

Collaborating for a Sustainable Workforce

National Framework for the Provision of Clinical and Healthcare Staffing

Call-off Terms and Conditions for the Provision of Services

Where an Order Form is issued by the Authority that refers to the Framework Agreement, the Contract is made between the Authority and the Supplier on the date of that Order Form. The Contract is subject to the terms set out in the schedules of these Call-off Terms and Conditions listed below ("Schedules").

The Contracting Authority and the Supplier undertake to comply with the provisions of the Schedules in the performance of the Contract.

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

For the avoidance of doubt, any actions or work undertaken by the Supplier prior to the receipt of an Order Form 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 Order Form.

The Definitions in Schedule 4 of these Call-off Terms and Conditions apply to the use of all capitalised terms in the Contract.

Schedules

Schedule 1 of these Call- off Terms and Conditions	Key Provisions	
Schedule 2 of these Call- off Terms and Conditions	General Terms and Conditions	
Schedule 3 of these Call- off Terms and Conditions	Information and Data Provisions	
Schedule 4 of these Call- off Terms and Conditions	Definitions and Interpretations	
Schedule 5 of these Call- off Terms and Conditions	Supply Chain Visibility	
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Schedule 1 of these Call-off terms and Conditions

Key Provisions

1 Application of the Key Provisions

- 1.1 The standard Key Provisions at Clauses 1 to 7 of this Schedule 1 of these Call-off Terms and Conditions shall apply to this Contract.
- 1.2 Extra Key Provisions shall only apply to this Contract where such provisions are set out as part of the Order Form.

2 Term

- 2.1 This Contract commences on the Commencement Date.
- 2.2 The Term of this Contract shall be as set out in the Order Form.
- 2.3 The Term may be extended in accordance with Clause 16.2 of Schedule 2 of these Call-off Terms and Conditions provided that the duration of this Contract shall be no longer than any maximum duration applicable to the Contract if such maximum duration is set out in the Framework Agreement (including any options to extend).

3 Contract Managers

3.1 The Contract Managers at the commencement of this Contract shall be as set out in the Order Form or as otherwise agreed between the Parties in writing.

4 Names and addresses for notices

4.1 Unless otherwise agreed by the Parties in writing, notices served under this Contract are to be delivered to such persons at such addresses as referred to in the Order Form.

5 Management levels for escalation and dispute resolution

5.1 Unless otherwise agreed by the Parties in writing, the management levels at which a Dispute will be dealt with are as follows:

	Level	Contracting Authority representative	Supplier representative
	1	Contract Manager	Contract Manager
Crown	2	Assistant Director or equivalent	Assistant Director or equivalent
	3	Director or equivalent	Director or equivalent

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Director or equivalent
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- 6.1 Subject always to Clause 1.10 of Schedule 4 of these Call-off Terms and Conditions, should there be a conflict between any other parts of this Contract the order of priority for construction purposes shall be:
 - 6.1.1 the Order Form
 - 6.1.2 the applicable provisions of the Framework Agreement other than the Specification and Tender Response Document;
 - 6.1.3 the provisions on the front page of these Call-off Terms and Conditions for the Provision of Services;
 - 6.1.4 Schedule 1 of these Call-off Terms and Conditions: Key Provisions;
 - 6.1.5 the Specification and Tender Response Document (but only in respect of the requirements);
 - 6.1.6 Schedule 2 of these Call-off Terms and Conditions: General Terms and Conditions;
 - 6.1.7 Schedule 3 of these Call-off Terms and Conditions: Information Governance Provisions;
 - 6.1.8 Schedule 4 of these Call-off Terms and Conditions: Definitions and Interpretations;
 - 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 Application of TUPE at the commencement of the provision of Services

- 7.1 The Parties agree that at the commencement of the provision of Services by the Supplier TUPE and the Cabinet Office Statement shall not apply so as to transfer the employment of any employees of the Contracting Authority or a Third Party to the Supplier.
- 7.2 If any person who is an employee of the Contracting Authority or a Third Party claims or it is determined that their contract of employment has been transferred from the Contracting Authority or Third Party to the Supplier or a Sub-contractor pursuant to TUPE, or claims that their employment would have so transferred had they not resigned, then:
 - 7.2.1 the Supplier will, within seven (7) days of becoming aware of that fact, give notice in writing to the Contracting Authority;



the Contracting Authority or Third Party may offer employment to such person within twenty-eight (28) days of the notification by the Supplier;

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if such offer of employment is accepted, the Supplier on a Sub-contractor curement Hubs shall immediately release the person from their employment;

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7.2.4 if after that period specified in Clause 7.2.2 of this Schedule 1 of these Calloff Terms and Conditions has elapsed, no offer of employment has been made by the Contracting Authority or Third Party, or such offer has been made by the Contracting Authority or Third Party but not accepted within a reasonable time, the Supplier or Sub-contractor shall employ that person in accordance with its obligations and duties under TUPE and shall be responsible for all liabilities arising in respect of any such person and shall (where relevant) be bound to apply Fair Deal for Staff Pensions in respect of any such person in accordance with the requirements of Part D of Schedule 7 of the NHS Terms and Conditions for the Provision of Services (Contract Version) (January 2018).





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Schedule 2 of these Call-off Terms and Conditions

General Terms and Conditions

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1 **Provision of Services**

- 1.1 The Contracting 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 the provisions of the Framework Agreement as applicable and/or the provisions of the Order Form:
 - 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 comply with the Implementation Requirements (if any) in accordance with any timescales as may be set out in the Specification and Tender Response Document., Without limitation to the foregoing provisions of this Clause 1.2 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall if specified in the Order Form implement the Services fully in accordance with the Implementation Plan. If the Implementation Plan is an outline plan, the Supplier shall, as part of implementation, develop the outline plan into a full plan and agree this with the Contracting Authority. Once this is agreed, the Supplier shall comply with the full Implementation Plan.
- 1.3 The Supplier shall commence delivery of the Services on the Services Commencement Date.
- 1.4 The Supplier shall comply fully with its obligations set out in the Specification and Tender Response Document and/or the Order Form, including without limitation the KPIs.
- 1.5 The Supplier shall ensure that all relevant consents, authorisations, licences and accreditations required to provide the Services are in place at the Actual Services Commencement Date and are maintained throughout the Term.
- 1.6 If the Services, or any part of them, are regulated by any regulatory body, the Supplier shall ensure that at the Actual Services Commencement Date it has in place all relevant registrations and shall maintain such registrations during the Term. The CrowSupplier shall notify the Contracting Authority forthwith in writing Prosey emande intership Commercial stration or any other matter relating to its registration that would affect the curement Hubs Services.

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- 1.7 The Supplier shall notify the Contracting Authority forthwith in writing:
 - 1.7.1 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
 - 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.
- 1.8 Following any inspection of the Services, or any part of them, by a regulatory body, the Supplier shall provide the Contracting 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.
- 1.9 Upon receipt of notice pursuant to Clause 1.7 of this Schedule 2 of these Call-off Terms and Conditions or any report or communication pursuant to Clause 1.8 of this Schedule 2 of these Call-off Terms and Conditions, the Contracting 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.
- 1.10 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 Contracting Authority's incident and accident forms in accordance with the Policies and provide reasonable support and information as requested by the Contracting Authority to help the Contracting Authority deal with any incident or accident relevant to the Services. The Supplier shall ensure that its Contract Manager informs the Contracting 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 Contracting 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.
- 1.11 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 Contracting Authority. To qualify for such relief, the Supplier must notify the Contracting Authority promptly (and in any event within five (5) Business Days) in writing of the occurrence of such act, omission, or default of the Contracting Authority together with the potential impact on the Supplier's obligations.

2 Premises, locations and access

The Services shall be provided at such Contracting Authority premises and at such locations within those premises, as may be set out in the Order Form or as otherwise Crown agreed by the Parties in writing ("Premises and Locations"). Procurement in Partnership Commercial Service

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- 2.2 Subject to the Supplier and its Staff complying with all relevant Policies applicable to such Premises and Locations, the Contracting 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 of these Call-off Terms and Conditions, any access granted to the Supplier and its Staff under Clause 2.2 of this Schedule 2 of these Call-off Terms and Conditions 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 of these Call-off Terms and Conditions.
- 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 of these Call-off Terms and Conditions, such further rights shall be limited to any rights granted to the Supplier by the Contracting Authority in accordance with any licence and/or lease entered into by the Supplier as referred to in any Order Form.
- 2.5 Where it is provided for by a specific mechanism set out in the Specification and Tender Response Document and/or the Order Form, the Contracting 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 of these Call-off Terms and Conditions. Where there is no such specific mechanism set out in the Specification and Tender Response Document and/or the Order Form, 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 of these Call-off Terms and Conditions. If agreement cannot be reached the matter shall be referred to, and resolved in accordance with, the dispute resolution process set out in Clause 22.3 of this Schedule 2 of these Call-off Terms and Conditions.

3 Cooperation with third parties

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

4 <u>Use of Contracting Authority equipment</u>

- 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 Contracting Authority for use by the Supplier:
 - 4.1.1 shall be provided at the Contracting Authority's sole discretion;



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 in Collaboration of NHS Procurement Hubs

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- 4.1.3 must be returned to the Contracting Authority within any agreed timescales for such return or otherwise upon the request of the Contracting 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 Contracting Authority reimburse the Contracting Authority for any loss or damage relating to such equipment or other items caused by the Supplier (fair wear and tear exempted).

5 Staff and Lifescience Industry Accredited Credentialing Register

- 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, the Order Form 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 Contracting 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;
 - 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; and



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- 5.5.6 comply with the Contracting Authority's staff vetting procedures and other staff protocols, as may be relevant to this Contract and which are notified to the Supplier by the Contracting Authority in writing.
- 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 Contracting Authority's staff, patients, service users or visitors at risk unless otherwise agreed in writing with the Contracting 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 Contracting 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 of these Call-off Terms and Conditions:
 - 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 of these Call-off Terms and Conditions; 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 of these Call-off Terms and Conditions.
- In addition to the requirements of Clause 5.7 to Clause 5.9 of this Schedule 2 of these 5.10 Call-off Terms and Conditions, where the Services are or include regulated activities as defined by the Safeguarding Vulnerable Groups Act 2006 the Supplier:

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warrants that it shall comply with all requirements placed remiterly ith Partnership Safeguarding Vulnerable Groups Act 2006;

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- 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 Contracting 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 Contracting Authority's written consent and with such safeguards being put in place as the Contracting Authority may reasonably request. Should the Contracting 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 Contracting Authority any information that the Contracting Authority reasonably requests to enable the Contracting Authority to satisfy itself that the obligations set out in Clause 5.7 to Clause 5.11 of this Schedule 2 of these Call-off Terms and Conditions have been met.
- 5.13 The Contracting 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 Contracting Authority will act reasonably in making such a request. Prior to making any such request the Contracting Authority shall raise with the Supplier the Contracting Authority's concerns regarding the member of Staff in question with the aim of seeking a mutually agreeable resolution. The Contracting Authority shall be under no obligation to have such prior discussion should the Contracting Authority have concerns regarding patient or service user safety.
- Unless otherwise confirmed by the Contracting Authority in writing, the Supplier shall 5.14 ensure full compliance (to include with any implementation timelines) with any Guidance issued by the Department of Health and Social Care and/or any requirements and/or Policies issued by the Contracting Authority (to include as may be set out as part of any procurement documents leading to the award of this Contract) in relation to the adoption of, and compliance with, any scheme or schemes to verify the credentials of Supplier representatives that visit NHS premises (to include use of the Lifescience Industry Accredited Credentialing Register). Once compliance with any notified implementation timelines has been achieved by the Supplier, the Supplier shall, during the Term, maintain the required level of compliance in accordance with any such Guidance, requirements and Polices.

Business continuity

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nmercial. or continuity during a Business Continuity Event. The Supplier confirms and agrees

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such Business Continuity Plan details and will continue to detail robust arrangements that are reasonable and proportionate to:

- 6.1.1 the criticality of this Contract to the Contracting Authority; and
- 6.1.2 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.

- 6.2 The Supplier shall test its Business Continuity Plan at reasonable intervals, and in any event no less than once every twelve (12) months or such other period as may be agreed between the Parties taking into account the criticality of this Contract to the Contracting Authority and the size and scope of the Supplier's business operations. The Supplier shall promptly provide to the Contracting Authority, at the Contracting Authority's written request, copies of its Business Continuity Plan, reasonable and proportionate documentary evidence that the Supplier tests its Business Continuity Plan in accordance with the requirements of this Clause 6.2 of this Schedule 2 of these Call-off Terms and Conditions and reasonable and proportionate information regarding the outcome of such tests. The Supplier shall provide to the Contracting Authority a copy of any updated or revised Business Continuity Plan within fourteen (14) Business Days of any material update or revision to the Business Continuity Plan.
- 6.3 Should a Business Continuity Event occur at any time, the Supplier shall implement and comply with its Business Continuity Plan and provide regular written reports to the Contracting Authority on such implementation.
- 6.4 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 Contracting Authority's obligations

- 7.1 Subject to the Supplier providing the Services in accordance with this Contract, the Contracting Authority will pay the Supplier for the Services in accordance with Clause 9 of this Schedule 2 of these Call-off Terms and Conditions.
- 7.2 The Contracting 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 Contracting Authority shall comply with the Contracting Authority's Obligations.
- 7.4 The Contracting 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 Contracting Authority of any such cooperation necessary in circumstances where such cooperation will require the Contracting Authority to plan for and/or allocate specific resources in order to provide such cooperation.

