

NHS TERMS AND CONDITIONS FOR THE PROVISION OF SERVICES
(Point of Care (POC) Services to Community Pharmacies)

The Authority	The National Health Service (NHS) Commissioning Board Quarry House, Quarry Hill, Leeds, LS2 7UA
The Supplier	
Effective Date	1st April 2024
Expiry Date	31st March 2026
The Agreement	The Supplier shall provide its assured Point of Care software (the "PoC System") for the capture, recording and onward transfer of data, for vaccinations undertaken at Authority contracted Community Pharmacy sites across England (as further described in Schedule 5) and provision of support to Users, for the Term of this Agreement.

The Supplier shall supply to the Authority, and the Authority shall receive and pay for, the Services, where each Party (together the **"Parties"**) agrees to be subject to the terms set out herein, according to the schedules listed below (the **"Schedule(s)"**), in respect of the performance of this Agreement.

This Agreement shall replace all contracts and/or Letters of Intent, previously entered into between the Parties in respect of the Services at the contracted Provider Sites and shall be applicable for all Government Policy approved NHS vaccinations to be dispensed by such Service Recipients.

Schedules

Schedule 1	Key Provisions
Schedule 2	General Terms and Conditions
Schedule 3	Information and Data Provisions
Schedule 4	Definitions and Interpretations
Schedule 5	Service Specification
Schedule 6	Performance Criteria
Schedule 7	Commercial Schedule
Schedule 8	Change Control Process
Schedule 9	Dispute Management Procedures

IN WITNESS OF WHICH the Parties named below have signed this Agreement, as below:

Signature of Acceptance of the Parties	
for and on behalf of the Supplier	For and on behalf of the Buyer

Schedule 1

Key Provisions

1 Term

- 1.1 The Agreement shall be effective on and between the Parties from the Effective Date, irrespective of the actual date of each Party's signature, shown under "Signature of Acceptance"; and shall be effective until the Expiry Date, or any earlier date in the event that the Authority provides Termination notification in accordance with Clause 10, the duration between Effective Date and Expiry Date being the "Term".
- 1.2 The Term may be extended in accordance with the provisions of Clause 14.2 of Schedule 2 herein.

2 Contract Managers

- 2.1 The Contract Managers in post, as at the Effective Date are:
- 2.1.1 for the Authority: Victoria Barker-Smith
- 2.1.2 for the Supplier: _____

3 Contact Details for Notices

- 3.1 Notices served under this Agreement are to be delivered to:
- 3.2 for the Authority: Attention: Helena Powell, Dpty Director Vaccine Digital Services
- 3.3 for the Supplier: _____

4 Escalation and Dispute Resolution Management Levels

- 4.1 The management levels applicable to and escalation process and the Dispute Resolution Procedure are as follows:

Level	Authority representative	Supplier representative
1	Victoria Barker-Smith Commercial Contract Manager	
2	Helena Powell NHS Deputy Director Vaccine Digital Services	
3	Rachel Hope NHS Director Digital Preventative Health	
4	Steve Russell SRO for NHS England Preventative Health Directorate	

5 Order of precedence

- 5.1 Subject to Schedule 4, Clause 1.8, should there be a conflict between any parts of this Agreement, the order of priority for construction purposes shall be:
- 5.1.1 the provisions on the front page of this Agreement, then:
 - 5.1.2 Schedule 1: Key Provisions;
 - 5.1.3 Schedule 5: Service Specification
 - 5.1.4 Schedule 7: Commercial Schedule;
 - 5.1.5 Schedule 2: General Terms and Conditions;
 - 5.1.6 Schedule 3: Information Governance Provisions;
 - 5.1.7 Schedule 4: Definitions and Interpretations;
 - 5.1.8 the order in which all subsequent schedules, if any, appear; and
 - 5.1.9 any other documentation forming part of the Agreement in the date order in which such documentation was created with the most recent documentation taking precedence over older documentation.

6 Change Control Process

- 6.1 Any changes to this Agreement, including to the Services, may only be agreed in accordance with the Contract Variation Process, as set out in Schedule 8.

7 Supplier as Data Processor

- 7.1 The Parties acknowledge that the Authority is the Data Controller and the Supplier is the Data Processor in respect of any Personal Data Processed under this Agreement and that Schedule 3, paragraph 3.2 and the provisions of the Data Protection Protocol under this Agreement, must be complied with by the Parties at all times.

8 Payment profile and Purchase Order

- 8.1 The Supplier acknowledges and agrees that this Agreement is operated as a transactional contract, under which terms the Authority does not provide the Supplier with any guarantee of Service volumes or payments for any other operations that it may undertake.
- 8.2 The payment profile for this Agreement shall be monthly in arrears and in accordance with the fee profile defined in Schedule 7.
- 8.2.1 The Authority shall pay, on a monthly basis in arrears, for the capture and transfer of vaccination data Services delivered, as confirmed delivered ("**Actual Services**") by the monthly reports provided via the NHS Business Services Authority (NHSBSA), save that the Supplier will receive the Commissioning Fee on a monthly basis in arrears, irrespective of the volumes of Actual Services that it has delivered in that preceding month.
- 8.3 The Authority shall issue a Purchase Order to the Supplier in respect of the Services contracted under this Agreement.
- 8.4 The Supplier shall comply with the terms of such Purchase Order as a term of this Agreement. For the avoidance of doubt, the Supplier shall only be entitled to invoice for Services as provided for under this Agreement, and up to the value agreed for each service period, as properly invoiced.

9 Termination for convenience

- 9.1 The Authority may terminate this Agreement by issuing a Termination Notice to the Supplier at any time on 30 days advanced Notice.

10 Right to terminate following a specified number of material breaches

- 10.1 Either Party may terminate this Agreement with immediate effect, by issuing a Termination Notice to the other, if such other Party commits a material breach of this Agreement and in circumstances where it has been served with at least one previous Breach Notice, irrespective of whether the Party named in the breach has remedied the breach in accordance with a Remedial Plan or not.

Schedule 2

General Terms and Conditions

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1 Provision of Services

- 1.1 The Authority appoints the Supplier and the Supplier agrees to provide the Services:
 - 1.1.1 promptly and in any event within any time limits as may be set out in this Agreement;
 - 1.1.2 in accordance with all other provisions of this Agreement;
 - 1.1.3 with reasonable skill and care and in accordance with the clinical, technical and performance standards as set out in the Key Provisions and Schedules 5 and 6;
 - 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.
- 1.2 In complying with its obligations under this Agreement, 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.
- 1.3 The Agreement shall be effective on the Parties on and from the Effective Date as defined within the main terms of this Agreement.
- 1.4 The Supplier shall commence delivery of the Services to Service Recipients on and from the Commencement Date, which date shall be defined by the Authority and agreed by the Parties and subject to the Supplier passing the technical and clinical assurances within the timescales required by the Authority for each vaccination campaign respectively.
- 1.5 The Supplier shall comply fully with its obligations set out herein, including without limitation those key performance indicators (KPIs), as set-out in Schedule 6.
- 1.6 The Supplier shall ensure that all relevant consents, registrations, authorisations, licenses and accreditations required to provide the Services are in place at the Effective Date, are maintained throughout the Term and shall continue to maintain these throughout the Term. The Supplier shall notify the Authority forthwith in writing of any changes or any other matters relating to such consents, registrations, authorisations, licenses and accreditations that would affect the delivery or the quality of its Services.
- 1.7 The Supplier shall notify the Authority forthwith in writing of:
 - 1.7.1 any pending audit or inspection of the Services, or any part of them, immediately upon the Supplier becoming aware of such inspection or audit; and
 - 1.7.2 any failure of the Services, or any part of them, to meet the quality standards required by any regulatory body, promptly and in any event within two (2) Business Days of the Supplier becoming aware of any such failure.
 - 1.7.3 This obligation shall include without limitation provision of 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 or audit of the Services, or any part of them, the Supplier shall provide the Authority with a copy of any report or other communication published or otherwise provided to it by the relevant regulatory body in relation to the Services.
- 1.9 Upon receipt of Notice pursuant to Schedule 2, Clause 1.7 or any report or communication pursuant to Schedule 2, Clause 1.8, the Authority shall be entitled to request further information from the Supplier and/or a meeting with the Supplier, and the Supplier shall cooperate fully with any such request.
- 1.10 Where applicable, the Supplier shall implement and comply with the Policies on reporting and responding to all incidents and accidents, including any "High Severity Service Incidents" (HSSI), requiring investigation; and shall:
 - 1.10.1 complete the Authority's incident and accident forms in accordance with the Policies, providing reasonable support and information as requested by the Authority to help the Authority resolve any Services incident or accident.
 - 1.10.2 ensure that the Supplier's Contract Manager informs the Authority's Contract Manager in writing:
 - (i) immediately upon becoming aware that any HSSI incidents requiring investigation and/or notifiable accidents have occurred; or
 - (ii) within forty-eight (48) hours of all other incidents and/or accidents that have or may have an impact on the Services.
- 1.11 Should the Authority believe, acting reasonably, that the Supplier can no longer provide the Services, then without prejudice to the Authority's rights and remedies under this Agreement, the Authority shall be entitled to exercise its right to Termination for convenience.
- 1.12 The Supplier shall be relieved of its obligations under this Agreement to the extent that it is prevented from complying with any such obligations due to any acts, omissions or defaults caused by the Authority.
 - 1.12.1 For such relief to apply, the Supplier must notify the Authority promptly (and in any event within five (5) Business Days) in writing, of the occurrence of such act, omission, or default of the Authority, together with an explanation of the impact on the Supplier's obligations.

