultants) Ltd  
 GMI Pension Trustees Limited  
 Hyder 1 Ltd  
 Acer John Taylor Ltd  
 WPD Trademarks Ltd  
 EC Harris (UK) Limited  
 EC Harris Canada Inc.  
 EC Harris (USA), Inc  
 EC Harris (US), Inc

**Insurance Brokers**

12 Princes Parade

Princes Dock

Liverpool L3 1BG



0151 236 5656



info@griffithsandarmour.com



griffithsandarmour.com

Griffiths &  
Armour

**LIABILITY INSURANCE**

**We confirm the following details relating to our client's Liability Insurance**

Insured: **Arcadis UK (Holdings) Ltd, Arcadis (UK) Ltd, Arcadis LLP,  
Arcadis Consulting (UK) Ltd and Subsidiary Companies**

Insurers: **RSA Insurance Plc**

Period of Insurance: **1st July 2020 to 30th June 2021**

Policy Number: **WSP000769**

Limit of Indemnity:

**Employers' Liability**

**Not less than £5,000,000 any one occurrence and unlimited in the Period of Insurance.**

- **Products Liability**
- **Pollution & Contamination**

Matthew Donnelly

Partner

Managing Director – Insurance Brokers

Griffiths & Armour

Insurance Brokers

Date: 2nd July 2020

The policy is subject to policy terms, exclusions, conditions and exceptions contained therein. The above is accurate at the date of signature. No obligation is imposed herein on the signatory to advise of any alteration.

**Partners:**

P Berg BSc, M Donnelly BA (Hons) BPI ACII, C J Edwards ACII FIRM, C Evans BA (Hons) FCII,  
D J Haram, S J Keenan BSc (Hons) ACII, K J Swainson BSc (Hons) ACII, D J Whalley BA (Hons) FCA, ACII  
Griffiths & Armour Ltd

Insurance Brokers is a division of Griffiths & Armour, a partnership which is authorised and regulated by  
the Financial Conduct Authority



**Assurex**  
GLOBAL



Empower Results®

TO WHOM IT MAY CONCERN

## CERTIFICATE OF INSURANCE

*This certificate is issued as a matter of information only and confers no rights upon the holder. It does not amend, extend or alter the coverage afforded by the policy/policies listed. It is provided as a summary only of the cover provided and is current only during the period of insurance. If the policy is changed during the period of insurance no obligations to inform the holder is accepted by Aon. In case of claims only the current policy terms and conditions shall prevail. For full particulars reference must be made to the current policy wording.*

We, Aon, Insurance Brokers & Risk Consultants, hereby certify that the hereunder-described insurance, placed with insurers with a S&P's rating not less than A+, is in force at this date and for which the premium has been paid by the insured.

### Named Insured

Arcadis NV and subsidiary companies, as now exists or may hereafter be constituted and as more fully stated in the attached list of Insured.

### Type of Insurance

Professional Indemnity.

### Policy Number(s)

V0100100001

### Period of Insurance

From 1 June 2020 to 1 June 2021

The insured has undertaken to renew this insurance annually for periods as mentioned in contract conditions, provided this type of insurance remains available at commercially reasonable rates, terms and conditions.

### Limit of Indemnity

**GBP 5,000,000** each and every claim and in the aggregate

to cover the insured legal liability including contractual liability as defined in the policy for claims first made during the period of insurance:

1. which arise out of an actual or alleged act, error or omission in the rendering of or failure to render professional duties by or on behalf of the insured, or
2. caused by pollution conditions resulting from covered operations performed.

Rotterdam, 28 May 2020  
Aon



Aon Risk Solutions  
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The General Terms and Conditions of Aon apply to all services performed by Aon.  
The General Terms and Conditions can be viewed at [www.aon.nl/algemeenvoorwaarden](http://www.aon.nl/algemeenvoorwaarden) and will be sent free of charge upon request.