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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 Contracting 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. 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 Two weeks prior to each review meeting (or at such time and frequency as may be specified in the Specification and Tender Response Document) the Supplier shall provide a written contract management report to the Contracting Authority regarding the provision of the Services and the operation of this Contract. Unless otherwise agreed by the Parties in writing, such contract management report shall contain:
 - 8.3.1 details of the performance of the Supplier when assessed in accordance with the KPIs since the last such performance report;
 - 8.3.2 details of any complaints from or on behalf of patients or other service users, their nature and the way in which the Supplier has responded to such complaints since the last review meeting written report;
 - 8.3.3 the information specified in the Specification and Tender Response Document;
 - 8.3.4 a status report in relation to the implementation of any current Remedial Proposals by either Party; and
 - 8.3.5 such other information as reasonably required by the Contracting Authority.
- Unless specified otherwise in the Specification and Tender Response Document, the Contracting 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 Contracting 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 Contracting Authority within such five Crow(5) Business Days the minutes will be deemed to be approved. When the Contracting Authority within such five Crow(5) Business Days the minutes will be deemed to be approved.

Compercial The Collaboration of NHS Procurement Hubs Service endeavours to reach agreement. If agreement cannot be reached the matter shall be

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referred to, and resolved in accordance with, the dispute resolution process set out in Clause 22.3 of this Schedule 2 of these Call-off Terms and Conditions.

- 8.5 The Supplier shall provide such management information as the Contracting 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 Contracting Authority in such form as may be specified by the Contracting Authority and, where requested to do so, the Supplier shall also provide such management information to another Contracting Authority, whose role it is to: (a) 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); or (b) manage the Framework Agreement with the Supplier ("Third Party Body"). The Supplier confirms and agrees that the Contracting 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.
- 8.6 Upon receipt of management information supplied by the Supplier to the Contracting Authority and/or the Third Party Body, or by the Contracting Authority to the Third Party Body, the Parties hereby consent to the Third Party Body and the Contracting Authority:
 - 8.6.1 storing and analysing the management information and producing statistics; and
 - 8.6.2 sharing the management information or any statistics produced using the management information with any other Contracting Authority.
- 8.7 If the Third Party Body and/or the Contracting Authority shares the management information or any other information provided under Clause 8.6 of this Schedule 2 of these Call-off Terms and Conditions, 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).
- 8.8 The Contracting 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 in accordance with the provisions of the Framework Agreement, as confirmed in the Order Form.
- 9.2 Unless otherwise stated in the Framework Agreement and/or the Order Form, the Contract Price:

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shall be payable from the Actual Services Commencemer (Payable from the Partnership The Collaboration of NHS Procurement Hubs

shall remain fixed during the Term; and

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- 9.2.3 is the entire price payable by the Contracting 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, the cost of Staff and all appropriate taxes (excluding VAT), duties and tariffs and any expenses arising from import and export administration.
- 9.3 Unless stated otherwise in the Framework Agreement and/or the Order Form:
 - 9.3.1 where the Framework Agreement and/or the Order Form confirms that the payment profile for this Contract is monthly in arrears, the Supplier shall invoice the Contracting 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: or
 - 9.3.2 where Clause 9.3.1 of this Schedule 2 of these Call-off Terms and Conditions does not apply, the Supplier shall invoice the Contracting Authority for Services at any time following completion of the provision of the Services in compliance with this Contract.

Each invoice shall contain such information and be addressed to such individual as the Contracting Authority may inform the Supplier from time to time.

- 9.4 The Contract Price is exclusive of VAT, which, if properly chargeable, the Contracting 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 Contracting Authority shall verify and pay each valid and undisputed invoice received in accordance with Clause 9.3 of this Schedule 2 of these Call off Terms and Conditions within thirty (30) days of receipt of such invoice at the latest. However, the Contracting 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 Contracting 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 of these Call off Terms and Conditions. For the avoidance of doubt, the Contracting Authority shall not be in breach of any of any of its payment obligations under this Contract in relation to any queried or disputed invoice sums 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

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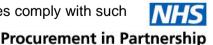


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- 9.7 The Supplier shall pay to the Contracting Authority any service credits and/or other sums and/or deductions (to include, without limitation, deductions relating to a reduction in the Contract Price) that may become due in accordance with the provisions of the Specification and Tender Response Document and/or the Order Form. For the avoidance of doubt, the Contracting Authority may invoice the Supplier for such sums or deductions at any time in the event that they have not automatically been credited to the Contracting Authority in accordance with the provisions of the Specification and Tender Response Document and/or Order Form. Such invoice shall be paid by the Supplier within 30 days of the date of such invoice.
- 9.8 The Contracting Authority reserves the right to set-off:
 - 9.8.1 any monies due to the Supplier from the Contracting Authority as against any monies due to the Contracting Authority from the Supplier under this Contract; and
 - 9.8.2 any monies due to the Contracting Authority from the Supplier as against any monies due to the Supplier from the Contracting Authority under this Contract.
- 9.9 Where the Contracting Authority is entitled to receive any sums (including, without limitation, any costs, charges or expenses) from the Supplier under this Contract, the Contracting Authority may invoice the Supplier for such sums. Such invoices shall be paid by the Supplier within 30 days of the date of such invoice.
- 9.10 If a Party fails to pay any undisputed sum properly due to the other Party under this Contract, the Party due such sum shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

10 Warranties

- 10.1 The Supplier warrants and undertakes that:
 - 10.1.1 it shall comply with the Framework Agreement;
 - 10.1.2 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;
 - 10.1.3 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:
 - 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;



it shall not make any significant changes to its system of quality processes in relation to the Services without notifying the Contracting Authority in

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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);

- 10.1.6 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;
- 10.1.7 receipt of the Services by or on behalf of the Contracting Authority and use of the deliverables or of any other item or information supplied or made available to the Contracting Authority as part of the Services will not infringe any third party rights, to include without limitation any Intellectual Property Rights;
- 10.1.8 it will comply with all Law, Guidance, Policies and the Supplier Code of Conduct in so far as it is relevant to the provision of the Services;
- 10.1.9 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;
- 10.1.10 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;
- 10.1.11 without limitation to the generality of Clause 10.1.8 of this Schedule 2 of these Call-off Terms and Conditions, 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 Contracting 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;
- 10.1.12 without prejudice to any specific notification requirements set out in this Contract, it will promptly notify the Contracting 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;
- 10.1.13 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;



unless otherwise confirmed by the Contracting Authorizing Partnership include, without limitation, as part of the Specification and Tender Response Document), it will ensure that any products purchased by the

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Supplier partially or wholly for the purposes of providing the Services will comply with requirements five (5) to eight (8), as set out at 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;

- 10.1.15 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 Contracting Authority's information and communications technology systems;
- 10.1.16 it will fully and promptly respond to all requests for information and/or requests for answers to questions regarding this Contract, the provision of the Services, any complaints and any Disputes at the frequency, in the timeframes and in the format as requested by the Contracting Authority from time to time (acting reasonably);
- 10.1.17 all information included within the Supplier's responses to any documents issued by the Contracting 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/or Order Form) and all accompanying materials is accurate;
- 10.1.18 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;
- 10.1.19 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:
 - 10.1.20 all necessary actions to authorise the execution of and performance of its obligations under this Contract have been taken before such execution;
 - 10.1.21 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;
 - 10.1.22 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:
 - 10.1.23 it has and will continue to have the capacity, funding and cash flow to meet all its obligations under this Contract; and
 - 10.1.24 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.



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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 of these Call-off Terms and Conditions, the Supplier acknowledges that a failure by the Supplier following the Actual Services Commencement Date to submit accurate invoices and other information on time to the Contracting Authority may result in the commissioner of health services, or other entity responsible for reimbursing costs to the Contracting Authority, delaying or failing to make relevant payments to the Contracting Authority. Accordingly, the Supplier warrants that, from the Actual Services Commencement Date, it shall submit accurate invoices and other information on time to the Contracting Authority.
- 10.4 The Supplier warrants and undertakes to the Contracting 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 Contracting Authority to comply with such eProcurement Guidance.
- 10.5 The Supplier warrants and undertakes to the Contracting Authority that, as at the Commencement Date, it has notified the Contracting 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 Contracting Authority in writing of such fact within five (5)
 Business Days of its occurrence; and
 - 10.5.2 promptly provide to the Contracting 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 Contracting Authority may reasonably require.
- 10.6 The Supplier further warrants and undertakes to the Contracting Authority that it will inform the Contracting Authority in writing immediately upon becoming aware that any of the warranties set out in Clause 10 of this Schedule 2 of these Call-off Terms and Conditions 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 Corporate and Social Responsibility

CrowWhat the Contracting Authority expects from its Suppliers Commercial Service



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- 11.1 In September 2017, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government. (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/64649 7/2017-09-13 Official Sensitive Supplier Code of Conduct September 2017.pdf)
- 11.2 The Contracting Authority expects its suppliers and subcontractors to meet the standards set out in that Code. In addition, the Contracting Authority expects its suppliers and subcontractors to comply with the standards set out in this Clause Error! Reference source not found, of Error! Reference source not found.

Equality and Accessibility

- 11.3 In addition to legal obligations, the Supplier shall support the Contracting Authority in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each Contract in a way that seeks to:
 - 11.3.1 eliminate discrimination, harassment or victimisation of any kind; and
 - 11.3.2 advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

Modern Slavery, Child Labour and Inhumane Treatment

11.4 The Supplier:

- 11.4.1 shall not use, nor allow its Sub-contractors to use forced, bonded or involuntary prison labour:
- 11.4.2 shall not require any Supplier Staff or Sub-contractor Staff to lodge deposits or identify papers with their employer and shall be free to leave their employer after reasonable notice;
- 11.4.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world:
- 11.4.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world:



shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking **Procurement in Partnership** offenses anywhere around the world;

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- 11.4.6 shall have and maintain throughout the term of this Framework
 Agreement and each Contract its own policies and procedures to ensure
 its compliance with the Modern Slavery Act and include in its contracts
 with its Sub-contractors anti-slavery and human trafficking provisions;
- shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under this Framework Agreement or any Contract;
- shall prepare and deliver to the Contracting Authority, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with Clause 11.4 of Schedule 2;
- shall not use, nor allow its employees or Sub-contractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Sub-contractors;
- 11.4.10 shall not use or allow child or slave labour to be used by its Subcontractors; and
- 11.4.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Sub-contractors to the Contracting Authority, the relevant Participating Authority and Modern Slavery Helpline.

Income Security

- 11.5 The Supplier shall:
 - ensure that that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
 - ensure that all Supplier Staff are provided with written and understandable Information about their employment conditions in respect of wages before they enter;
 - 11.5.3 provide all workers with written and understandable Information about their employment conditions in respect of wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid;



not make deductions from wages:

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- (i) as a disciplinary measure
- (ii) except where permitted by law; or
- (iii) without expressed permission of the worker concerned;
- 11.5.5 record all disciplinary measures taken against Supplier Staff; and
- ensure that Supplier Staff are engaged under a recognised employment relationship established through national law and practice.

Working Hours

- 11.6 The Supplier shall:
 - ensure that the working hours of Supplier Staff comply with national laws, and any collective agreements;
 - that the working hours of Supplier Staff, excluding overtime, shall be defined by contract, and shall not exceed 48 hours per week unless the individual has agreed in writing;
 - 11.6.3 ensure that use of overtime used responsibly, taking into account:
 - (i) the extent;
 - (ii) frequency; and
 - (iii) hours worked;

by individuals and by the Supplier Staff as a whole;

- 11.7 The total hours worked in any seven day period shall not exceed 60 hours, except where covered by Clause Error! Reference source not found. of Error! Reference source not found. below.
- 11.8 Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:
 - 11.8.1 this is allowed by national law;
 - this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;

11.8.3 Crown Commercial Service

appropriate safeguards are taken to protect the workers' health and safety; and Procurement in Partnership

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- the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.
- 11.9 All Supplier Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

Sustainability

11.10 The Supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs

12 <u>Intellectual property</u>

- 12.1 The Supplier warrants and undertakes to the Contracting 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 Contracting Authority as part of the Services.
- 12.2 The Supplier hereby grants to the Contracting Authority, for the life of the use by the Contracting Authority of any deliverables, material or any other output supplied to the Contracting 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 Contracting Authority's normal business operations. For the avoidance of doubt, unless specified otherwise in any Key Provisions and/or in the Specification and Tender Response Document, the Contracting 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 Contracting Authority in any format as part of the Services.

13 Indemnity

- 13.1 The Supplier shall be liable to the Contracting Authority for, and shall indemnify and keep the Contracting Authority indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings in respect of:
 - 13.1.1 any injury or allegation of injury to any person, including injury resulting in death;
 - 13.1.2 any loss of or damage to property (whether real or personal); and/or
 - 13.1.3 any breach of Clause 10.1.7 and/or Clause 11 of this Schedule 2 of these Call-off Terms and Conditions; and/or



any failure by the Supplier to commence the delivery of the Services by the Services Commencement Date; **Procurement in Partnership**

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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 Contracting Authority.