2 Delivery Premises

- 2.1 The Authority shall pay for the Services, as specified under Schedule 5, delivered to those Service Recipients, that are under contract to the Authority for provision of vaccination services to the English public from their respective Provider Sites.
 - 2.1.1 For the avoidance of doubt, the Authority shall not pay for any services delivered at premises that are not under contract to the Authority, which cannot be identified by a unique ODS Code or which are not delivering English government and NHS approved vaccine types.
- 2.2 The Authority may increase, reduce or otherwise vary the numbers and locations of Provider Sites in scope of the Programme at any time.
- 2.3 The selection and implementation of any PoC System at any Provider Site shall be solely and independently determined by the Service Recipient, and the Authority shall not apply any advice or influence on any Service Recipient in that respect.
- 2.4 In the event that any Service Recipient chooses the Supplier's PoC System for implementation and operation of the vaccination services at its Provider Site(s), then

the Supplier shall ensure that contract terms exist between it and the respective Service Recipient, providing definition of the data processing, service delivery and performance obligations, in respect of the service levels and key performance indicators, that shall be the same or better than those on the Supplier, as defined herein in Schedules 5 and 6. For the avoidance of doubt, any flow-down will not include the obligations under the defined Service Credit regime.

3 Cooperation with Third-Parties

- 3.1 The Supplier shall, as may be reasonably required by the Authority, cooperate with any other service providers to the Authority and/or any other Third-Parties as may be relevant in the delivery of the Services, upon request by the Authority, and for no additional charge.

4 Staff

- 4.1 Subject to the requirements of this Agreement and any Law, the Supplier shall be entirely responsible for the employment and conditions of service of its Staff. The Supplier shall ensure that all such conditions of employment are consistent with its obligations under this Agreement.
- 4.2 For the avoidance of doubt the laws of TUPE shall not apply under this Agreement

5 Business Continuity and Step-In

- 5.1 The Supplier shall ensure that throughout the Term, its Business Continuity Plan provides for appropriate and sufficient response during any Business Continuity Event with such robust arrangements that are reasonable and proportionate to:
- 5.1.1 the criticality of this Agreement to the Authority; and
 - 5.1.2 the size and scope of the Supplier's Service delivery to Service Recipients.
- 5.2 The Supplier shall test its Business Continuity Plan no less than once every six (6) months, and the Supplier shall promptly provide to the Authority, at the Authority's written request, copies of its Business Continuity Plan.
- 5.3 Should a Business Continuity Event occur at any time, the Supplier shall:
- 5.3.1 confirm to the Authority that it is capable to reasonably continue to provide the Services in accordance with this Agreement during the resolution of such Business Continuity Event, or shall allow step-in of the Authority's chosen alternative service solution after a period of not less than 5-working days, should the Authority determine this measure to be required.
 - 5.3.2 implement and comply with its Business Continuity Plan and provide regular written reports to the Authority on such progress, until resolution of the respective issue is achieved.
- 5.4 Following any Business Continuity Event, the Supplier shall submit Notice that it is once again fully capable to provide the Services in line with this Agreement.
- 5.5 In the event that the Supplier is unable to confirm that it is capable to continue to provide the Services in accordance with Schedule 5 and to the performance standards required under Schedule 6 herein, after a period of 5 Business Days, the Authority reserves the right to step-into the provision of Services at all such affected Provider Sites and until such time as the Authority has satisfied itself that the Supplier is re-assured to fully provide the Services.

6 Authority Obligations

- 6.1 Subject to the Supplier providing the Services in accordance with this Agreement, the Authority will pay the Supplier for the Services in accordance with Clause 8 of the Key Provisions and Schedule 7.
- 6.2 The Authority shall, as appropriate, provide copies of, or otherwise give the Supplier access to any Policies that are relevant to the provision of the Services.
- 6.3 The Authority shall provide the Supplier with any reasonable and proportionate cooperation necessary to enable the Supplier to comply with its obligations under this Agreement.
 - 6.3.1 Subject to the Supplier providing the Authority with not less than five (5) Business Days' written notice of any requirement for its material cooperation eg. allocation of specific resource, specific (eg delayed) assurance support, audit access etc.

7 Contract Management and Governance

- 7.1 Each Party shall appoint and retain in service, throughout the Term, a Contract Manager who shall be the primary point of contact for the other Party in relation to matters arising from this Agreement.
- 7.2 The Supplier confirms and agrees that it will be expected to cooperate fully with all reasonable requests and instructions made on it by the Authority's Contract Manager.
- 7.3 In the event that either Party's Contract Manager is replaced, that Party shall promptly inform the other Party in writing of the name and contact details of the new Contract Manager.
- 7.4 Any Contract Manager appointed shall be of sufficient seniority and experience to be able to make decisions on the day-to-day operations of the Agreement.
- 7.5 Each Party shall ensure that it complies with attendance at the monthly service management meetings, which shall be attended by (as a minimum) the following roles to be appointed by each of the Parties:
 - 7.5.1 Contract Manager
 - 7.5.2 Finance Manager
 - 7.5.3 Service Delivery Manager
 - 7.5.4 The Parties shall ensure that those attending such meetings have appropriate knowledge and/or seniority to comment on and make decisions regarding the day-to-day delivery, service performance (including any incidents raised), commercial operations and financial status of the Agreement.
- 7.6 On a monthly basis, no less than 3 Business Days prior to each governance review meeting, the Supplier shall provide to the Authority, the required "Monthly Service Pack", that shall include (as a minimum and non-exclusively) the following service delivery, commercial operation and performance records in respect of the previous month's Service Period:
 - 7.6.1 Problem records

- 7.6.2 Incident records
 - 7.6.3 Vaccination Event volumes (being the number of Vaccination Events and type of vaccine delivered) recorded by the Supplier's PoC System
 - 7.6.4 Vaccinations Service Instance Register (listing all Provider Sites serviced by the Supplier's PoC System in that Service Period) – template provided in Schedule 5, Annex B.
 - 7.6.5 Dormancy/deactivation Report (listing all Provider Sites put into dormant status or deactivated by the Supplier in the previous Service Period)
 - 7.6.6 Details of the performance of the Supplier when assessed in accordance with the KPIs, defined in Schedule 6;
 - 7.6.7 Details of any complaint or query (for which a service ticket has been generated) however arising in the past Service Period, from any Authority Body and/or any Service Recipients, their nature and the way in which the Supplier has responded to such complaint;
 - 7.6.8 A status report in relation to the implementation of any current Remedial Plans by either Party (as may be appropriate); and
 - 7.6.9 any other information as may reasonably be requested by the Authority.
- 7.7 Additionally, the Supplier shall provide any service management information that the Authority may request from time to time and within five (5) Business Days of the date of such request.
- 7.7.1 The Supplier shall supply the management information to the Authority in such form as may be specified by the Authority.
 - 7.7.2 Where requested to do so by the Authority, the Supplier shall also provide any requested management information to any other Authority Body whose role it is to analyse such management information in accordance with UK government Policies (eg. for the purposes of analysing public sector expenditure and planning future procurement activities etc).
 - 7.7.3 The Supplier confirms and agrees that the Authority may itself provide any Authority Body with any management information relating to the Supplier, its Services, any payments made under this Agreement, and any other information relevant to the operation of this Agreement from time to time.
- 7.8 In respect of provision of such management information (either supplied by the Supplier to the Authority and/or any Authority Body, or by the Authority to the Authority Body), the Parties hereby consent to the:
- 7.8.1 storage and analysis of any such management information; and
 - 7.8.2 sharing of such management information or any statistics produced using that management information and/or combined with any other information, with any other Authority Body.
- 7.9 If the Supplier deems any part of such management information to be subject to obligations of confidence under this Agreement, then it shall inform the Authority in writing and it will be agreed between the Parties that any Authority Body recipient of such management information will be informed of the confidential nature of that information and instructed not to disclose it to any further party that is not an Authority Body (unless required to do so by Law).