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## Empower Results®

### List of Insured

Arcadis UK (Holdings) Ltd  
Arcadis (UK) Ltd  
Arcadis (BAC) Ltd  
Arcadis Group Ltd  
Arcadis LLP  
Arcadis International Holdings Ltd  
Arcadis International Ltd  
Arcadis Solutions Ltd  
Arcadis Human Resources Ltd  
Somers Rent Limited  
Arcadis Asset Management Limited  
Vectra (Middle East) Ltd  
Christal Construction Management Ltd  
Arcadis Consulting (UK) Ltd  
Power Systems Projects and Consultancy Ltd  
Arcadis Nuclear Safety & Risk Consultancy Limited  
SR3C Management Ltd  
Hyder Consulting Group Holdings Ltd  
Arcadis Consulting Group Ltd  
Hyder Consulting Overseas Holdings Ltd  
Arcadis Consulting Europe Ltd  
Arcadis Consulting Holdings Ltd  
Arcadis Ireland Limited  
CallisonRTKL - UK Ltd  
CallisonRTKL - ME Ltd  
Callison Europe Ltd.  
CallisonRTKL-UK Ltd (Dubai Branch)  
CallisonRTKL-UK Ltd Abu Dhabi  
Skipworth Engelhardt Asset Management Strategists Limited  
SEAMS (Global) Limited  
TECHT Ltd  
JacksonHyder Ltd  
Arcadis Services Ltd  
Arnold Project Services Ltd.  
Corporate Property Advisers Ltd  
Acer Partnerships Ltd  
Acer Sir Bruce White Ltd  
Cresswell Associates (Environmental Consultants) Ltd  
GMI Pension Trustees Limited  
Hyder 1 Ltd  
Acer John Taylor Ltd  
WPD Trademarks Ltd  
EC Harris (UK) Limited  
EC Harris Canada Inc.  
EC Harris (USA), Inc  
EC Harris (US), Inc



## **Schedule 6**

### **Commercial Schedule**

1. The Contract Price shall be payable in accordance with the terms set out within this Schedule 6.
2. The Contract Price shall be the sum(s) as detailed within this Schedule 6.

The total sum payable by the Authority for the Services described within Schedule 5 (Part 1) ("Specification") shall not exceed the daily rate of £675.00 based on a 7.5hr day (or part thereof) (which shall, in accordance with this contract, be deemed to be inclusive, but not limited to all costs, disbursements, expenses, equipment etc.) excluding VAT.

The appointment shall be limited to 18.75 hours per week. Fees shall only be payable by the Authority where time is incurred and up to the stated caps.

3. Payment for the Services shall be invoiced monthly, in arrears and shall only be for the direct time incurred.
4. Whilst not limited, the daily rate shall be fully inclusive of:
  - 4.1. all disbursements and travel/expenses related costs;
  - 4.2. administrative costs;
  - 4.3. the development, implementation and management of the Supplier's quality assurance processes and procedures;
  - 4.4. all required equipment and materials;
  - 4.5. the production of Project reports; and
  - 4.6. attendance at meetings.
5. The Services shall be supplied in accordance with the Schedule 5 (Part 1) ("Specification").
6. A draft copy of all invoices shall be e-mailed direct to the Authority Contract Manager (the Building the Leeds Way Programme Director) for approval prior to being issued to the Authority's Accounts Payable Department. Each invoice shall be submitted with a summary of the hours incurred (or part thereof) each week, by each resource, along with a supplementary summary of the activities and deliverables completed by each resource for which time is being claimed. Where invoices fail to be presented in accordance with this clause 6 (and/or other requirements set out within this agreement) the Authority shall be under no obligation to make payment.
7. All Invoices shall be addressed to:

ACCOUNTS PAYABLE DEPT.  
PO BOX 784  
Leeds General Infirmary  
Leeds,  
LS1 9LF  
e-mail: [leedsth-tr.accountspayable@nhs.net](mailto:leedsth-tr.accountspayable@nhs.net)