- 13.2 Liability under Clauses 13.1.1, 13.1.3 and 18.13 of this Schedule 2 of these Call-off Terms and Conditions and Clause 2.6 of Schedule 3 of these Call-off Terms and Conditions shall be unlimited. Liability under Clauses 13.1.2 and 13.1.4 of this Schedule 2 of these Call-off Terms and Conditions shall be subject to the limitation of liability set out in Clause 14 of this Schedule 2 of these Call-off Terms and Conditions.
- 13.3 In relation to all third party claims against the Contracting Authority, which are the subject of any indemnity given by the Supplier under this Contract, the Contracting 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:
 - 13.3.1 relating to any legal, regulatory, governance, information governance, or confidentiality obligations on the Contracting Authority; and/or
 - 13.3.2 relating to the Contracting 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 Contracting 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 Contracting Authority).

14 Limitation of liability

- 14.1 Nothing in this Contract shall exclude or restrict the liability of either Party:
 - 14.1.1 for death or personal injury resulting from its negligence;
 - 14.1.2 for fraud or fraudulent misrepresentation; or
 - 14.1.3 in any other circumstances where liability may not be limited or excluded under any applicable law.
- 14.2 Subject to Clauses 13.2, 14.1, 14.3, and 14.5 of this Schedule 2 of these Call-off Terms and Conditions, 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 the greater of: (a) five million GBP (£5,000,000); or (b) one hundred and twenty five percent (125%) of the total Contract Price paid or payable by the Contracting Authority to the Supplier for the Services.

There shall be no right to claim losses, damages and/or other costs and expenses Crowthder or in connection with this Contract whether arising in contract requirement in Commercial on, under any relevant indemnity), tort, negligence, breath or standing of the extent that any losses, damages and/or other costs and expenses

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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:

- 14.3.1 extra costs incurred purchasing replacement or alternative services;
- 14.3.2 costs associated with advising, screening, testing, treating, retreating or otherwise providing healthcare to patients;
- 14.3.3 the costs of extra management time; and/or
- 14.3.4 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.

- 14.4 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.
- 14.5 If the total Contract Price paid or payable by the Contracting Authority to the Supplier over the Term:
 - is less than or equal to one million pounds (£1,000,000), then the figure of five million pounds (£5,000,000) at Clause 14.2 of this Schedule 2 of these Call-off Terms and Conditions shall be replaced with one million pounds (£1,000,000);
 - is less than or equal to three million pounds (£3,000,000) but greater than one million pounds (£1,000,000), then the figure of five million pounds (£5,000,000) at Clause 14.2 of this Schedule 2 of these Call-off Terms and Conditions shall be replaced with three million pounds (£3,000,000);
 - is equal to, exceeds or will exceed ten million pounds (£10,000,000), but is less than fifty million pounds (£50,000,000), then the figure of five million pounds (£5,000,000) at Clause 14.2 of this Schedule 2 of these Call-off Terms and Conditions shall be replaced with ten million pounds (£10,000,000) and the figure of one hundred and twenty five percent (125%) at Clause 14.2 of this Schedule 2 of these Call-off Terms and Conditions shall be deemed to have been deleted and replaced with one hundred and fifteen percent (115%); and
 - is equal to, exceeds or will exceed fifty million pounds (£50,000,000), then the figure of five million pounds (£5,000,000) at Clause 14.2 of this Schedule 2 of these Call-off Terms and Conditions shall be replaced with fifty million pounds (£50,000,000) and the figure of one hundred and twenty five percent (125%) at Clause 14.2 of this Schedule **Profit** replace of the percent Hubs

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with one hundred and five percent (105%).

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14.6 Clause 14 of this Schedule 2 of these Call-off Terms and Conditions shall survive the expiry of or earlier termination of this Contract for any reason.

15 Insurance

- 15.1 Subject to Clauses 15.2 and 15.3 of this Schedule 2 of these Call-off Terms and Conditions and unless otherwise confirmed in writing by the Contracting 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 employer's liability, public liability and professional indemnity in accordance with Good Industry Practice with the minimum cover per claim of the greater of five million pounds (£5,000,000) or any sum as required by Law unless otherwise agreed with the Contracting Authority in writing. These 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.
- 15.2 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 specified in the Framework Agreement, if any.
- 15.3 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 15.1 and 15.2 of this Schedule 2 of these Call-off Terms and Conditions on condition that such self insurance arrangements offer the appropriate levels of protection and are approved by the Contracting Authority in writing prior to the Commencement Date.
- 15.4 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.
- 15.5 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.
- 15.6 The Supplier shall from time to time and in any event within five (5) Business Days of written demand provide documentary evidence to the Contracting Authority that insurance arrangements taken out by the Supplier pursuant to Clause 15 of this Schedule 2 of these Call-off Terms and Conditions and/or the provisions of the Framework Agreement are fully maintained and that any premiums on them and/or contributions in respect of them (if any) are fully paid.

Upon the expiry or earlier termination of this Contract, the Supplier shall ensure that Crown ongoing liability it has or may have arising out of this Contract shall ensure that Commercial in the Contract of the Contract o

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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.

16 Term and termination

- 16.1 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.
- 16.2 The Contracting Authority:
 - subject to Clause 16.2.2 of this Schedule 2 of these Call-off Terms and Conditions, shall be entitled to extend the Term on one or more occasions by giving the Supplier written notice no less than three (3) months prior to the date on which this Contract would otherwise have expired, provided that the duration of this Contract shall be no longer than the total term referred to in the Key Provisions; or
 - where the Term or any extension of the Term expires at a date the same as or after expiry of the Framework Agreement (including any extensions of the Framework Agreement in accordance with its terms), shall only be entitled to extend the Term with the prior written agreement of the Supplier, such agreement not to be unreasonably withheld or delayed.
- 16.3 The Contracting Authority has the right to terminate this Contract at any time without reason or liability by giving the Supplier at least thirty (30) days' notice and if the Contract is so terminated Clause 17 of this Schedule 2 applies.
- In the case of a breach of any of the terms either of this Contract or of any Joint 16.4 Controller Agreement by either Party that is capable of remedy (including, without limitation any breach of any KPI and, subject to Clause 9.6 of this Schedule 2 of these Call-off Terms and Conditions, any breach of any payment obligations under this Contract), the non-breaching Party may, without prejudice to its other rights and remedies under this Contract, issue a Breach Notice and shall 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 16.5(ii) of this Schedule 2 of these Call-off Terms and Conditions. Such Remedial Proposal must be agreed with the nonbreaching 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:
 - 16.4.1 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;

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- 16.4.2 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
- 16.4.3 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 16.5(ii) of this Schedule 2 of these Call-off Terms and Conditions, a material breach of this Contract by the Party in breach not remedied in accordance with an agreed Remedial Proposal.

- 16.5 Either Party may terminate this Contract by issuing a Termination Notice 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.
- 16.6 The Contracting Authority may terminate this Contract by issuing a Termination Notice to the Supplier if:
 - 16.6.1 the Supplier does not commence delivery of the Services by any Long Stop Date;
 - 16.6.2 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. iudicial 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;
 - 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 Contracting
 Authority and the Contracting Authority shall be entitled to withhold such
 consent if, in the reasonable opinion of the Contracting Authority, the
 proposed change of control will have a material impact Protection of NHS Procurement Hubs



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- 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 of these Call-off Terms and Conditions:
- 16.6.5 pursuant to and in accordance with any termination rights set out in any Key Provisions and Clauses 16.7, 23.8; 25.2; 25.4 and 29.2 of this Schedule 2 of these Call-off Terms and Conditions; or
- the warranty given by the Supplier pursuant to Clause 10.5 of this Schedule 2 of these Call-off Terms and Conditions is materially untrue, the Supplier commits a material breach of its obligation to notify the Contracting Authority of any Occasion of Tax Non-Compliance as required by Clause 10.5 of this Schedule 2 of these Call-off Terms and Conditions, or the Supplier fails to provide details of proposed mitigating factors as required by Clause 10.5 of this Schedule 2 of these Call-off Terms and Conditions that in the reasonable opinion of the Contracting Authority are acceptable.
- 16.6.7 the Supplier does not declare any Total Cost (ex VAT) via a MI Report in any period of six (6) consecutive Months; or
- 16.6.8 the Supplier, following a Health Assurance Inspection, does not satisfy remedial findings in the timescales stipulated by the Contracting Authority.
- 16.7 If the Contracting 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 Contracting 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:
 - 16.7.1 the Contracting 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 Contracting Authority may require within a reasonable time period as specified in such notice;
 - a failure or refusal by the Supplier to provide the financial or other security and/or assurances requested in accordance with Clause 16.7 of this Schedule 2 of these Call-off Terms and Conditions in accordance with any reasonable timescales specified in any such notice issued by the Contracting 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
 - 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 of these Call-off Terms and Conditions) shall
 entitle, but shall not compel, the Contracting Authority to terminate this
 Contract in accordance with Clause 16.5(i) of this Schedule 2 of these Calloff Terms and Conditions.

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In order that the Contracting Authority may act reasonably in exercising its discretion in accordance with Clause 16.7 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall provide the Contracting 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.

- 16.8 The Contracting Authority may terminate this Contract by issuing a Termination Notice to the Supplier where:
 - the Contract has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure;
 - the Contracting 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:
 - 16.8.3 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
 - 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 Contracting Authority may request the replacement of such Sub-contractor and the Supplier shall comply with such request as an alternative to the Contracting Authority terminating this Contract under this Clause 15.7.4.
- 16.9 If the Contracting Authority novates this Contract to any body that is not a Contracting Authority, from the effective date of such novation, the rights of the Contracting Authority to terminate this Contract in accordance with Clause 16.6.2 to Clause 16.6.4 of this Schedule 2 of these Call-off Terms and Conditions shall be deemed mutual termination rights and the Supplier may terminate this Contract by issuing a Termination Notice to the entity assuming the position of the Contracting Authority if any of the circumstances referred to in such Clauses apply to the entity assuming the position of the Contracting Authority.
- 16.10 Within three (3) months of the Commencement Date the Supplier shall develop and agree an exit plan with the Contracting Authority consistent with the Exit Requirements, which shall ensure continuity of the Services on expiry or earlier termination of this Contract. The Supplier shall provide the Contracting Authority with the first draft of an exit plan within one (1) month of the Commencement Date. The Parties shall review

and, as appropriate, update the exit plan on each anniversary of the Commencement CrowDate of this Contract. If the Parties cannot agree an exit Procurement Partnership Commencement Limited States of the Commencement Commencement Limited States of the Commencem

Servicerms and Conditions (such agreement not to be unreasonably withheld or delayed),

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such failure to agree shall be deemed a Dispute, which shall be referred to and resolved in accordance with the Dispute Resolution Procedure.

17 Consequences of expiry or early termination of this Contract

- 17.1 Upon expiry or earlier termination of this Contract, the Contracting 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.
- 17.2 Immediately following expiry or earlier termination of this Contract and/or in accordance with any timescales as set out in the agreed exit plan:
 - 17.2.1 the Supplier shall comply with its obligations under any agreed exit plan;
 - all data, excluding 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 Contracting Authority shall be delivered by the Supplier to the Contracting 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; and
 - any Personal Data Processed by the Supplier on behalf of the Contracting Authority shall be returned to the Contracting Authority or destroyed in accordance with the relevant provisions of the Data Protection Appendix.
- 17.3 The Supplier shall retain all data relating to the provision of the Services that are not transferred or destroyed pursuant to Clause 17.2 of this Schedule 2 of these Call-off Terms and Conditions for the period set out in Clause 24.1 of this Schedule 2 of these Call-off Terms and Conditions.
- 17.4 The Supplier shall cooperate fully with the Contracting Authority or, as the case may be, any replacement supplier during any re-procurement and handover period prior to and following the expiry or earlier termination of this Contract. This cooperation shall extend to providing access to all information relevant to the operation of this Contract as reasonably required by the Contracting Authority to achieve a fair and transparent re-procurement and/or an effective transition without disruption to routine operational requirements.
- 17.5 Immediately upon expiry or earlier termination of this Contract any licence or lease entered into in accordance with any Order Form shall automatically terminate.
- 17.6 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.

17 Growthe expiry or earlier termination of this Contract shall not affect an ground inchartnership Comparties by or by implication are intended to come into or continue in location of hafter curement Hubs Service expiry or earlier termination.

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17.8 The expiry or earlier termination of the Framework Agreement shall not affect this Contract. For the avoidance of doubt, any obligations set out in the Framework Agreement that form part of this Contract shall continue to apply for the purposes of this Contract notwithstanding any termination of the Framework Agreement.