- 7.10 The Authority may make changes to the type of management information which the Supplier is required to supply at any time and shall give the Supplier at least one (1) month's written notice of any such changes.

8 Price and Payment

- 8.1 The Contract Price shall be calculated as set out in the Commercial Schedule 7.
- 8.2 Unless otherwise stated in the Commercial Schedule the Contract Price shall:
- 8.2.1 be payable in respect of the monthly Commissioning Fee, from the Effective Date;
 - 8.2.2 be payable in respect of any Active Site License Fees, from the Commencement Date;
 - 8.2.3 remain fixed according to the pricing defined under Commercial Schedule 7, for the duration of the Term; and
 - 8.2.4 is the entire price payable by the Authority to the Supplier in respect of the Services and includes, without limitation, any royalties, license 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.
- 8.3 Unless stated otherwise in the Commercial Schedule:
- 8.3.1 The payment profile for this Agreement is monthly in arrears; accordingly, the Supplier shall:
 - (i) invoice the Authority, within fourteen (14) days of the end of each calendar month, the Contract Price in respect of the Services provided in compliance with this Agreement in the preceding Billing Period; or
 - (ii) provide such Backing Data as defined in part (2) of Schedule 7 in order that the invoice shall be considered complete and valid.
 - 8.3.2 Each invoice shall be addressed to the individual and/or entity, as identified by the Authority. Invoices sent incorrectly addressed will not be deemed validly issued to. Or received by the Authority.
 - 8.3.3 The Contract Price is defined exclusive of VAT, which, if properly chargeable, the Authority shall pay at the prevailing rate subject to receipt from the Supplier of a valid and accurate VAT invoice. Such VAT invoices shall show the VAT calculations as a separate line item.
- 8.4 The Authority shall verify and pay each valid and undisputed invoice received in accordance with Clause 8.3 of this Schedule 2 within thirty (30) days of receipt of such invoice. If there is undue delay in verifying the invoice in accordance with this Clause 8.4 of this Schedule 2, the invoice shall be regarded as valid and undisputed after a period of not less than 30-days has passed.
- 8.5 Where the Authority raises a query with respect to an invoice, the Parties shall promptly 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 the Dispute Resolution Procedure. For the avoidance of doubt, the Authority shall not be in breach

of any of any of its payment obligations under this Agreement in relation to any queried or disputed invoice sums unless the process referred to in this Clause 8.5 of this Schedule 2 has been followed and it has been determined that the queried or disputed invoice amount is properly due to the Supplier and the Authority has then failed to pay such sum within a reasonable period following such determination.

- 8.6 The Supplier shall pay to the 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 Schedule 6 (Performance Criteria).
- 8.7 The Authority reserves the right to set-off:
- 8.7.1 any monies due to the Supplier from the Authority as against any monies due to the Authority from the Supplier under this Agreement; and
 - 8.7.2 any monies due to the Authority from the Supplier as against any monies due to the Supplier from the Authority under this Agreement.
- 8.8 Where the Authority is entitled to receive any sums (including, without limitation, any Service Credits, costs, charges or expenses) from the Supplier under this Agreement, the Authority may invoice the Supplier for such sums at any time. Such invoices shall be paid by the Supplier within 30 days of the date of such invoice.
- 8.9 If a Party fails to pay any undisputed sum properly due to the other Party under this Agreement, 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.

9 Warranties

- 9.1 The Supplier warrants and undertakes that:
- 9.1.1 it has, and shall ensure its Staff has, and shall maintain throughout the Term, all appropriate licenses and required registrations with the relevant bodies to fulfil its obligations under this Agreement;
 - 9.1.2 it has all rights, consents, authorisations, licenses and accreditations required to provide the Services and shall maintain such consents, authorisations, licenses and accreditations throughout the Term;
 - 9.1.3 it has and shall maintain a properly documented system of quality controls and processes covering all aspects of its obligations under this Agreement and/or under Law and/or Guidance and shall at all times comply with such quality controls and processes;
 - 9.1.4 it shall not make any significant changes to its system of quality controls and processes in relation to the Services without notifying the Authority in writing at least twenty-one (21) calendar days in advance of such change (such Notice to include the full details of the changes to be made and the consequences which will or may follow such change being implemented);
 - 9.1.5 where any act of the Supplier requires the notification to and/or approval by any regulatory or other competent body in accordance with any Law and Guidance, the Supplier shall comply fully with such notification and/or approval requirements;
 - 9.1.6 receipt of the Services by or on behalf of the Authority and use of the PoC System or of any other item or information supplied or made available to

- the Authority as part of the Services will not infringe any Third-Party rights, to include without limitation any Intellectual Property Rights;
- 9.1.7 it will comply with all Law, Guidance, Policies and the Supplier Code of Conduct in so far as is relevant to the provision of the Services;
- 9.1.8 it will provide the Services using reasonable skill and care and in accordance with Good Industry Practice and shall fulfil all requirements of this Agreement using appropriately skilled, trained and experienced staff;
- 9.1.9 unless otherwise set out in the Schedule 5: Service Specification 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;
- 9.1.10 without limitation to the generality of Clause 9.1.7 of this Schedule 2, it shall comply with all health and safety processes, requirements safeguards, controls, and training obligations in accordance with its own operational procedures, Law, Guidance, Policies, Good Industry Practice, the requirements of the Service Specification (Schedule 5) and any Notices or instructions given to the Supplier by the Authority and/or any competent body, as relevant to the provision of the Services and the Supplier's access to the Provider Sites in accordance with this Agreement;
- 9.1.11 without prejudice to any specific notification requirements set out in this Agreement, it will promptly notify the Authority of any health and safety hazard which has arisen, or the Supplier is aware may arise, in connection with the performance of the Services and take such steps as are reasonably necessary to ensure the health and safety of persons likely to be affected by such hazards;
- 9.1.12 any equipment it uses in the provision of the Services shall comply with all relevant Law and Guidance, be fit for its intended purpose and maintained fully in accordance with the manufacturer's specification and shall remain the Supplier's risk and responsibility at all times;
- 9.1.13 unless otherwise confirmed by the Authority in writing (to include, without limitation, as part of Schedule 5), it will ensure that any products purchased by the Supplier partially or wholly for the purposes of providing the Services will comply with requirements five (5) to eight (8), as set out in Annex 1 of the Cabinet Office Procurement Policy Note - Implementing Article 6 of the Energy Efficiency Directive (Action Note 07/14 3rd June 2014), to the extent such requirements apply to the relevant products being purchased;
- 9.1.14 it shall use Good Industry Practice to ensure that any information and communications technology systems and/or related hardware and/or software it uses are free from corrupt data, viruses, worms and any other computer programs or code which might cause harm or disruption to the Authority's information and communications technology systems and/or any Service Recipients;
- 9.1.15 it shall: (i) comply with all relevant Law and Guidance and shall use Good Industry Practice to ensure that there is no slavery or human trafficking in its supply chains; and (ii) notify the Authority immediately if it becomes aware of any actual or suspected incidents of slavery or human trafficking in its supply chains;

- 9.1.16 it shall at all times conduct its business in a manner that is consistent with any anti-slavery Policy of the Authority and shall provide to the Authority any reports or other information that the Authority may request as evidence of the Supplier's compliance with this Clause 9.1.16 and/or as may be requested or otherwise required by the Authority in accordance with its anti-slavery Policy;
 - 9.1.17 it will fully and promptly respond to all requests for information and/or requests for answers to questions regarding this Agreement, the provision of the Services, any complaints and any Disputes at the frequency, in the timeframes and in the format as requested by the Authority from time to time (acting reasonably);
 - 9.1.18 all information included within the Supplier's responses to requirements and/or questionnaires issued by the Authority as part of the procurement relating to the award of this Agreement and all accompanying documents and materials, is accurate;
 - 9.1.19 it has the right and authority to enter into this Agreement and that it has the capability and capacity to fulfil its obligations under this Agreement;
 - 9.1.20 it is a properly constituted entity and it is fully empowered by the terms of its constitutional documents to enter into and to carry out its obligations under this Agreement and the documents referred to in this Agreement;
 - 9.1.21 all necessary actions to authorise the execution of and performance of its obligations under this Agreement have been taken before such execution;
 - 9.1.22 there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition, business or operations of the Supplier;
 - 9.1.23 there are no material agreements existing to which the Supplier is a party which prevent the Supplier from entering into or complying with this Agreement;
 - 9.1.24 it has and will continue to have the capacity, funding and cash flow to meet all its obligations under this Agreement; and
 - 9.1.25 it has satisfied itself as to the nature and extent of the risks assumed by it under this Agreement and has gathered all information necessary to evaluate the same, and perform its obligations under this Agreement.
- 9.2 The Supplier warrants that all information, data and other records and documents required by the Authority, as set out in the Schedules 5 (Service Specification), 6 (Performance Parameters) and 7 (Commercial Schedule), shall be submitted to the Authority in the format and in accordance with any timescales defined.
- 9.3 Without prejudice to the generality of Clause 9.2 above, the Supplier acknowledges that a failure by the Supplier following the Effective Date to submit accurate invoices and other information on time to the Authority may result in the commissioner of health services, or other entity responsible for reimbursing costs to the Authority, delaying or failing to make relevant payments to the Authority. Accordingly, the Supplier warrants that, from the Effective Date, it shall submit accurate invoices and other information on time to the Authority.
- 9.4 The Supplier warrants and undertakes to the Authority that it shall comply with any eProcurement Guidance as it may apply to the Supplier and shall carry out all reasonable acts required of the Supplier to enable the Authority to comply with such eProcurement Guidance.

- 9.5 The Supplier warrants and undertakes to the Authority that, as at the Effective Date, it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance. If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:
- 9.5.1 notify the Authority in writing of such fact within five (5) Business Days of its occurrence; and
 - 9.5.2 promptly provide to the Authority:
 - (i) details of the steps which the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
 - (ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.
- 9.6 The Supplier further warrants and undertakes to the Authority that it will inform the Authority in writing immediately upon becoming aware that any of the warranties set out in Clause 9 of this Schedule 2 have been breached or there is a risk that any warranties may be breached.
- 9.7 Any warranties provided under this Agreement are both independent and cumulative and may be enforced independently or collectively at the sole discretion of the enforcing Party.

10 Intellectual Property

- 10.1 The Supplier warrants and undertakes to the Authority that either it owns or is entitled to use and will continue to own or be entitled to use all Intellectual Property Rights used in the development and provision of the Services and/or necessary to give effect to the Services and/or to use any deliverables, matter or any other output supplied to the Authority as part of the Services.
- 10.2 Unless specified otherwise in the Key Provisions and/or in Schedule 5, the Supplier hereby grants to the Authority, for the life of the use by the Authority of any deliverables, material or any other output supplied to the Authority in any format as part of the Services, an irrevocable, royalty-free, non-exclusive licence to use, modify, adapt or enhance such items in the course of the Authority's normal business operations. For the avoidance of doubt, unless specified otherwise in the Key Provisions and/or in Schedule 5, the Authority shall have no rights to commercially exploit (e.g. by selling to Third-Parties) any deliverables, matter or any other output supplied to the Authority in any format as part of the Services.

11 Indemnity

- 11.1 The Supplier shall be liable to the Authority for, and shall indemnify and keep the Authority indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings in respect of:
- 11.1.1 any injury or allegation of injury to any person, including injury resulting in death;
 - 11.1.2 any loss of or damage to property (whether real or personal);
 - 11.1.3 any breach of Clause 9.1.6 and/or Clause 10 of this Schedule 2; and/or

- 11.1.4 any failure by the Supplier to commence the delivery of the Services by the Services Effective Date;

that arise or result from Supplier's negligent acts or omissions or breach of contract in connection with the performance of this Agreement including 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 instructions by the Authority.

- 11.2 Liability under Clause 11.1.1 of this Schedule 2 and Clause 3.6 of Schedule 3 shall be unlimited. Liability under Clause 11.1.3 of this Schedule 2 shall be subject to the limitation of liability set out in Clause 12 of this Schedule 2.
- 11.3 In relation to all Third-Party claims against the Authority, which are the subject of any indemnity given by the Supplier under this Agreement, the Authority shall use its reasonable endeavours, upon a written request from the Supplier, to transfer the conduct of such claims to the Supplier unless restricted from doing so. Such restrictions may include, without limitation, any restrictions:
- 11.3.1 relating to any legal, regulatory, governance, information governance, or confidentiality obligations on the Authority; and/or
 - 11.3.2 relating to the Authority's membership of any indemnity and/or risk pooling arrangements.
- 11.4 Such transfer shall be subject to the Parties agreeing appropriate terms for such conduct of the Third-Party claim by the Supplier (to include, without limitation, the right of the Authority to be informed and consulted on ongoing conduct of the claim following such transfer and reasonable cooperation required by the Supplier from the Authority).

12 Limitation of Liability

- 12.1 Nothing in this Agreement shall exclude or restrict the liability of either Party:
- 12.1.1 for death or personal injury resulting from its negligence;
 - 12.1.2 for fraud or fraudulent misrepresentation; or
 - 12.1.3 in any other circumstances where liability may not be limited or excluded under any applicable law.
- 12.2 Subject to Clauses 11.2, 12.1, 12.3 and 12.4 of this Schedule 2, the total liability of each Party to the other under or in connection with this Agreement whether arising in contract, tort, negligence, breach of statutory duty or otherwise shall be limited in aggregate to the greater of: (a) one million GBP (£1,000,000); or (b) one hundred and twenty five percent (125%) of the total Contract Price paid or payable by the Authority to the Supplier for the Services.
- 12.3 There shall be no right to claim losses, damages and/or other costs and expenses under or in connection with this Agreement whether arising in contract (to include, without limitation, under any relevant indemnity), tort, negligence, breach of statutory duty or otherwise to the extent that any losses, damages and/or other costs and expenses claimed are in respect of loss of production, loss of business opportunity, actual or perceived, or are in respect of indirect loss of any nature suffered or alleged.
- 12.4 For the avoidance of doubt, without limitation, the Parties agree that for the purposes of this Agreement the following costs, expenses and/or loss of income shall be directly recoverable losses (to include under any relevant indemnity) provided such costs, expenses and/or loss of income are properly evidenced by the Authority and relate to:

- 12.4.1 extra costs incurred purchasing replacement or alternative services;
 - 12.4.2 costs associated with advising, screening, testing, treating, retreating or otherwise providing healthcare to Data Subjects (as patients);
 - 12.4.3 the costs of extra management time; and/or
 - 12.4.4 loss of income due to an inability to provide health care services,
- 12.5 In each case only to the extent that 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 Agreement.
- 12.6 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 Agreement.
- 12.7 Clause 12 of this Schedule 2 shall survive the Expiry of or earlier termination, for any reason, of this Agreement.

13 Insurance

- 13.1 Subject to Clauses 13.2 and 13.3 of this Schedule 2 and unless otherwise confirmed in writing by the Authority, as a minimum level of protection, the Supplier shall put in place and/or maintain in force at its own cost with a reputable commercial insurer, insurance arrangements in respect of employer's liability, public liability and professional indemnity in accordance with Good Industry Practice with the minimum cover per claim of the greater of one million pounds (£1,000,000) or any sum as required by Law unless otherwise agreed with the 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.
- 13.2 Without limitation to any insurance arrangements as required by Law, the Supplier shall put in place and/or maintain the different types and/or levels of indemnity arrangements explicitly required by the Authority, if specified in the Key Provisions.
- 13.3 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 13.1 and 13.2 of this Schedule 2 on condition that such self-insurance arrangements offer the appropriate levels of protection and are approved by the Authority in writing prior to the Effective Date.
- 13.4 The amount of any indemnity cover, and/or self-insurance arrangements shall not relieve the Supplier of any liabilities under this Agreement. 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 Agreement. 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.
- 13.5 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.
- 13.6 The Supplier shall from time to time and in any event within five (5) Business Days of written demand provide documentary evidence to the Authority that insurance arrangements taken out by the Supplier pursuant to Clause 13 of this Schedule 2 and

the Key Provisions are fully maintained and that any premiums on them and/or contributions in respect of them (if any) are fully paid.