18 Staff information and the application of TUPE at the end of the Contract

- 18.1 Upon the day which is no greater than nine (9) months before the expiry of this Contract or as soon as the Supplier is aware of the proposed termination of the Contract, the Supplier shall, within twenty eight (28) days of receiving a written request from the Contracting Authority and to the extent permitted by Law, supply to the Contracting Authority and keep updated all information required by the Contracting Authority as to the terms and conditions of employment and employment history of any Supplier Personnel (including all employee liability information identified in regulation 11 of TUPE) and the Supplier shall warrant such information is full, complete and accurate.
- 18.2 No later than twenty eight (28) days prior to the Subsequent Transfer Date, the Supplier shall or shall procure that any Sub-contractor shall provide a final list to the Successor and/or the Contracting Authority, as appropriate, containing the names of all the Subsequent Transferring Employees whom the Supplier or Sub-contractor expects will transfer to the Successor or the Contracting Authority and all employee liability information identified in regulation 11 of TUPE in relation to the Subsequent Transferring Employees.
- 18.3 If the Supplier shall, in the reasonable opinion of the Contracting Authority, deliberately not comply with its obligations under Clauses 18.1 and 18.2 of this Schedule 2 of these Call-off Terms and Conditions, the Contracting Authority may withhold payment under Clause 9 of this Schedule 2 of these Call-off Terms and Conditions.
- 18.4 The Supplier shall be liable to the Contracting Authority for, and shall indemnify and keep the Contracting Authority indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings that arise or result from any deficiency or inaccuracy in the information which the Supplier is required to provide under Clauses 18.1 and 18.2 of this Schedule 2 of these Call-off Terms and Conditions.
- 18.5 Subject to Clauses 18.6 and 18.7 of this Schedule 2 of these Call-off Terms and Conditions, during the period of nine (9) months preceding the expiry of this Contract or after notice of termination of this Contract has been served by either Party, the Supplier shall not, and shall procure that any Sub-contractor shall not, without the prior written consent of the Contracting Authority, such consent not to be unreasonably withheld or delayed:
 - 18.5.1 make, propose or permit any material changes to the terms and conditions of employment or other arrangements of any of the Supplier Personnel;
 - 18.5.2 increase or seek to increase the emoluments (excluding cost of living increases awarded in the ordinary course of business) payable to any of the Supplier Personnel;



replace any of the Supplier Personnel or increase the Collaboration of NHS Procurement Hubs

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- 18.5.4 deploy any person other than the Supplier Personnel to perform the Services:
- 18.5.5 terminate or give notice to terminate the employment or arrangements of any of the Supplier Personnel:
- 18.5.6 increase the proportion of working time spent on the Services by any of the Supplier Personnel; or
- 18.5.7 introduce any new contractual term or customary practice concerning the making of any lump sum payment on the termination of employment of any of the Supplier Personnel.
- 18.6 Clause 18.5 of this Schedule 2 of these Call-off Terms and Conditions shall not prevent the Supplier or any Sub-contractor from taking any of the steps prohibited in that Clause in circumstances where the Supplier or Sub-contractor is required to take such a step pursuant to any changes in legislation or pursuant to a collective agreement in force at that time.
- 18.7 Where the obligations on the Supplier under Clause 18 of this Schedule 2 of these Call-off Terms and Conditions are subject to the Data Protection Legislation, the Supplier will, and shall procure that any Sub-contractor will, use its best endeavours to seek the consent of the Supplier Personnel to disclose any information covered under the Data Protection Legislation and utilise any other exemption or provision within the Data Protection Legislation which would allow such disclosure.
- 18.8 Having as appropriate gained permission from any Sub-contractor, the Supplier hereby permits the Contracting Authority to disclose information about the Supplier Personnel to any Interested Party provided that the Contracting Authority informs the Interested Party in writing of the confidential nature of the information.
- 18.9 The Parties agree that where a Successor or the Contracting Authority provides the Services or services which are fundamentally the same as the Services in the immediate or subsequent succession to the Supplier or Sub-contractor (in whole or in part) on expiry or early termination of this Contract (howsoever arising) TUPE, the Cabinet Office Statement and Fair Deal for Staff Pensions may apply in respect of the subsequent provision of the Services or services which are fundamentally the same as the Services. If TUPE, the Cabinet Office Statement and Fair Deal for Staff Pensions apply then Clause 18.11 to Clause 18.14 of this Schedule 2 of these Call-off Terms and Conditions and (where relevant) the requirements of Clause 1.15 of Part D of Schedule 7 of the NHS Terms and Conditions for the Provision of Services (Contract Version) (December 2016) shall apply.
- 18.10 If on the termination or at the end of the Contract TUPE does not apply, then all Employment Liabilities and any other liabilities in relation to the Supplier Personnel shall remain with the Supplier or Sub-contractor as appropriate. The Supplier will, and shall procure that any Sub-contractor shall, indemnify and keep indemnified the Contracting Authority in relation to any Employment Liabilities arising out of or in

connection with any allegation or claim raised by any Supplier Personnel.

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- 18.11 In accordance with TUPE, and any other policy or arrangement applicable, the Supplier shall, and will procure that any Sub-contractor shall, comply with its obligations to inform and consult with the appropriate representatives of any of its employees affected by the subsequent transfer of the Services or services which are fundamentally the same as the Services.
- 18.12 The Supplier will and shall procure that any Sub-contractor will on or before any Subsequent Transfer Date:
 - 18.12.1 pay all wages, salaries and other benefits of the Subsequent Transferring Employees and discharge all other financial obligations (including reimbursement of any expenses and any contributions to retirement benefit schemes) in respect of the period between the Transfer Date and the Subsequent Transfer Date;
 - 18.12.2 account to the proper authority for all PAYE, tax deductions and national insurance contributions payable in respect of the Subsequent Transferring Employees in the period between the Transfer Date and the Subsequent Transfer Date;
 - 18.12.3 pay any Successor or the Contracting Authority, as appropriate, the amount which would be payable to each of the Subsequent Transferring Employees in lieu of accrued but untaken holiday entitlement as at the Subsequent Transfer Date:
 - 18.12.4 pay any Successor or the Contracting Authority, as appropriate, the amount which fairly reflects the progress of each of the Subsequent Transferring Employees towards achieving any commission, bonus, profit share or other incentive payment payable after the Subsequent Transfer Date wholly or partly in respect of a period prior to the Subsequent Transfer Date; and
 - 18.12.5 subject to any legal requirement, provide to the Successor or the Contracting Authority, as appropriate, all personnel records relating to the Subsequent Transferring Employees including, without prejudice to the generality of the foregoing, all records relating to national insurance, PAYE and income tax. The Supplier shall for itself and any Sub-contractor warrant that such records are accurate and up to date.
- 18.13 The Supplier will and shall procure that any Sub-contractor will indemnify and keep indemnified the Contracting Authority and/or a Successor in relation to any Employment Liabilities arising out of or in connection with any claim arising from:
 - 18.13.1 the Supplier's or Sub-contractor's failure to perform and discharge its obligations under Clause 18.12 of this Schedule 2 of these Call-off Terms and Conditions:

18.13.2

Crown Commercial Service any act or omission by the Supplier or Sub-contractor in respect of the Subsequent Transferring Employees occurring on or before the Subsequent Transfer Date;

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- 18.13.3 any allegation or claim by any person who is not a Subsequent Transferring Employee but who alleges that their employment should transfer or has transferred to the Successor or the Contracting Authority, as appropriate;
- 18.13.4 any emoluments payable to a person employed or engaged by the Supplier or Sub-contractor (including without limitation all wages, accrued holiday pay, bonuses, commissions, PAYE, national insurance contributions, pension contributions and other contributions) payable in respect of any period on or before the Subsequent Transfer Date;
- any allegation or claim by any of the Subsequent Transferring Employees on the grounds that the Successor or Contracting Authority, as appropriate, has failed to continue a benefit provided by the Supplier or Sub-contractor as a term of such Subsequent Transferring Employee's contract as at the Subsequent Transfer Date where it was not reasonably practicable for the Successor or Contracting Authority, as appropriate, to provide an identical benefit but where the Successor or Contracting Authority, as appropriate, has provided (or offered to provide where such benefit is not accepted by the Subsequent Transferring Employee) an alternative benefit which, taken as a whole, is no less favourable to such Subsequent Transferring Employee; and
- 18.13.6 any act or omission of the Supplier or any Sub-contractor in relation to its obligations under regulation 13 of TUPE, or in respect of an award of compensation under regulation 15 of TUPE except to the extent that the liability arises from the Successor's or Contracting Authority's failure to comply with regulation 13(4) of TUPE.
- 18.14 The Supplier will, or shall procure that any Sub-contractor will, on request by the Contracting Authority provide a written and legally binding indemnity in the same terms as set out in Clause 18.13 of this Schedule 2 of these Call-off Terms and Conditions to any Successor in relation to any Employment Liabilities arising up to and including the Subsequent Transfer Date.
- 18.15 The Supplier will indemnify and keep indemnified the Contracting Authority and/or any Successor in respect of any Employment Liabilities arising from any act or omission of the Supplier or Sub-contractor in relation to any other Supplier Personnel who is not a Subsequent Transferring Employee arising during any period whether before, on or after the Subsequent Transfer Date.
- 18.16 If any person who is not a Subsequent Transferring Employee claims or it is determined that their contract of employment has been transferred from the Supplier or any Sub-contractor to the Contracting Authority or Successor pursuant to TUPE or claims that their employment would have so transferred had they not resigned, then:
 - 18.16.1 the Contracting Authority will, or shall procure that the Successor will, within seven (7) days of becoming aware of that fact, give notice in writing to the Supplier;

18.16.2 Crown Commercial Service

the Supplier may offer (or may procure that a Sub-contractor may offer) employment to such person within twenty eight (28) days of the Procurement Hubs by the Contracting Authority or Successor;

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- 18.16.3 if such offer of employment is accepted, the Contracting Authority will, or shall procure that the Successor will, immediately release the person from their employment; and
- 18.16.4 if after the period in Clause 18.16.2 of this Schedule 2 of these Call-off Terms and Conditions has elapsed, no such offer of employment has been made or such offer has been made but not accepted, the Contracting Authority will, or shall procure that the Successor will (whichever is the provider of the Services or services of the same or similar nature to the Services), employ that person in accordance with its obligations and duties under TUPE and shall be responsible for all liabilities arising in respect of any such person after the Subsequent Transfer Date.

19 Complaints

- 19.1 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.
- 19.2 Each Party shall inform the other of all complaints from or on behalf of patients 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.

20 Electronic services information

- 20.1 Where requested by the Contracting Authority, the Supplier shall provide the Contracting Authority the Services Information in such manner and upon such media as agreed between the Supplier and the Contracting Authority from time to time for the sole use by the Contracting Authority.
- 20.2 The Supplier warrants that the Services Information is complete and accurate as at the date upon which it is delivered to the Contracting Authority and that the Services Information shall not contain any data or statement which gives rise to any liability on the part of the Contracting Authority following publication of the same in accordance with Clause 20 of this Schedule 2 of these Call-off Terms and Conditions
- 20.3 If the Services Information ceases to be complete and accurate, the Supplier shall promptly notify the Contracting Authority in writing of any modification or addition to or any inaccuracy or omission in the Services Information.
- 20.4 The Supplier grants the Contracting 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 Contracting Authority's contracts from time to time. Subject to Clause 20.5 of this Schedule 2 of these Call-off Terms and Conditions, no obligation to illustrate or advertise the Services Information is imposed on the Contracting Authority, as a consequence of the licence conferred by this Clause 20.4 of this Schedule 2 of these Call-off Terms and Conditions.

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20 Services and Se

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time which may be made available on any NHS communications networks in electronic format and/or made available on the Contracting 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 Contracting Authority, the Contracting Authority will submit a copy of the relevant sections of the Contracting 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 Contracting 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 of these Call-off Terms and Conditions or otherwise under the terms of this Contract.
- 20.7 If requested in writing by the Contracting Authority, and to the extent not already agreed as part of the Specification and Tender Response Document, the Supplier and the Contracting 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 Contracting Authority that the Contracting 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 Contracting 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 any Change Control Process if any 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 Contracting 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 Contracting 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 of these Call-off Terms and Conditions 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 to senior representatives of the Parties who have authority to settle the Dispute, those senior representatives 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 level until all levels Crownave been exhausted. Level 1 will commence on the date of service of the Dispute Partnership Commercial. The final level of the escalation process shall be deemed exhausted on the Procurement Hubs

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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 of these Call-off Terms and Conditions 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 of these Call-off Terms and Conditions, 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 of these Call-Off Terms and Conditions 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 Contracting 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 Contracting 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
 - 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 of these Call-off Terms and Conditions 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 of these Call-off Terms and Conditions 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.