- 13.7 Upon the Expiry or earlier termination of this Agreement, the Supplier shall ensure that any ongoing liability it has or may have arising out of this Agreement shall continue to be the subject of appropriate indemnity arrangements for the period of twenty-one (21) years from termination or Expiry of this Agreement or until such earlier date as that liability may reasonably be considered to have ceased to exist.

14 Term and Termination

- 14.1 This Agreement shall commence on the Effective Date and, unless terminated earlier in accordance with the terms of this Agreement or the general law, shall continue until the end of the Term.
- 14.2 The Services shall commence on the Commencement Date but only in the event that the Supplier has been fully qualified under the Authority's assurance process to provide the Services.
- 14.3 The Authority shall be entitled to extend the Term on one occasion, by giving the Supplier Notice no less than one (1) months prior to the date on which this Agreement would otherwise have expired, provided that any such extension shall not extend the Term past twenty-four (24) months total duration.
- 14.4 In the case of a breach of any of the terms of this Agreement (including Supplier's non-compliance with any "MUST" criteria of the PoC Specification) by either Party that is capable of remedy (including, without limitation any breach of any KPI and, subject to Clause 8.5 of this Schedule 2, or any breach of any payment obligations under this Agreement), the non-breaching Party may, without prejudice to its other rights and remedies under this Agreement, issue a Breach Notice.
- 14.5 The Party in breach shall be allowed the opportunity to remedy such breach in the first instance via a defined plan to be put forward by the Party in breach, the "**Remedial Plan**", before the other Party may exercise any right to terminate this Agreement in accordance with Clause 14.7 of this Schedule 2.
- 14.6 Such Remedial Plan must be agreed with the non-breaching Party (such agreement not to be unreasonably withheld or delayed) and must be implemented by the Party in breach in accordance with the timescales defined and agreed in that Remedial Plan. Once agreed, any changes to a Remedial Plan must be approved by both Parties in writing.
- 14.7 Any failure by the Party in breach to:
- 14.7.1 put forward and agree a Remedial Plan 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;
 - 14.7.2 comply with such Remedial Plan (including, without limitation, as to its timescales for implementation, which shall not exceed thirty (30) days unless otherwise agreed between the Parties); and/or
 - 14.7.3 remedy the default or breach notwithstanding the implementation of such Remedial Plan in accordance with the agreed timescales for implementation,

shall be deemed, for the purposes of Clause 14.8.2 of this Schedule 2, a material breach of this Agreement by the Party in breach, if not remedied in accordance with an agreed Remedial Plan.

- 14.8 Either Party may terminate this Agreement by issuing a Termination Notice to the other Party if such other Party commits a material breach of any of the terms of this Agreement which is:
- 14.8.1 not capable of remedy; or
 - 14.8.2 in the case of a breach capable of remedy, which is not remedied in accordance with a Remedial Plan.
- 14.9 The Authority may terminate this Agreement with immediate effect, by issuing a Termination Notice to the Supplier if:
- 14.9.1 the Supplier does not commence delivery of the Services by the agreed Commencement Date, save in the event that any delay to such date resulting from any Authority delay to the PoC System assurance process;
 - 14.9.2 the Supplier, or any Third-Party guaranteeing the obligations of the Supplier under this Agreement, ceases or threatens to cease carrying on its business; suspends making payments on any of its debts or announces an intention to do so; is, or is deemed for the purposes of any Law to be, unable to pay its debts as they fall due or insolvent; enters into or proposes any composition, assignment or arrangement with its creditors generally; takes any step or suffers any step to be taken in relation to its winding-up, dissolution, administration (whether out of court or otherwise) or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) otherwise than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation; has a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed (in each case, whether out of court or otherwise) in respect of it or any of its assets; has any security over any of its assets enforced; or any analogous procedure or step is taken in any jurisdiction;
 - 14.9.3 the Supplier undergoes a change of control within the meaning of sections 450 and 451 of the Corporation Tax Act 2010 (other than for an intra-group change of control) without the prior written consent of the Authority and the Authority shall be entitled to withhold such consent if, in the reasonable opinion of the Authority, the proposed change of control will have a material impact on the performance of this Agreement or the reputation of the Authority;
 - 14.9.4 the Supplier purports to assign, Sub-contract, novate, create a trust in or otherwise transfer or dispose of this Agreement in breach of Clause 26.1 of this Schedule 2;
 - 14.9.5 pursuant to and in accordance with the Key Provisions and Clauses 14.10, 21.8; 23.2; 23.4 and 27.2 of this Schedule 2; or
 - 14.9.6 the warranty given by the Supplier pursuant to Clause 9.5 of this Schedule 2 is materially untrue, the Supplier commits a material breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance as required by Clause 9.5 of this Schedule 2, or the Supplier fails to provide details of proposed mitigating factors as required by Clause 9.5 of this Schedule 2 that in the reasonable opinion of the Authority are acceptable.

- 14.10 If the Authority, acting reasonably, has good cause to believe that there has been a material deterioration in the financial circumstances of the Supplier and/or any Third-Party guaranteeing the obligations of the Supplier under this Agreement and/or any material Sub-contractor of the Supplier when compared to any information provided to and/or assessed by the Authority as part of any procurement process or other due diligence leading to the award of this Agreement to the Supplier or the entering into a Sub-contract by the Supplier, the following process shall apply:
- 14.10.1 the Authority may (but shall not be obliged to) give notice to the Supplier requesting adequate financial or other security and/or assurances for due performance of its material obligations under this Agreement on such reasonable and proportionate terms as the Authority may require within a reasonable time period as specified in such notice,
 - 14.10.2 a failure or refusal by the Supplier to provide the financial or other security and/or assurances requested in accordance with Clause 14.10 of this Schedule 2 in accordance with any reasonable timescales specified in any such notice issued by the Authority shall be deemed a breach of this Agreement by the Supplier and shall be referred to and resolved in accordance with the Dispute Resolution Procedure; and
 - 14.10.3 a failure to resolve such breach in accordance with such Dispute Resolution Procedure by the end of the escalation stage of such process shall entitle, but shall not compel, the Authority to terminate this Agreement in accordance with Clause 14.8.1 of this Schedule 2.
- 14.11 In order that the Authority may act reasonably in exercising its discretion in accordance with Clause 14.10 of this Schedule 2, the Supplier shall provide the Authority with such reasonable and proportionate up-to-date financial or other information relating to the Supplier or any relevant Third-Party entity upon request.
- 14.12 The Authority may terminate this Agreement by issuing a Termination Notice to the Supplier where:
- 14.12.1 the Agreement has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure;
 - 14.12.2 the Authority has become aware that the Supplier should have been excluded under Regulation 57(1) or (2) of the Public Contracts Regulations 2015 from the procurement procedure leading to the award of this Agreement;
 - 14.12.3 the Agreement 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
 - 14.12.4 there has been a failure by the Supplier and/or one its Sub-contractors to comply with legal obligations in the fields of environmental, social or labour Law. Where the failure to comply with legal obligations in the fields of environmental, social or labour Law is a failure by one of the Supplier's Sub-contractors, the Authority may request the replacement of such Sub-contractor and the Supplier shall comply with such request as an alternative to the Authority terminating this Agreement.
- 14.13 If the Authority novates this Agreement to any body that is not a Authority Body, from the effective date of such novation, the rights of the Authority to terminate this Agreement in accordance with Clause 14.9.2 of this Schedule 2 shall be deemed mutual termination rights and the Supplier may terminate this Agreement by issuing a

Termination Notice to the entity assuming the position of the Authority if any of the circumstances referred to in such Clauses apply to the entity assuming the position of the Authority.

- 14.14 Within three (3) months of the Effective Date the Supplier shall develop and agree an Exit Plan with the Authority, consistent with the Service Specification and the Clause 22 (Records Management) requirements for data retention and return, which shall also ensure continuity of the Services on Expiry or earlier termination of this Agreement.
- 14.14.1 The Supplier shall provide the Authority with the first draft of the Exit Plan within one (1) month of the Effective Date.
- 14.14.2 The Parties shall review and, as appropriate, update the Exit Plan on each anniversary of the Effective Date of this Agreement.
- 14.15 If the Parties cannot agree an Exit Plan in accordance with the timescales set out in Clause 14.14 above (such agreement not to be unreasonably withheld or delayed), such failure to agree shall be deemed a Dispute, which shall be referred to and resolved in accordance with the Dispute Resolution Procedure.

15 Consequences of Expiry or Early Termination

- 15.1 Upon Expiry or earlier termination of this Agreement, the Authority agrees to pay the Supplier for the Services which have been completed by the Supplier in accordance with this Agreement prior to Expiry or earlier termination of this Agreement.
- 15.2 Immediately following Expiry or earlier termination of this Agreement and/or in accordance with any timescales as set out in the agreed Exit Plan:
- 15.2.1 the Supplier shall comply with its obligations under any agreed Exit Plan;
- 15.2.2 all data, excluding Supplier Personal Data, documents and records (whether stored electronically or otherwise) relating in whole or in part to the Services, including without limitation relating to Data Subjects, and all other items provided on loan or otherwise to the Supplier by the Authority shall be delivered by the Supplier to the Authority provided that the Supplier shall be entitled to keep copies to the extent that: (a) the content does not relate solely to the Services; (b) the Supplier is required by Law and/or Guidance to keep copies; or (c) the Supplier was in possession of such data, documents and records prior to the Date; and
- 15.2.3 any Personal Data Processed by the Supplier on behalf of the Authority shall be returned to the Authority or destroyed in accordance with the relevant provisions of the Data Protection Protocol.
- 15.3 As a consequence of Termination, however so that may arise, the Supplier shall retain a full copy of all data relating to its provision of the Services in compliance with the requirements and term as set out in Clause 22.1 of this Schedule 2. The Contract Price paid to the Supplier is deemed to have covered any Supplier cost of Service shutdown, offboarding of any Service Recipients, and creation of Service data copy for retention.
- 15.4 The Supplier shall cooperate fully with the 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 Agreement. This cooperation shall extend to providing access to all information relevant to the operation of this Agreement, as reasonably required by the Authority to achieve a fair and transparent re-procurement and/or an effective transition without disruption to routine operational requirements.

- 15.5 Immediately upon Expiry or earlier termination of this Agreement any licence or lease entered into in accordance with the Key Provisions shall automatically terminate.
- 15.6 The Expiry or earlier termination of this Agreement for whatever reason shall not affect any rights or obligations of either Party which accrued prior to such Expiry or earlier termination.
- 15.7 The Expiry or earlier termination of this Agreement shall not affect any obligations which expressly or by implication are intended to come into or continue in force on or after such Expiry or earlier termination.

16 Complaints and Queries

- 16.1 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.
- 16.2 Each Party shall inform the other of all complaints from or on behalf of Data Subjects, Service Recipients 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.

17 Sustainable Development

- 17.1 The Supplier shall comply in all material respects with applicable environmental and social and labour Law requirements in force from time to time in relation to the Services. Where the provisions of any such Law are implemented by the use of voluntary agreements, the Supplier shall comply with such agreements as if they were incorporated into English law subject to those voluntary agreements being cited in Schedule 5. Without prejudice to the generality of the foregoing, the Supplier shall:
- 17.1.1 comply with all Policies and/or procedures and requirements set out in the Schedule 5: Service Specification, in relation to any stated environmental and social and labour requirements, characteristics and impacts of the Services and the Supplier's supply chain;
 - 17.1.2 maintain relevant policy statements documenting the Supplier's significant labour, social and environmental aspects as relevant to the Services being provided and as proportionate to the nature and scale of the Supplier's business operations; and
 - 17.1.3 maintain plans and procedures that support the commitments made as part of the Supplier's significant labour, social and environmental policies, as referred to, at Clause 17.1.2 of this Schedule 2.
- 17.2 The Supplier shall meet all reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of Schedule 2, Clause 17.

18 Electronic Information

- 18.1 Where requested by the Authority, the Supplier shall provide the Authority the Services Information in such manner and upon such media as agreed between the Supplier and the Authority from time to time for the sole use by the Authority.
- 18.2 The Supplier warrants that the Services Information is complete and accurate as at the date upon which it is delivered to the Authority and that the Services Information shall not contain any data or statement which gives rise to any liability on the part of the Authority following publication of the same in accordance with this Clause 18 of Schedule 2.

- 18.3 If the Services Information ceases to be complete and/or accurate, the Supplier shall promptly notify the Authority in writing of any modification or addition to or any inaccuracy or omission in its respective Services Information.
- 18.4 The Supplier grants the Authority a perpetual, non-exclusive, royalty free licence to use and exploit the Services Information and any Intellectual Property Rights in the Services Information for the purpose of illustrating the range of goods and services (including, without limitation, the Services) available pursuant to the Authority's contracts from time to time. Subject to Clause 18.5 of this Schedule 2, no obligation to illustrate or advertise the Services Information is imposed on the Authority, as a consequence of the licence conferred by this Clause 18.4 of Schedule 2.
- 18.5 The Authority may reproduce for its sole use the Services Information provided by the Supplier in the Authority's services catalogue from time to time which may be made available on any NHS communications networks in electronic format and/or made available on the Authority's external website and/or made available on other digital media from time to time in respect of each vaccine type and respective preventative health/vaccination campaigns.
- 18.6 Before any publication of the Services Information (electronic or otherwise) is made by the Authority, the Authority will submit a copy of the relevant sections of the Authority's services catalogue to the Supplier for approval, such approval not to be unreasonably withheld or delayed. For the avoidance of doubt the Supplier shall have no right to compel the Authority to exhibit its Services Information in any services catalogue as a result of the approval given by it pursuant to this Clause 18.6 of this Schedule 2 or otherwise under the terms of this Agreement.
- 18.7 If requested in writing by the Authority, and to the extent not already agreed as part of the Services Specification, the Supplier and the Authority shall discuss and seek to agree in good faith arrangements to use any electronic finance system (ie Tradeshift for management of invoices and payments).

19 Change Management

- 19.1 The Supplier acknowledges and agrees that the Authority's requirements for the Services may change during the Term and the Supplier shall not unreasonably withhold or delay its consent to any reasonable variation or addition to this Agreement, as may be requested by the Authority from time to time.
- 19.2 Subject to Clause 19.3 of this Schedule 2, any change to the Services or other variation to this Agreement shall only be binding once it has been agreed in accordance with the Change Control Process; has been made in writing and signed by an authorised representative of both Parties.
- 19.3 Any change to the Data Protection Protocol shall be made in accordance with the relevant provisions of that protocol.

20 Dispute Resolution

- 20.1 In the event that any Dispute arises out of the Agreement, either Party may serve a Dispute Notice on the other Party to commence formal resolution of the Dispute. The Dispute Notice shall set out:
- 20.1.1 the material particulars of the Dispute; and
 - 20.1.2 the reasons why the Party serving the Dispute Notice believes the Dispute has arisen.

- 20.2 During any Dispute, including a Dispute as to the validity of the Agreement, it is agreed that the Supplier shall continue its performance of the provisions of the Agreement (unless the Authority requests in writing that the Supplier does not do so).
- 20.3 The Parties agree to operate the process for Dispute management in accordance with Schedule 9 (Dispute Management Procedures) to the Agreement.
- 20.4 Nothing in this Agreement shall prevent:
- 20.4.1 the Authority taking action in any court in relation to any death or personal injury arising or allegedly arising in connection with the provision of the Services; or
 - 20.4.2 either Party seeking from any court any interim or provisional relief that may be necessary to protect the rights or property of that Party or that relates to the safety of Data Subjects and other service Users or the security of Confidential Information, pending resolution of the relevant Dispute in accordance with the Dispute Resolution Procedure.
- 20.5 Clause 20 of this Schedule 2 shall survive the Expiry of or earlier termination of this Agreement for any reason.

21 Force Majeure

- 21.1 Subject to Clause 21.2 of this Schedule 2 neither Party shall be liable to the other for any failure to perform all or any of its obligations under this Agreement 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.
- 21.2 The Supplier shall only be entitled to rely on a Force Majeure Event and the relief set out in this Clause 21 of Schedule 2 and will not be considered to be in default or liable for breach of any obligations under this Agreement if:
- 21.2.1 the Supplier has fulfilled its obligations pursuant to Clause 5 of this Schedule 2;
 - 21.2.2 the Force Majeure Event does not arise directly or indirectly as a result of any wilful or negligent act or default of the Supplier; and
 - 21.2.3 the Supplier has complied with the procedural requirements set out in Clause 21 of this Schedule 2.
- 21.3 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 Agreement, and to resume the performance of its obligations affected by the Force Majeure Event as soon as practicable.
- 21.4 Where the Force Majeure Event affects the Supplier's ability to perform part of its obligations under the Agreement the Supplier shall fulfil all such contractual obligations that are not so affected and shall not be relieved from its liability to do so.
- 21.5 If either Party is prevented or delayed in the performance of its obligations under this Agreement 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.