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 of these Call-off Terms and Conditions and will not Crown considered to be in default or liable for breach of any obligations The Collaboration of NHS Procurement Hubs Service

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- 23.2.1 the Supplier has fulfilled its obligations pursuant to Clause 6 of this Schedule 2 of these Call-off Terms and Conditions;
- 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 **Error! Reference source not found.** of this Schedule 2 of these Call-off Terms and Conditions.
- 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 Contracting Authority may at any time, if the Force Majeure Event subsists for thirty (30) days or more, terminate this Contract by issuing a Termination Notice to the Supplier.
- 23.9 Following such termination in accordance with Clause 23.8 of this Schedule 2 of these Call-off Terms and Conditions and subject to Clause 23.10 of this Schedule 2 of these Call-off Terms and Conditions, 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 of these Call-off Terms and Conditions shall continue in full force and effect unless otherwise specified in this

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24 Records retention and right of audit

- 24.1 Subject to any statutory requirement and Clause 24.2 of this Schedule 2 of these Calloff Terms and Conditions, 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 Contracting Authority shall have the right to audit the Supplier's compliance with this Contract. The Supplier shall permit or procure permission for the Contracting 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 Contracting Authority shall have the right to audit and inspect such third party. The Supplier shall procure permission for the Contracting 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 Contracting Authority or its authorised representative if requested.
- 24.5 The Supplier shall grant to the Contracting 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 Contracting 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 Contracting 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 of these Call-off Terms and Conditions 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 Contracting 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. Frow the Supplier shall provide all reasonable information as may be reasonable reasonable information as may be reasonable reasonable information as may be reasonable reasonable reasonable information as may be reasonable reasonable information as may be reasonable reasonable information as may be reasonable information as

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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 Contracting 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 Contracting Authority under the provisions of this Contract. The Supplier will disclose to the Contracting Authority full particulars of any such conflict of interest which may arise.
- 25.2 The Contracting 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 Contracting 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 Contracting Authority under the provisions of this Contract. The actions of the Contracting Authority pursuant to this Clause 25.2 of this Schedule 2 of these Call-off Terms and Conditions shall not prejudice or affect any right of action or remedy which shall have accrued or shall subsequently accrue to the Contracting 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 Contracting 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 Contracting Authority may terminate this Contract and recover from the Supplier the amount of any direct loss suffered by the Contracting 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 Contracting Authority in light of the Contracting 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 Contracting 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 Crown Commercial Service 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 of these Call-off Terms and Conditions.

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26.2 The Supplier shall meet reasonable requests by the Contracting Authority for information evidencing the Supplier's compliance with the provisions of Clause 26 of this Schedule 2 of these Call-off Terms and Conditions.

27 Notice

- 27.1 Subject to Clause 22.5 of Schedule 2 of these Call-off Terms and Conditions, 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 Order Form or such other person as one Party may inform the other Party in writing from time to time or to a director of the relevant Party at the head office, main UK office or registered office of such Party.
- 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 of these Call-off Terms and Conditions 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 Contracting 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 Contracting 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 of these Call-off Terms and Conditions, 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 of these Call-off Terms and Conditions shall be subject to:



the deduction of any sums in respect of which the Contracting Authority exercises its right of recovery under Clause 9.8 of this **Screening Partnership** Call-off Terms and Conditions:

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- 28.2.2 all related rights of the Contracting Authority in relation to the recovery of sums due but unpaid;
- 28.2.3 the Contracting 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 Contracting Authority shall make payment;
- 28.2.4 the provisions of Clause 9 of this Schedule 2 of these Call-off Terms and Conditions continuing to apply in all other respects after the assignment which shall not be amended without the prior written approval of the Contracting Authority; and
- 28.2.5 payment to the Assignee being full and complete satisfaction of the Contracting Authority's obligation to pay the relevant sums in accordance with this Contract.
- 28.3 Any authority given by the Contracting Authority for the Supplier to Sub-contract any of its obligations under this Contract shall not impose any duty on the Contracting 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 Contracting 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 Subcontracting;
 - 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 Contracting Authority (such approval not to be unreasonably withheld or delayed);
 - 28.4.4 contain a right for the Contracting 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;

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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 26 of these Call rocurement Hubs off Terms and Conditions, the invoice shall be regarded as valid and

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undisputed for the purpose of Clause 28.4.7 of this Schedule 2 of these Call-off Terms and Conditions 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 of these Call-off Terms and Conditions;
- 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 of these Call-off Terms and Conditions; 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 of these Call-off Terms and Conditions in any Sub-contract which it awards.
- 28.5 Where the Contracting 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 Contracting Authority finds there are compulsory grounds for exclusion, the Supplier shall ensure, or shall procure, that such Subcontractor is replaced or not appointed; or
 - 28.5.2 if the Contracting Authority finds there are non-compulsory grounds for exclusion, the Contracting 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 Contracting 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.

The Contracting Authority shall upon written request have the right to review any Sub-Crown tract entered into by the Supplier in respect of the provision of the Service and in Partnership Commercial shall provide a certified copy of any Sub-contract within five (5) Business Days Service Service (5) Business Days

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doubt, the Supplier shall have the right to redact any confidential pricing information in relation to such copies of Sub-contracts.

28.8 The Contracting Authority may at any time transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this 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, subcontracting or disposal. If the Contracting 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 Contracting Authority shall not further transfer, assign, novate, subcontract 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 Contracting 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 Contracting Authority or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the Contracting 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 Contracting 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 Contracting Authority:
 - 29.2.1 the Contracting 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



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(iii) to recover from the Supplier any other loss or exposerement in Partnership consequence of the carrying out of the Profibited * เลียง เลีย

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- 29.2.2 any termination under Clause 29.2.1 of this Schedule 2 of these Call-off Terms and Conditions shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Contracting Authority; and
- 29.2.3 notwithstanding Clause 22 of this Schedule 2 of these Call-off Terms and Conditions, any Dispute relating to:
 - (i) the interpretation of Clause 29 of this Schedule 2 of these Call-off Terms and Conditions; or
 - (ii) the amount or value of any gift, consideration or commission,

shall be determined by the Contracting 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.

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30 Growthe rights and remedies provided in this Contract are independent, from the rights and remedies provided by general law, and rights directly securement Hubs Service of any rights or remedies provided by general law, and rights directly securement Hubs Service or document. In this

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Clause 30.7 of this Schedule 2 of these Call-off Terms and Conditions, 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 Contracting 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 Contracting 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 of these Call-off Terms and Conditions, 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.





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Schedule 3 of these Call-off Terms and Conditions

Information and Data 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 of these Call-off Terms and Conditions, 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 of these Call-off Terms and Conditions 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 of these Call-off Terms and Conditions 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 Contracting Authority may disclose the Supplier's Confidential Information:



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 the basis that the information is confidential and is not to be curement Hubs disclosed to a third party which is not part of any Contracting Authority);

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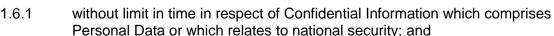


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- on a confidential basis, to any consultant, contractor or other person engaged by the Authority and/or the Contracting Authority receiving such information:
- 1.3.3 to any relevant party for the purpose of the examination and certification of the Contracting 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 Contracting 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 Contracting 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 of these Call-off Terms and Conditions.

- 1.4 The Supplier may only disclose the Contracting Authority's Confidential Information, and any other information provided to the Supplier by the Contracting Authority in relation to 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 of these Call-off Terms and Conditions as to confidentiality and that all information, including Confidential Information, is held securely, protected against unauthorised use or loss and, at the Contracting Authority's written discretion, destroyed securely or returned to the Contracting Authority when it is no longer required. The Supplier shall not, and shall ensure that the Staff do not, use any of the Contracting 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 of these Call-off Terms and Conditions, the Supplier shall not, without the prior written consent of the Contracting 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 Contracting Authority and/or make any other announcements about this Contract.
- 1.6 Clause 1 of this Schedule 3 of these Call-off Terms and Conditions shall remain in force:





for all other Confidential Information for a period of three confidential Information for a period of three confidential Information for a period of three confidential in Partnership the expiry or earlier termination of this Contract unless of the wise agreed Procurement Hubs in writing by the Parties.

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2 <u>Data protection</u>

- 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. For the avoidance of doubt, the Supplier shall take reasonable steps to ensure it is familiar with the Data Protection Legislation and any obligations it may have under such Data Protection Legislation and shall comply with such obligations.
- 2.2 Where the Supplier is Processing Personal Data under or in connection with this Contract, the Parties shall comply with the Data Protection Appendix.
- 2.3 The Supplier and the Contracting 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 Contracting 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 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 Data Security and Protection Toolkit;
 - 2.4.2 achieve a minimum pass performance against all requirements in the relevant NHS Data Security and Protection 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;
 - 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);

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- 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:
- 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;
- 2.4.9 at all times comply with any information governance requirements and/or processes as may be set out in the Specification and Tender Response Document; and
- 2.4.10 comply with any new and/or updated requirements, Guidance and/or Policies notified to the Supplier by the Contracting Authority from time to time (acting reasonably) relating to the Processing and/or protection of Personal Data.
- 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 of these Call-off Terms and Conditions, as if such Sub-contractor were the Supplier.
- 2.6 The Supplier shall indemnify and keep the Contracting 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 Contracting 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 Contracting Authority's behalf for the purposes of this Contract are subject to the obligations and commitments of the Contracting 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 Contracting Authority;

3.2.3 Crown Commercial Service

that where the Supplier receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and Prosupplier is artnership subject to the FOIA, Codes of Practice and Environmental Regulations Procurement Hubs will liaise with the Contracting Authority as to the contents of any response

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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 Contracting Authority;

- 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 Contracting Authority) and will promptly (and in any event within two (2) Business Days) transfer the request to the Contracting Authority;
- 3.2.5 that the Contracting 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 Contracting 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 Contracting 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 of these Call-off Terms and Conditions, the Contracting 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 Contracting Authority's absolute discretion.
- 3.6 The Supplier shall assist and cooperate with the Contracting Authority to enable the Contracting 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 of these Call-off Terms and Conditions, as if such Sub-contractor were the Supplier.

4 Information Security



4. CrowWithout limitation to any other information governance requirem Procueement in Partnership Comparcial 3 of these Call-off Terms and Conditions, the Supplier shall aboration of NHS Procurement Hubs

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- 4.1.1 notify the Contracting 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 Contracting 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 Contracting Authority and shall provide full information as may be reasonably requested by the Contracting 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 this Contract, the type of Services being provided and the obligations placed on the Supplier. 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.





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Data Protection Appendix

Status of the Controller

- 1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under this Contract dictates the status of each party under the Data Protection Act 2018. A Party may act as:
 - 1.1 "Controller" in respect of the other Party who is "Processor";
 - 1.2 "Processor" in respect of the other Party who is "Controller";
 - 1.3 "Joint Controller" with the other Party;
 - 1.4 "Independent Controller" of the Personal Data where there other Party is also "Controller".

in respect of certain Personal Data under this Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

Where one Party is Controller and the other Party its Processor

- 2. Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller.
- 3. The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 4. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
- (a) a systematic description of the envisaged Processing and the purpose of the Processing;
- (b) an assessment of the necessity and proportionality of the Processing in relation to the Services:
- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 5. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under this Contract:
- (a) Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before Processing the Personal Data

Crowninless prohibited by Law;

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- (b) ensure that it has in place Protective Measures, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Personal Data Breach;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that:
 - (i) the Processor Personnel do not Process Personal Data except in accordance with this Contract (and in particular Annex 1 (Processing Personal Data));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this Schedule 3 of these Call-Off Terms and Conditions;
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and

at the written direction of the Controller, delete or return Personal Data (and any Crowncopies of it) to the Controller on termination of this Contract unleps the remember of Partnership Commenciated by Law to retain the Personal Data.

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- 6. Subject to Clause 7 of this Data Protection Appendix, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with this Contract it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Contract;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Personal Data Breach.
- 7. The Processor's obligation to notify under Clause 6 of this Data Protection Appendix shall include the provision of further information to the Controller in phases, as details become available.
- 8. Taking into account the nature of the Processing, the Processor shall provide the Controller with reasonable assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 6 of this Data Protection Appendix (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation:
- (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Controller following any Personal Data Breach; and/or
- (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 9. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Data Protection Appendix. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the Processing is not occasional;
- (b) the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or

the Controller determines that the Processing is likely to result in a risk to the rights Crowrend freedoms of Data Subjects.

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- 10. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 11. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 12. Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
- (a) notify the Controller in writing of the intended Subprocessor and Processing;
- (b) obtain the written consent of the Controller;
- (c) enter into a written agreement with the Subprocessor which give effect to the terms set out in this Data Protection Appendix such that they apply to the Subprocessor; and
- (d) provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
- 13. The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
- 14. The Contracting Authority may, at any time on not less than 30 Business Days' notice, revise this Data Protection Appendix by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
- 15. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Contracting Authority may on not less than 30 Business Days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Where the Parties are Joint Controllers of Personal Data

16. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with GDPR Article 26 based on the terms set out in Annex 2 to this Data Protection Appendix.

Independent Controllers of Personal Data

- 17. With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
- 18. Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.

here a Party has provided Personal Data to the other Party in accordance with Clause Crown this Data Protection Appendix above, the recipient of the Personal Data will provide Cally Hereigness and information relating to its data profession, policies and procurement Hubs Sargeedures as the other Party may reasonably require.

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- 20. The Parties shall be responsible for their own compliance with Articles 13 and 14 GDPR in respect of the Processing of Personal Data for the purposes of this Contract.
- 21. The Parties shall only provide Personal Data to each other:
- (a) to the extent necessary to perform their respective obligations under this Contract;
- (b) in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the GDPR); and
- (c) where it has recorded it in Annex 1 (Processing Personal Data).
- 22. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the GDPR.
- 23. A Party Processing Personal Data for the purposes of this Contract shall maintain a record of its Processing activities in accordance with Article 30 GDPR and shall make the record available to the other Party upon reasonable request.
- 24. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to this Contract ("Request Recipient"):
- (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
- (b) where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
 - (i) promptly, and in any event within five (5) Business Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
 - (ii) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.

25. Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to this Contract and shall:

do all such things as reasonably necessary to assist the other Party in mitigating the Crown effects of the Personal Data Breach;

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- (b) implement any measures necessary to restore the security of any compromised Personal Data;
- (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
- (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
- 26. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under this Contract as specified in Annex 1 (*Processing Personal Data*).
- 27. Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under this Contract which is specified in Annex 1 (*Processing Personal Data*).
- 28. Notwithstanding the general application of paragraphs 2 to 15 of this Data Protection Appendix to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with paragraphs 16 to 27 of this Data Protection Appendix.





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Annex 1 - Processing Personal Data

This Annex shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Annex shall be with the Contracting Authority at its absolute discretion.

1.1 The contact details of the Contracting Authority's Data Protection Officer are:

The contact details of the Supplier's Data Protection Officer are:

- 1.2 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.3 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller	The Contracting Authority is Controller and the Supplier is
for each Category of	Processor
Personal Data	The Parties acknowledge that in accordance with Clause 2 to Clause 15 of the Data Protection Appendix and for the purposes of the Data
	Protection Legislation, the Contracting Authority is the Controller and the Supplier is the Processor of the following Personal Data:
	OFFICIAL-SENSITIVE is the scope of Personal Data which the purposes and means of the Processing by the Supplier is determined by the Contracting Authority
	The Supplier is Controller and the Contracting Authority is Processor
	The Parties acknowledge that for the purposes of the Data Protection
	Legislation, the Supplier is the Controller and the Contracting Authority is the Processor in accordance with Clause 2 to Clause 15 of the Data Protection Appendix of the following Personal Data:
	OFFICIAL-SENSITIVE is the scope of Personal Data which the purposes and means of the Processing by the Contracting Authority is determined by the Supplier]
	The Parties are Joint Controllers
Crown Commercial Service	The Parties acknowledge that they are Joint Controllaboration of NHS Procurement in Partner of the Data Protection Legislation in respect of:

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	OFFICIAL-SENSITIVE is the scope of Personal Data which the purposes and means of the Processing is determined by the both
	Parties together]
	The Parties are Independent Controllers of Personal Data
	The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:
	 Business contact details of Supplier Personnel for which the Supplier is the Controller, Business contact details of any directors, officers, employees,
	agents, consultants and contractors of Contracting Authority (excluding the Supplier Personnel) engaged in the performance of the Contracting Authority's duties under the Contract) for which the Contracting Authority is the Controller,
	OFFICIAL-SENSITIVE is the scope of other Personal Data provided by one Party who is Controller to the other Party who will separately determine the nature and purposes of its Processing the Personal Data on receipt e.g. where (1) the Supplier has professional or regulatory obligations in respect of Personal Data received, (2) a standardised service is such that the Contracting Authority cannot dictate the way in which Personal Data is processed by the Supplier, or (3) where the Supplier comes to the transaction with Personal Data for which it is already Controller for
Duration of the	use by the Contracting Authority] As set out in the signed document '705610451 - Locum Medical Officer-
Processing	Order_Form_Direct_Award_or_Mini_Comp'
Natura	The material of the Discourse and the Company of the Comp
Nature and	The nature of the Processing means any operation such as collection,
purposes of the Processing	recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or
1 1000331119	otherwise making available, alignment or combination, restriction, erasure
	or destruction of data (whether or not by automated means) etc.
	The purpose might include: employment processing, statutory obligation,
	recruitment assessment etc]
Type of Personal	Name
Data	
Ware	
	NHS
Crown	Procurement in Partnershi
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0	Condocating for a Sastamasic Working
Categories of Data	Staff, students
Subject	
Plan for return and	In accordance with Data Protection Act 2018 (DPA 2018), and the UK
destruction of the	General Data Protection Regulation (UK GDPR).
data once the	
Processing is	
complete	
UNLESS	
requirement under	
Union or Member	
State law to	
preserve that type of	
data	





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Annex 2 - Joint Controller Agreement

1. Joint Controller Status and Allocation of Responsibilities

- 1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 2 (Joint Controller Agreement) in replacement of Clauses 2-15 of the Data Protection Appendix and Clauses 17-27 of the Data Protection Appendix. Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.
- 1.2 The Parties agree that the Contracting Authority:
 - is the exclusive point of contact for Data Subjects and is responsible for all steps necessary to comply with the GDPR regarding the exercise by Data Subjects of their rights under the GDPR;
 - (b) shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
 - (c) is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the GDPR;
 - is responsible for obtaining the informed consent of Data Subjects, in accordance with the GDPR, for Processing in connection with the Services where consent is the relevant legal basis for that Processing;
- 1.3 Notwithstanding the terms of paragraph 1.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Controller.

2. Undertakings of both Parties

- 2.1 The Supplier and the Contracting Authority each undertake that they shall:
 - (a) report to the other Party on:
 - (i) the volume of Data Subject Access Requests (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
 - (ii) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;



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- (iii) any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;
- (iv) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
- (v) any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law.

that it has received in relation to the subject matter of the Framework Agreement during that period;

- (b) notify each other immediately if it receives any request, complaint or communication made as referred to in paragraphs 2.1(a)(i) to (v);
- (c) provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in paragraphs 2.1(a)(iii) to (v) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;
- (d) not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under the Framework Agreement or is required by Law) ensure consent has been obtained from the Data Subject prior to disclosing or transferring the Personal Data to the third party. For the avoidance of doubt the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;
- (e) request from the Data Subject only the minimum information necessary to provide the Services and treat such extracted information as Confidential Information:
- (f) ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data;

take all reasonable steps to ensure the reliability and integrity of any of its

Crown Personnel who have access to the Personal Data and ensure Procuite Personal Partnership

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- (i) are aware of and comply with their duties under this Annex 2 (Joint Controller Agreement) and those in respect of Confidential Information;
- (ii) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where the that Party would not be permitted to do so;
- (iii) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;
- (h) ensure that it has in place Protective Measures as appropriate to protect against a Personal Data Breach having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Personal Data Breach;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (i) ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that it holds; and
- (j) ensure that it notifies the other Party as soon as it becomes aware of a Personal Data Breach.
- 2.2 Each Joint Controller shall use its reasonable endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.
- 3. Data Protection Breach
- 3.1 Without prejudice to paragraph 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within 48 hours, upon becoming aware of any Personal Data Breach or circumstances that are likely to give rise to a Personal Crowpata Breach, providing the Relevant Authority and its advisors with rocurement in Partnership

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- (a) sufficient information and in a timescale which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation;
- (b) all reasonable assistance, including:
 - co-operation with the other Party and the Information Commissioner investigating the Personal Data Breach and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
 - (ii) co-operation with the other Party including taking such reasonable steps as are directed by the Relevant Authority to assist in the investigation, mitigation and remediation of a Personal Data Breach;
 - (iii) co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach; and/or
 - (iv) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Personal Data Breach, with complete information relating to the Personal Data Breach, including, without limitation, the information set out in paragraph 3.2.
- 3.2 Each Party shall take all steps to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Personal Data Breach as it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Personal Data Breach, including providing the other Party, as soon as possible and within 48 hours of the Personal Data Breach relating to the Personal Data Breach, in particular:
 - (a) the nature of the Personal Data Breach;
 - (b) the nature of Personal Data affected;
 - (c) the categories and number of Data Subjects concerned;
 - (d) the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained;
 - (e) measures taken or proposed to be taken to address the Personal Data Breach; and

describe the likely consequences of the Personal Data Breach Procurement in Partnership

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4.1 The Supplier shall permit:

- (a) the Contracting Authority, or a third-party auditor acting under the Contracting Authority's direction, to conduct, at the Contracting Authority's cost, data privacy and security audits, assessments and inspections concerning the Supplier's data security and privacy procedures relating to Personal Data, its compliance with this Annex 2 and the Data Protection Legislation; and/or
- (b) the Contracting Authority, or a third-party auditor acting under the Contracting Authority's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 GDPR by the Supplier so far as relevant to the Contract, and procedures, including premises under the control of any third party appointed by the Supplier to assist in the provision of the Services.
- 4.2 The Contracting Authority may, in its sole discretion, require the Supplier to provide evidence of the Supplier's compliance with paragraph 4.1 in lieu of conducting such an audit, assessment or inspection.

5. Impact Assessments

The Parties shall:

- 5.1 provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to Processing operations, risks and measures); and
- 5.2 maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the Contract, in accordance with the terms of Article 30 GDPR.

6. ICO Guidance

The Parties agree to take account of any guidance issued by the Information Commissioner and/or any relevant Central Government Body. The Contracting Authority may on not less than thirty (30) Business Days' notice to the Supplier amend the Framework Agreement to ensure that it complies with any guidance issued by the Information Commissioner and/or any relevant Central Government Body.

7. Liabilities for Data Protection Breach

7.1 If financial penalties are imposed by the Information Commissioner on either the Contracting Authority or the Supplier for a Personal Data Breach ("Financial Penalties") then the following shall occur:

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Crown if in the view of the Information Commissioner, the Contractin **Brockets** in **Partnership** Commercial responsible for the Personal Data Breach, in that it is caused as a result of the actions or inaction of the Contracting Authority, its employees, agents,

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contractors (other than the Supplier) or systems and procedures controlled by the Contracting Authority, then the Contracting Authority shall be responsible for the payment of such Financial Penalties. In this case, the Contracting Authority will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Personal Data Breach. The Supplier shall provide to the Contracting Authority and its third party investigators and auditors, on request and at the Supplier's reasonable cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach;

- (b) if in the view of the Information Commissioner, the Supplier is responsible for the Personal Data Breach, in that it is not a Personal Data Breach that the Contracting Authority is responsible for, then the Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Contracting Authority and its auditors, on request and at the Supplier's sole cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach; or
- (c) if no view as to responsibility is expressed by the Information Commissioner, then the Contracting Authority and the Supplier shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause Error! Reference source not found. of Error! Reference source not found.
- 7.2 If either the Contracting Authority or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction ("Court") by a third party in respect of a Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.
- 7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the "Claim Losses"):
 - (a) if the Contracting Authority is responsible for the relevant Personal Data Breach, then the Contracting Authority shall be responsible for the Claim Losses;

(b) if the Supplier is responsible for the relevant Personal Data Breach, then the Commercial policy is responsible for the Claim Losses: and Commercial policy is responsible for the Claim Losses: and Commercial policy is responsible for the Claim Losses: and Commercial policy is responsible for the Claim Losses: and Commercial policy is responsible for the Claim Losses: and Commercial policy is responsible for the relevant Personal Data Breach, then the Commercial policy is responsible for the relevant Personal Data Breach, then the Commercial policy is responsible for the Claim Losses: and Commercial policy is responsibl

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Collaborating for a Sustainable Workforce

- (c) if responsibility for the relevant Personal Data Breach is unclear, then the Contracting Authority and the Supplier shall be responsible for the Claim Losses equally.
- 7.4 Nothing in either paragraph 7.2 or paragraph 7.3 shall preclude the Contracting Authority and the Supplier reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Personal Data Breach, having regard to all the circumstances of the Personal Data Breach and the legal and financial obligations of the Contracting Authority.

8. **Termination**

If the Supplier is in material Default under any of its obligations under this Annex 2 (Joint Controller Agreement), the Contracting Authority shall be entitled to terminate the Framework Agreement by issuing a termination notice to the Supplier in accordance with Clause Error! Reference source not found.

9. Sub-Processing

In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:

- (a) carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by the Contract, and provide evidence of such due diligence to the other Party where reasonably requested; and
- (b) ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

10. Data Retention

The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the a Party for statutory compliance purposes or as otherwise required by the Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.





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Schedule 4 of these Call-off Terms and Conditions

Definitions and Interpretations

1 <u>Definitions</u>

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

"Actual Services Commencement Date"	means the date the Supplier actually commences delivery of all of the Services;
"Breach Notice"	means a written notice of breach given by one Party to the other, notifying the Party receiving the notice of its breach of this Contract;
"Business Continuity Event"	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;
"Business Continuity Plan"	means the Supplier's business continuity plan which includes its plans for continuity of the Services during a Business Continuity Event;
"Business Day"	means any day other than Saturday, Sunday, Christmas Day, Good Friday or a statutory bank holiday in England and Wales;
"Cabinet Office Statement"	the Cabinet Office Statement of Practice – Staff Transfers in the Public Sector 2000 (as revised 2013) as may be amended or replaced;
"Call-off Terms and Conditions"	means these Call-off Terms and Conditions for the Provision of Services;
"Change Control Process"	means the change control process, if any, referred to in any Key Provisions;
"Codes of Practice"	shall have the meaning given to the term in Clause 1.2 of Schedule 3 of these Call-off Terms and Conditions;
"Commencement Date"	means the date of the Order Form;
"Confidential Information"	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:

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	(a) Personal Data including without limitation which relates to any patient or other service user or his or her treatment or clinical or care history;
	(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
	(c) Policies and such other documents which the Supplier may obtain or have access to through the Authority's intranet;
"Contract"	means the Order Form, the provisions on the front page and all Schedules of these Call-off Terms and Conditions, the Specification and Tender Response Document and the applicable provisions of the Framework Agreement;
"Contracting Authority"	means the authority named on the Order Form;
"Contracting Authority's Obligations"	means the Authority's further obligations, if any, referred to in the Specification and Tender Response Document and/or the Order Form;
"Contract Manager"	means for the Authority and for the Supplier the individuals specified in the Order Form or as otherwise agreed between the Parties in writing 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 of these Call-off Terms and Conditions;
"Contract Price"	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 calculated in accordance with the provisions of the Framework Agreement and as confirmed in the Order Form;
"Controller"	has the meaning given to it in the GDPR;
"Convictions"	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);
"Data Protection Appendix"	means the appendix to Schedule 3 of these Call-off Terms and Conditions as the Authority may amend from time to time;

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"Data Protection Impact Assessment"	means an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
"Data Protection Legislation"	means (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 2018 to the extent that it relates to Processing of personal data and privacy; (iii) all applicable Law about the Processing of personal data and privacy;
"Data Protection Officer"	has the meaning given to it in the GDPR;
"Data Subject"	has the meaning given to it in the GDPR;
"Data Subject Access Request"	means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
"Dispute(s)"	means any dispute, difference or question of interpretation or construction arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Services, any matters of contractual construction and interpretation relating to the Contract, or any matter where this Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
"Dispute Notice"	means a written notice served by one Party to the other stating that the Party serving the notice believes there is a Dispute;
"Dispute Resolution Procedure"	means the process for resolving Disputes as set out in Clause 22 of Schedule 2 of these Call-off Terms and Conditions;
"DOTAS"	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;
"EIR"	means the Environmental Information Regulations 2004;
"Electronic Trading System(s)"	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;

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"Employment Liabilities"	means all claims, demands, actions, proceedings, damages, compensation, tribunal awards, fines, costs (including but not limited to reasonable legal costs), expenses and all other liabilities whatsoever;		
"Environmental Regulations"	shall have the meaning given to the term in Clause 1.2 of Schedule 3 of these Call-off Terms and Conditions;		
"eProcurement Guidance"	means the NHS eProcurement Strategy available via: http://www.gov.uk/government/collections/nhs-procurement together with any further Guidance issued by the Department of Health in connection with it;		
"Equality Legislation"	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;		
"Exit Requirements"	means the Contracting Authority's exit requirements, as set out in the Specification and Tender Response Document and/or otherwise as part of this Contract, which the Supplier must comply with during the Term and/or in relation to any expiry or early termination of this Contract;		
"Fair Deal for Staff Pensions"	means guidance issued by HM Treasury entitled "Fair Deal for staff pensions: staff transfer from central government" issued in October 2013 (as amended, supplemented or replaced);		
"FOIA"	shall have the meaning given to the term in Clause 1.2 of Schedule 3 of these Call-off Terms and Conditions;		
"Force Majeure Event"	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		

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		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 orderule, regulation or direction applicable outside configuration and Wales that could not have been reasonable foreseen;			
	(h) industrial action which affects the ability of the Supplie to provide the Services, but which is not confined to the workforce of the Supplier or the workforce of any Subcontractor of the Supplier; and			
	(i)	a failure in the Supplier's and/or Contracting 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;		
	but excluding, for the avoidance of doubt, the withdrawal of the United Kingdom from the European Union and any related circumstances, events, changes or requirements;			
"Framework Agreement"	means the Framework Agreement referred to in the Order Form;			
"Fraud"	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;			
"GDPR"	means the General Data Protection Regulation (Regulation (EU) 2016/679);			
"General Anti-Abuse Rule"	means			
	(a)	the legislation in Part 5 of the Finance Act 2013; and		
	(b)	any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;		
"Good Industry Practice"	risk m would	the exercise of that degree of skill, diligence, prudence, anagement, quality management and foresight which reasonably and ordinarily be expected from a skilled and		

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	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;
"Guidance"	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 Contracting 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;
"Halifax Abuse Principle"	means the principle explained in the CJEU Case C-255/02 Halifax and others;
"HM Government Cyber Essentials Scheme"	means the HM Government Cyber Essentials Scheme as further defined in the documents relating to this scheme published at:
	https://www.gov.uk/government/publications/cyber-essentials-scheme-overview
"Implementation Plan"	means the implementation plan, if any, referred to in any Key Provisions;
"Implementation Requirements"	means the Contracting Authority's implementation and mobilisation requirements (if any), as may be set out in the Specification and Tender Response Document and/or otherwise as part of this Contract, which the Supplier must comply with as part of implementing the Services;
"Independent Control"	means where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and "Independent Controller" shall be construed accordingly;
"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000;
"Intellectual Property Rights"	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;

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"Interested Party"	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 Contracting Authority;		
"Joint Controller Agreement"	means the agreement (if any) entered into between the Contracting Authority and the Supplier substantially in the form set out in Annex 2 of Schedule 3;		
"Joint Controllers"		two or more Controllers jointly determine the purposes eans of Processing;	
"Key Provisions"		s the key provisions set out in Schedule 1 of these Call-off and Conditions and/or as part of the Order Form;	
"KPI"	means the key performance indicators as set out in the Specification and Tender Response Document and/or the Order Form, if any;		
"Law"	means any applicable legal requirements including, without limitation,:		
	(a) any applicable statute or proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument as applicable in England and Wales;		
	(b) any applicable European Union obligation, directive, regulation, decision, law or right (including any such obligations, directives, regulations, decisions, laws or rights that are incorporated into the law of England and Wales or given effect in England and Wales by any applicable statute, proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument);		
	(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;		
	(f) any relevant code of practice as applicable in England and Wales; and		
	(g) any relevant collective agreement and/or international law provisions (to include, without limitation, as referred to in (a) to (f) above);		
"LED"	means the Law Enforcement Directive (Directive (EU) 2016/680);		

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"Modern Slavery Helpline" "Modern Slavery Helpline and information on the subject of modern slavery available online on 08000 121 700; "Modern Slavery Helpline on the supplier or by telephone on 08000 121 700; "Modern Slavery "Occasion of Tax Non- Compilance" "A means the National Health Service; "Modern Slavery "Modern Supplier Submitted to a Relevant Tax Authority and the Supplier submitted to a Relevant Tax Authority and effect equivalent or similar to the "Modern Slavery "Modern Slavery "Modern Slavery "Modern Slavery "Modern Slavery "Modern Sl				
Helpline" advice and information on the subject of modern slavery available and https://www.modernslaveryhelpline.org/report or by telephone on 08000 121 700; "NHS" means the National Health Service; "Occasion of Tax Non-Compliance" (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 legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (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 (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; "Order Form" means the order form for the Services issued by the Contracting Authority in accordance with the Framework Agreement; "Party" means the Contracting Authority or the Supplier as appropriate and Parties means both the Contracting Authority and the Supplier; "Personal Data" has the meaning given to it in the GDPR; has the meaning given to it in the GDPR; has the meaning given to it in the GDPR; means the policies, rules and procedures of the Contracting Authority as notified to the Supplier from time to time; has the meaning given under Clause 2.1 of Schedule 2 of these Call-off Terms and Conditions;	"Long Stop Date"	means the date, if any, specified in the Order Form;		
"Occasion of Tax Non-Compliance" (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 legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (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 (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; "Order Form" means the order form for the Services issued by the Contracting Authority in accordance with the Framework Agreement; "Party" means the Contracting Authority or the Supplier as appropriate and Parties means both the Contracting Authority and the Supplier; "Personal Data" has the meaning given to it in the GDPR; "Personal Data Breach" means the policies, rules and procedures of the Contracting Authority as notified to the Supplier from time to time; has the meaning given under Clause 2.1 of Schedule 2 of these Call-off Terms and Conditions;		advice and information on the subject of modern slavery available online at https://www.modernslaveryhelpline.org/report or by telephone		
(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 legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (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 (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; "Order Form" means the order form for the Services issued by the Contracting Authority in accordance with the Framework Agreement; "Party" means the Contracting Authority or the Supplier as appropriate and Parties means both the Contracting Authority and the Supplier; "Personal Data" has the meaning given to it in the GDPR; "Personal Data Breach" has the meaning given to it in the GDPR; "Personal Data Breach" has the meaning given to it in the GDPR; "Personal Data Breach" has the meaning given to it in the GDPR;	"NHS"	means the National Health Service;		
"Order Form" means the order form for the Services issued by the Contracting Authority in accordance with the Framework Agreement; means the Contracting Authority or the Supplier as appropriate and Parties means both the Contracting Authority and the Supplier; has the meaning given to it in the GDPR; means the policies, rules and procedures of the Contracting Authority as notified to the Supplier from time to time; means the meaning given under Clause 2.1 of Schedule 2 of these Call-off Terms and Conditions;		 (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 legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (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 (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 		
and Parties means both the Contracting Authority and the Supplier; "Personal Data" has the meaning given to it in the GDPR; "Personal Data Breach" has the meaning given to it in the GDPR; "Policies" means the policies, rules and procedures of the Contracting Authority as notified to the Supplier from time to time; "Premises and Locations" has the meaning given under Clause 2.1 of Schedule 2 of these Call-off Terms and Conditions;	"Order Form"			
 "Personal Data Breach" "Policies" means the policies, rules and procedures of the Contracting Authority as notified to the Supplier from time to time; "Premises and Locations" has the meaning given under Clause 2.1 of Schedule 2 of these Call-off Terms and Conditions; 	"Party"	and Parties means both the Contracting Authority and the		
"Policies" means the policies, rules and procedures of the Contracting Authority as notified to the Supplier from time to time; "Premises and Locations" has the meaning given under Clause 2.1 of Schedule 2 of these Call-off Terms and Conditions;	"Personal Data"	has the meaning given to it in the GDPR;		
Authority as notified to the Supplier from time to time; "Premises and Locations" has the meaning given under Clause 2.1 of Schedule 2 of these Call-off Terms and Conditions;		has the meaning given to it in the GDPR;		
Locations" Call-off Terms and Conditions;	"Policies"	·		
"Processing" has the meaning given to it in the GDPR;				
	"Processing"	has the meaning given to it in the GDPR;		

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"Processor"	has the meaning given to it in the GDPR;	
"Processor Personnel"	means all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under this Contract;	
"Relevant Tax Authority"	means HM Revenue and Customs, or, if applicable, a tax authority in the jurisdiction in which the Supplier is established;	
"Remedial Proposal"	has the meaning given under Clause 16.3 of Schedule 2 of these Call-off Terms and Conditions;	
"Services"	means the services set out in this Contract;	
"Services Commencement Date"	means the date delivery of the Services shall commence as specified in the Order Form. If no date is specified in the Order Form, the services commencement date shall be the Commencement Date;	
"Services Information"	means information concerning the Services as may be reasonably requested by the Contracting Authority and supplied by the Supplier to the Contracting Authority in accordance with Clause 20 of Schedule 2 of these Call-off Terms and Conditions for inclusion in the Contracting Authority's services catalogue from time to time;	
"Specification and Tender Response Document"	means the Specification and Tender Response Document set out in the Framework Agreement as supplemented by any further information set out and/or referred to in the Order Form and as amended and/or updated in accordance with this Contract;	
"Staff"	means all persons employed or engaged by the Supplier to perform its obligations under this Contract including any Subcontractors and person employed or engaged by such Subcontractors;	
"Sub-contract"	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;	
"Sub-contractor"	means a party to a Sub-contract other than the Supplier;	
"Subprocessor"	means any third Party appointed to process Personal Data on behalf of that Processor related to a Contract;	
"Subsequent Transfer Date"	means the point in time, if any, at which services which are fundamentally the same as the Servicinges (either in whole or in part) are first provided by a Successor or the Contracting	

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	Authority, as appropriate, giving rise to a relevant transfer under TUPE;	
"Subsequent Transferring Employees"	means any employee, agent, consultant and/or contractor who, immediately prior to the Subsequent Transfer Date, is wholly or mainly engaged in the performance of services fundamentally the same as the Services (either in whole or in part) which are to be undertaken by the Successor or Contracting Authority, as appropriate;	
"Successor"	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;	
"Supplier"	means the supplier named on the Order Form;	
"Supplier Code of Conduct"	means the code of that name published by the Government Commercial Function originally dated September 2017, as may be amended, restated, updated, re-issued or re-named from time to time;	
"Supplier Personnel"	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;	
"Term"	means the term as referred to in the Key Provisions;	
"Termination Notice"	means a written notice of termination given by one Party to the other notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract on a specified date and setting out the grounds for termination;	
"Third Party"	means any supplier of services fundamentally the same as the Services (either in whole or in part) immediately before the Transfer Date;	
"Third Party Body"	has the meaning given under Clause 8.5 of Schedule 2 of these Call-off Terms and Conditions;	
"Transfer Date"	means the Actual Services Commencement Date;	
"TUPE"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (2006/246) and/or any other regulations or other legislation enacted for the purpose of implementing or transposing the Acquired Rights Directive (77/187/EEC, as amended by Directive 98/50 EC and consolidated in 2001/23/EC) into English law; and	
"VAT"	means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax.	