- 21.6 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.
- 21.7 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.
- 21.8 If the Supplier is prevented from performance of its obligations as a result of a Force Majeure Event, the Authority may at any time, if the Force Majeure Event is or will subsist for thirty (30) days or more, terminate this Agreement by issuing a Termination Notice to the Supplier.
- 21.9 Following such termination in accordance with Clause 21.8 of this Schedule 2 and subject to Clause 21.10 of this Schedule 2, neither Party shall have any liability to the other.
- 21.10 Any rights and liabilities of either Party which have accrued prior to such termination in accordance with Clause 21.8 of this Schedule 2 shall continue in full force and effect unless otherwise specified in this Agreement.

22 Records Retention and Right of Audit

- 22.1 Subject to any statutory requirement and Clause 22.2 of this Schedule 2, the Supplier shall keep secure and maintain for the Term and for six (6) years afterwards, or such longer period as may be agreed between the Parties, full data and accurate records of all matters relating to this Agreement.
- 22.2 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 Agreement.
- 22.3 In accordance with Clause 15.3 of Schedule 2, upon Termination of this Agreement, the Supplier shall act, in accordance with the agreed Exit Plan, to create and retain a copy of all data relating to the provision of Services for a period of no less than twelve (12) months. Such data should be held securely in the most cost-effective and appropriate solution possible, on a public cloud service.
- 22.3.1 The Authority will pay the Supplier's reasonable and proportionate costs for the retention of such data, in arrears and only where a full inventory of such data and its specific volumes to be stored, along with any other supporting documentation, is provided to the Authority.
- 22.4 In addition, the Supplier shall act promptly and collaboratively to convert and return any such data to the Authority, a Data Controller, upon written request and within no less than three (3) months from the date of that request.
- 22.4.1 The Authority will pay the Supplier's reasonable and proportionate costs for the transfer of such data from the public cloud storage solution to the Authority's designated destination, where the Supplier acts promptly and effectively to discharge this obligation.
- 22.4.2 In the event of any undue delay, lack of cooperation and/or any incomplete data migration performed, the Authority reserves the right not to reimburse the Supplier its costs; which determination shall not absolve the Supplier of its legal obligation to correctly and completely return such data relating

solely to the Services delivered under this Agreement, to the Data Controller, and according to relevant Data Protection Legislation.

- 22.5 The Authority shall have the right to audit the Supplier's compliance with this Agreement. The Supplier shall permit or procure permission for the Authority or its authorised representative, to undertake such audit during normal business hours, having given advance written notice of no less than five (5) Business Days, and give access to any premises and facilities, data stores, books and records reasonably required to audit the Supplier's compliance with its obligations under this Agreement.
- 22.6 Should the Supplier, Sub-contract any of its obligations under this Agreement, the Authority shall have the right to audit and inspect such Third-Party. The Supplier shall procure permission for the Authority or its authorised representative during normal business hours no more than once in any twelve (12) months, having given advance written notice of no less than five (5) Business Days, access to any premises and facilities, books and records used in the performance of the Supplier's obligations under this Agreement that are Sub-contracted to such Third-Party. The Supplier shall cooperate with such audit and inspection and accompany the Authority or its authorised representative if requested.
- 22.7 The Supplier shall grant to the Authority or its authorised representative, such access to those records as they may reasonably require in order to check the Supplier's compliance with this Agreement for the purposes of:
- 22.7.1 the examination and certification of the Authority's accounts; or
 - 22.7.2 any examination pursuant to section 6(1) of the National Audit Act 1983 of the economic efficiency and effectiveness with which the Authority has used its resources.
- 22.8 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 22 of this Schedule 2 does not constitute a requirement or agreement for the examination, certification or inspection of the accounts of the Supplier under sections 6(3)(d) and 6(5) of the National Audit Act 1983.
- 22.9 The Supplier shall provide reasonable cooperation to the Authority, its representatives and any regulatory body in relation to any audit, review, investigation or enquiry carried out in relation to the subject matter of this Agreement.
- 22.10 The Supplier shall provide all reasonable information as may be reasonably requested by the Authority to evidence the Supplier's compliance with the requirements of this Agreement.

23 Conflicts of Interest and Prevention of Fraud

- 23.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Staff are placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the provisions of this Agreement. The Supplier will disclose to the Authority full particulars of any such conflict of interest which may arise.
- 23.2 The Authority reserves the right to terminate this Agreement immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the provisions of this Agreement. The actions of the Authority pursuant

to this Clause 23.2 of this Schedule 2 shall not prejudice or affect any right of action or remedy which shall have accrued or shall subsequently accrue to the Authority.

- 23.3 The Supplier shall take all reasonable steps to prevent Fraud by Staff and the Supplier (including its owners, members and directors). The Supplier shall notify the Authority immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- 23.4 If the Supplier or its Staff commits Fraud the Authority may terminate this Agreement and recover from the Supplier the amount of any direct loss suffered by the Authority resulting from the termination.

24 Equality and Human Rights

24.1 The Supplier shall:

- 24.1.1 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;
 - 24.1.2 in the management of its affairs and the development of its equality and diversity policies, cooperate with the Authority in light of the Authority's obligations to comply with its statutory equality duties whether under the Equality Act 2010 or otherwise. The Supplier shall take such reasonable and proportionate steps as the Authority considers appropriate to promote equality and diversity, including race equality, equality of opportunity for disabled people, gender equality, and equality relating to religion and belief, sexual orientation and age; and
 - 24.1.3 the Supplier shall impose on all its Sub-contractors and suppliers, obligations substantially similar to those imposed on the Supplier by Clause 24 of this Schedule 2.
- 24.2 The Supplier shall meet reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of Schedule 2, Clause 24.

25 Notice

- 25.1 Subject to Schedule 2, Clause 25.2, any notice required to be given by either Party under this Agreement shall be in writing quoting the date of the Agreement and shall be delivered by hand or sent by prepaid first class recorded delivery or by email to the person referred to in the Key Provisions or such other person as one Party may inform the other Party in writing from time to time.
- 25.2 A notice shall be treated as having been received:
 - 25.2.1 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
 - 25.2.2 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
 - 25.2.3 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.

26 Assignment, Novation and Sub-contracting

- 26.1 The Supplier shall not, except where Clause 26.2 of this Schedule 2 applies, assign, Sub-contract, novate, create a trust in, or in any other way dispose of the whole or any part of this Agreement without the prior consent in writing of the Authority such consent not to be unreasonably withheld or delayed. If the Supplier Sub-contracts any of its obligations under this Agreement, every act or omission of the Sub-contractor shall for the purposes of this Agreement be deemed to be the act or omission of the Supplier and the Supplier shall be liable to the Authority as if such act or omission had been committed or omitted by the Supplier itself.
- 26.2 Notwithstanding Clause 26.1 of this Schedule 2, the Supplier may assign to a Third-Party ("Assignee") the right to receive payment of any sums due and owing to the Supplier under this Agreement for which an invoice has been issued. Any assignment under this Clause 26.2 of this Schedule 2 shall be subject to:
- 26.2.1 the deduction of any sums in respect of which the Authority exercises its right of recovery under Clause 8.7 of this Schedule 2;
 - 26.2.2 all related rights of the Authority in relation to the recovery of sums due but unpaid;
 - 26.2.3 the Authority receiving notification of the assignment and the date upon which the assignment becomes effective together with the Assignee's contact information and bank account details to which the Authority shall make payment;
 - 26.2.4 the provisions of Clause 8 of this Schedule 2 continuing to apply in all other respects after the assignment which shall not be amended without the prior written approval of the Authority; and
 - 26.2.5 payment to the Assignee being full and complete satisfaction of the Authority's obligation to pay the relevant sums in accordance with this Agreement.
- 26.3 Any authority given by the Authority for the Supplier to Sub-contract any of its obligations under this Agreement shall not impose any duty on the Authority to enquire as to the competency of any authorised Sub-contractor. The Supplier shall ensure that any authorised Sub-contractor has the appropriate capability and capacity to perform the relevant obligations and that the obligations carried out by such Sub-contractor are fully in accordance with this Agreement.
- 26.4 Where the Supplier enters into a Sub-contract in respect of any of its obligations under this Agreement relating to the provision of the Services, the Supplier shall include provisions in each such Sub-contract, unless otherwise agreed with the Authority in writing, which:
- 26.4.1 contain at least equivalent obligations as set out in this Agreement in relation to the performance of the Services to the extent relevant to such Sub-contracting;
 - 26.4.2 contain at least equivalent obligations as set out in this Agreement in respect of confidentiality, information security, data protection, Intellectual Property Rights, compliance with Law and Guidance and record keeping;