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- 1.2 References to any Law shall be deemed to include a reference to that Law as amended, extended, consolidated, re-enacted, restated, implemented or transposed from time to time.
- 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 Contract as a chargeable item and subject to Clause 30.6 of Schedule 2 of these Call-off Terms and Conditions, 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 requirements set out in the Specification and Tender Response Document 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 Contracting Authority to procure any course of action from any third party, this shall mean that the Contracting Authority shall use its reasonable endeavours to procure such course of action from that third party.
- 1.13 Any Breach Notice issued by a Party in connection with this Contract shall not be invalid due to it containing insufficient information. A Party receiving a Breach Notice ("Receiving Party") may ask the Party that issued the Breach Notice ("Issuing Party") to provide any further information in relation to the subject matter of the Breach Notice that it may reasonably require to enable it to understand the Breach Notice and/or to remedy the breach. The Issuing Party shall not unreasonably withhold or delay the provision of such further information as referred to above as may be requested by the Receiving Party but no such withholding or delay shall invalidate the Breach Notice.
- 1.14 Any terms defined as part of a Schedule or other document forming part of this Contract shall have the meaning as defined in such Schedule or document.

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Appendix A – Call-off the Provision of Services

Schedule 5 of these Call-off Terms and Conditions

Supply Chain Visibility

1. **Definitions**

1.1 In this Error! Reference source not found, the following words shall have the following meanings and they shall supplement Error! Reference source not found.:

"Contracts Finder" the Government's publishing portal for

public sector procurement opportunities:

"SME" an enterprise falling within the category of

> micro, small and medium sized enterprises defined Commission bv the Recommendation of 6 May 2003 concerning the definition of micro, small and medium

sized enterprises;

Report Template"

"Supply Chain Information the document at Annex 1 of this Error!

Reference source not found.: and

"VCSE" a non-governmental organisation that is

> value-driven and which principally reinvests its surpluses to further social, environmental

or cultural objectives.

2. Visibility of Sub-Contract Opportunities in the Supply Chain

- 2.1 The Supplier shall:
- subject to Clause 2.3 of this Error! Reference source not found., advertise on Contracts Finder all Sub-Contract opportunities arising from or in connection with the provision of the Services above a minimum threshold of £25,000 that arise during the Term;
- 2.1.2 within 90 days of awarding a Sub-Contract to a Sub-contractor, update the notice on Contract Finder with details of the successful Sub-contractor:
- 2.1.3 monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Term;
- provide reports on the information at Clause 2.1.3 of this Error! Reference source not found, to the Contracting Authority in the format and frequency as reasonably specified by the Contracting Authority; and
- 2.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.

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Appendix A - Call-off the Provision of Services

- 2.2 Each advert referred to at Clause 2.1.1 of this **Error! Reference source not found.** shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
- 2.3 The obligation on the Supplier set out at Clause 2.1 of this **Error! Reference source not found.** shall only apply in respect of Sub-Contract opportunities arising after the Commencement Date.
- 2.4 Notwithstanding Clause 2.1 of this **Error! Reference source not found.**, the Contracting Authority may by giving its prior Approval, agree that a Sub-Contract opportunity is not required to be advertised by the Supplier on Contracts Finder.

3. Visibility of Supply Chain Spend

- 3.1 In addition to any other management information requirements set out in the Contract, the Supplier agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the "SME Management Information Reports") to the Contracting Authority which incorporates the data described in the Supply Chain Information Report Template which is:
 - (a) the total contract revenue received directly on the Contract;
 - (b) the total value of sub-contracted revenues under the Contract (including revenues for non-SMEs/non-VCSEs); and
 - (c) the total value of sub-contracted revenues to SMEs and VCSEs.
- 3.2 The SME Management Information Reports shall be provided by the Supplier in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Contracting Authority from time to time. The Supplier agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at Clause 3.1(a) –(c) of this **Error! Reference source not found.** and acknowledges that the template may be changed from time to time (including the data required and/or format) by the Contracting Authority issuing a replacement version. The Contracting Authority agrees to give at least thirty (30) days' notice in writing of any such change and shall specify the date from which it must be used.
- 3.3 The Supplier further agrees and acknowledges that it may not make any amendment to the Supply Chain Information Report Template without the prior Approval of the Contracting Authority.

Annex 1 Supply Chain Information Report Template



Schedule 6 of these Call-off terms and Conditions

MOD Terms

1 Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 4 - Definitions:

"MOD Terms and Conditions"	means the terms and conditions listed in this Schedule;
"MOD Site"	shall include any of Her Majesty's Ships or Vessels and Service Stations;
"Officer in charge"	shall include Officers Commanding Service Stations, Ships' Masters or Senior Officers, and Officers superintending Government Establishments;

2 Access to MOD sites

- 2.1 The Contracting Authority shall issue passes for those representatives of the Supplier who are approved for admission to the MOD Site and a representative shall not be admitted unless in possession of such a pass. Passes shall remain the property of the Contracting Authority and shall be surrendered on demand or on completion of the supply of the Deliverables.
- 2.2 The Supplier's representatives when employed within the boundaries of a MOD Site, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force for the time being for the conduct of staff at that MOD Site. When on board ship, compliance shall be with the Ship's Regulations as interpreted by the Officer in charge. Details of such rules, regulations and requirements shall be provided, on request, by the Officer in charge.
- 2.3 The Supplier shall be responsible for the living accommodation and maintenance of its representatives while they are employed at a MOD Site. Sleeping accommodation and messing facilities, if required, may be provided by the Buyer wherever possible, at the discretion of the Officer in charge, at a cost fixed in accordance with current Ministry of Defence regulations. At MOD Sites overseas, accommodation and messing facilities, if required, shall be provided wherever possible. The status to be accorded to the Supplier's staff for messing purposes shall be at the discretion of the Officer in charge who shall, wherever possible give his decision before the commencement of this Contract where so asked by the Supplier. When sleeping accommodation and messing facilities are not available, a certificate to this effect may be required by the Contracting Authority and shall be obtained by the Supplier from the Officer in charge.

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Such certificate shall be presented to the Contracting Authority with other evidence relating to the costs of this Contract.

- 2.4 Where the Supplier's representatives are required by this Contract to join or visit a Site overseas, transport between the United Kingdom and the place of duty (but excluding transport within the United Kingdom) shall be provided for them free of charge by the Ministry of Defence whenever possible, normally by Royal Air Force or by MOD chartered aircraft. The Supplier shall make such arrangements through the Technical Branch named for this purpose in the Contracting Authority Contract Details. When such transport is not available within a reasonable time, or in circumstances where the Supplier wishes its representatives to accompany material for installation which it is to arrange to be delivered, the Supplier shall make its own transport arrangements. The Contracting Authority shall reimburse the Supplier's reasonable costs for such transport of its representatives on presentation of evidence supporting the use of alternative transport and of the costs involved. Transport of the Supplier's representatives locally overseas which is necessary for the purpose of this Contract shall be provided wherever possible by the Ministry of Defence, or by the Officer in charge and, where so provided, shall be free of charge.
- 2.5 Out-patient medical treatment given to the Supplier's representatives by a Service Medical Officer or other Government Medical Officer at a Site overseas shall be free of charge. Treatment in a Service hospital or medical centre, dental treatment, the provision of dentures or spectacles, conveyance to and from a hospital, medical centre or surgery not within the Site and transportation of the Supplier's representatives back to the United Kingdom, or elsewhere, for medical reasons, shall be charged to the Supplier at rates fixed in accordance with current Ministry of Defence regulations.
- 2.6 Accidents to the Supplier's representatives which ordinarily require to be reported in accordance with Health and Safety at Work etc. Act 1974, shall be reported to the Officer in charge so that the Inspector of Factories may be informed.
- 2.7 No assistance from public funds, and no messing facilities, accommodation or transport overseas shall be provided for dependants or members of the families of the Supplier's representatives. Medical or necessary dental treatment may, however, be provided for dependants or members of families on repayment at current Ministry of Defence rates.
- 2.8 The Supplier shall, wherever possible, arrange for funds to be provided to its representatives overseas through normal banking channels (e.g. by travellers' cheques). If banking or other suitable facilities are not available, the Buyer shall, upon request by the Supplier and subject to any limitation required by the Supplier, make arrangements for payments, converted at the prevailing rate of exchange (where applicable), to be made at the Site to which the Supplier's representatives are attached. All such advances made by the Contracting Authority shall be recovered from the Supplier

3 <u>DEFCONS and DEFFORMS</u>

3.1 The DEFCONS and DEFORMS listed in Annex 1 to this Schedule are incorporated into this Contract.

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Appendix A – Call-off the Provision of Services

3.2	In the event of a conflict between any DEFCONs and DEFFORMS listed in the Order Form and the other terms in a Call Off Contract, the DEFCONs and DEFFORMS shall prevail.
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ANNEX 1 - DEFCONS & DEFFORMS

The full text of Defence Conditions (DEFCONs) and Defence Forms (DEFFORMS) are available electronically via https://www.gov.uk/acquisition-operating-framework.

The following MOD DEFCONs and DEFFORMs form part of this contract:

DEFCONs

DEFCON No	Version	Description
DEFCON 5J	(Edn 18/11/16)	Unique Identifiers
DEFCON 76	(Edn 06/21)	Contractor's Personnel at Government Establishments
DEFCON 503	(Edn 06/22)	Formal Amendments to the Contract
DEFCON 531	(Edn 09/21)	Disclosure of Information
DEFCON 532A	(Edn 05/22)	Protection of Personal Data (Where Personal Data is not being processed on behalf of the Authority)
DEFCON 534	(Edn 06/21)	Subcontracting and Prompt Payment
DEFCON 537	(Edn 12/21)	Rights of Third Parties
DEFCON 538	(Edn 06/02)	Severability
DEFCON 566	(Edn 10/20)	Change of Control of Contractor
DEFCON 658	(Edn 09/21)	Cyber

DEFFORMs (Ministry of Defence Forms)

DEFFORM No	Version	Description
111	10/22	Appendix - Addresses And Other Information

Appendix - Addresses and Other Information

1. Commercial Officer	
Name:	
Address:	ı
Facette	
Email:	

8. Public Accounting Authority

- 1. Returns under DEFCON 694 (or SC equivalent) should be sent to DBS Finance ADMT - Assets In Industry 1, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD
- **2** 44 (0) 161 233 5397
- 2. For all other enquiries contact DES Fin FA-AMET Policy, Level 4 Piccadilly Gate, Store Street, Manchester, M1 2WD **2** 44 (0) 161 233 5394

2. Project Manager, Equipment Support Manager or PT Leader (from whom technical information is available) Name:
Address:
Email:

9. Consignment Instructions

The items are to be consigned as follows:

3. Packaging Design Authority

Organisation & point of contact:

(Where no address is shown please contact the Project Team in Box 2)

10. Transport. The appropriate Ministry of Defence Transport Offices are:

A. DSCOM, DE&S, DSCOM, MoD Abbey Wood, Cedar 3c, Mail Point 3351, BRISTOL BS34 8JH

Air Freight Centre

IMPORTS 2030 679 81113 / 81114 Fax 0117 913 8943 EXPORTS \$\alpha\$ 030 679 81113 / 81114 Fax 0117 913 8943 Surface Freight Centre

IMPORTS 2030 679 81129 / 81133 / 81138 Fax 0117 913 8946

EXPORTS 2030 679 81129 / 81133 / 81138 Fax 0117 913 8946

B. JSCS

JSCS Helpdesk No. 01869 256052 (select option 2, then option 3)

JSCS Fax No. 01869 256837

Users requiring an account to use the MOD Freight Collection Service should contact UKStratCom-DefSp-RAMP@mod.gov.uk in the first instance.

4. (a) Supply / Support Management Branch or Order Manager:

5. Drawings/Specifications are available from

Branch/Name:

(b) U.I.N.

11. The Invoice Paying Authority

Ministry of Defence **2** 0151-242-2000

DBS Finance

Walker House, Exchange Flags Fax: 0151-242-2809

Website is: Liverpool, L2 3YL

https://www.gov.uk/government/organisations/ministry-of-

defence/about/procurement

6. Intentionally Blank

12. Forms and Documentation are available through *:

Ministry of Defence, Forms and Pubs Commodity

Management

PO Box 2, Building C16, C Site

Lower Arncott

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Appendix A – Call-off for the Provision of Services

Bicester, OX25 1LP (Tel. 01869 256197 Fax: 01869 256824)

Applications via fax or email:

Leidos-FormsPublications@teamleidos.mod.uk

7. Quality Assurance Representative:

Commercial staff are reminded that all Quality Assurance requirements should be listed under the General Contract Conditions.

AQAPS and **DEF STANs** are available from UK Defence Standardization, for access to the documents and details of the helpdesk visit http://dstan.gateway.isg-r.r.mil.uk/index.html [intranet] or https://www.dstan.mod.uk/ [extranet, registration needed].

* NOTE

1. Many **DEFCONs** and **DEFFORMs** can be obtained from the MOD Internet Site:

https://www.kid.mod.uk/maincontent/business/commercial/index.htm

2. If the required forms or documentation are not available on the MOD Internet site requests should be submitted through the Commercial Officer named in Section 1.

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