- 26.4.3 contain a prohibition on the Sub-contractor Sub-contracting, assigning or novating any of its rights or obligations under such Sub-contract without the prior written approval of the Authority (such approval not to be unreasonably withheld or delayed);
 - 26.4.4 contain a right for the Authority to take an assignment or novation of the Sub-contract (or part of it) upon Expiry or earlier termination of this Agreement;
 - 26.4.5 requires the Supplier or other party receiving services under that contract to consider and verify invoices under that contract in a timely fashion;
 - 26.4.6 provides that if the Supplier or other party fails to consider and verify an invoice in accordance with Clause 28.4.5 of this Schedule 2, the invoice shall be regarded as valid and undisputed for the purpose of Clause 28.4.7 after a reasonable time has passed;
 - 26.4.7 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;
 - 26.4.8 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;
 - 26.4.9 permitting the Supplier to terminate, or to procure the termination of, the relevant Sub-contract where the Supplier is required to replace such Sub-contractor in accordance with Clause 28.5 of this Schedule 2; and
 - 26.4.10 requires the Sub-contractor to include a clause to the same effect as this Clause 28.4 of this Schedule 2 in any Sub-contract which it awards.
- 26.5 Where the Authority considers that the grounds for exclusion under Regulation 57 of the Public Contracts Regulations 2015 apply to any Sub-contractor, then:
- 26.5.1 if the Authority finds there are compulsory grounds for exclusion, the Supplier shall ensure, or shall procure, that such Sub-contractor is replaced or not appointed; or
 - 26.5.2 if the Authority finds there are non-compulsory grounds for exclusion, the Authority may require the Supplier to ensure, or to procure, that such Sub-contractor is replaced or not appointed and the Supplier shall comply with such a requirement.
- 26.6 The Supplier shall pay any undisputed sums due from it to any Sub-contractor within thirty (30) days of verifying that the invoice is valid and undisputed. Where the Authority pays any of Supplier's valid and undisputed invoices earlier than thirty (30) days from verification, the Supplier shall use its reasonable endeavours to pay its relevant Sub-contractors within a comparable timeframe from verifying that any invoice is valid and undisputed.
- 26.7 The Authority shall upon written request have the right to review any Sub-contract entered into by the Supplier in respect of the provision of the Services and the Supplier shall provide a certified copy of any Sub-contract within five (5) Business Days of the date of a written request from the Authority. For the avoidance of doubt, the Supplier shall have the right to redact any confidential pricing information in relation to such copies of Sub-contracts.

- 26.8 The Authority may at any time transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Agreement or any part of this Agreement and the Supplier warrants that it will carry out all such reasonable further acts required to effect such transfer, assignment, novation, sub-contracting or disposal.
- 26.9 If the Authority novates this Agreement to any body that is not an Authority Body, from the effective date of such novation, the party assuming the position of the Authority shall not further transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Agreement or any part of this Agreement without the prior written consent of the Supplier, such consent not to be unreasonably withheld or delayed by the Supplier.

27 Prohibited Acts

27.1 The Supplier warrants and represents that:

27.1.1 it has not committed any offence under the Bribery Act 2010 or done any of the following ("Prohibited Acts"):

- (i) offered, given or agreed to give any officer or employee of the Authority any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining or performance of this or any other agreement with the Authority or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the Authority; or
- (ii) in connection with this Agreement paid or agreed to pay any commission other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to the Authority; and

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

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

27.2.1 the Authority shall be entitled:

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

27.2.2 any termination under Clause 27.2.1 of this Schedule 2 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Authority; and

27.2.3 notwithstanding the Dispute Resolution Procedure, any Dispute relating:

- (i) to the interpretation of Clause 27 of this Schedule 2; or
 - (ii) to the amount or value of any gift, consideration or commission,
- shall be determined by the Authority, acting reasonably, and the decision shall be final and conclusive.

28 General

- 28.1 Each of the Parties is independent of the other and nothing contained in this Agreement 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 Agreement.
- 28.2 Failure or delay by either Party to exercise an option or right conferred by this Agreement shall not of itself constitute a waiver of such option or right.
- 28.3 The delay or failure by either Party to insist upon the strict performance of any provision, term or condition of this Agreement 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.
- 28.4 Any provision of this Agreement 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 Agreement and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.
- 28.5 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 Agreement 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 Agreement or unless such representation, undertaking or warranty was made fraudulently.
- 28.6 Each Party shall bear its own expenses in relation to the preparation and execution of this Agreement including all costs, legal fees and other expenses so incurred.
- 28.7 The rights and remedies provided in this Agreement are independent, cumulative and not exclusive of any rights or remedies provided by general law, any rights or remedies provided elsewhere under this Agreement or by any other contract or document. In this Clause 28.7 of this Schedule 2, right includes any power, privilege, remedy, or proprietary or security interest.
- 28.8 Unless otherwise expressly stated in this Agreement, a person who is not a party to this Agreement shall have no right to enforce any terms 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 Agreement. No such person shall be entitled to object to or be required to consent to any amendment to the provisions of this Agreement.
- 28.9 This Agreement, any variation in writing signed by an authorised representative of each Party and any document referred to (explicitly or by implication) in this Agreement or any variation to this Agreement, contain the entire understanding between the Supplier and the Authority relating to the Services to the exclusion of all previous agreements,

confirmations and understandings and there are no promises, terms, conditions or obligations whether oral or written, express or implied other than those contained or referred to in this Agreement. Nothing in this Agreement seeks to exclude either Party's liability for Fraud. Any tender conditions and/or disclaimers set out in the Authority's procurement documentation leading to Contract award, shall form part of this Agreement.

- 28.10 This Agreement, 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.
- 28.11 Subject to Clause 20 of this Schedule 2, the Parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any Dispute or claim that arises out of or in connection with this Agreement or its subject matter.
- 28.12 All written and oral communications and all written material referred to under this Agreement shall be in English.

Schedule 3

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

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

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

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

2 Proprietary Clinical Data:

- 2.1 All data and information relating to or arising from vaccinations, tests or processes either in raw form or aggregate form, supplied to or accessed by, the Supplier or the Supplier's Catalogue Solution(s) including any requirement on the Supplier to

generate, process, store or transmit such data pursuant to this Call Off Agreement and including dashboards and record level data (with or without Data Subject identifiable data) ("Proprietary Clinical Data") shall be treated as Confidential Information by the Supplier, and shall fall within the scope of the restrictions in Clause 22 of the Commercial Standard (in relation to NHS Data as defined in the Commercial Standard) and the restrictions set out in Clause 16.1.2, 16.1.3 and 16.1.4 of the Call Off Terms (in relation to Call Off Ordering Party Data, Personal Data and/or clinical data, care provision data and other Service Recipient related operational data).

- 2.2 Therefore, accordingly and with the exception of meeting the reporting requirements set out in Schedule 5 herein, the Supplier shall not disclose such Proprietary Clinical Data to any party other than the Data Controller (i.e. the relevant Service Recipient) and shall not copy or re-use such Proprietary Clinical Data except as expressly permitted by the Data Controller or applicable law, the Call Off Ordering Party or its authorised agent in order to perform the Services pursuant to this Call Off Agreement.

3 Data protection

- 3.1 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.
- 3.2 Where the Supplier is Processing Personal Data under or in connection with this Agreement, the Parties shall comply with the Data Protection Protocol.
- 3.3 The Supplier and the Authority shall ensure that Personal Data is safeguarded at all times in accordance with the Law, and this obligation will include (if transferred electronically) only transferring Personal Data (a) if essential, having regard to the purpose for which the transfer is conducted; and (b) that is encrypted in accordance with any international data encryption standards for healthcare, and as otherwise required by those standards applicable to the Authority under any Law and Guidance (this includes, data transferred over wireless or wired networks, held on laptops, CDs, memory sticks and tapes).
- 3.4 Where, as a requirement of this Agreement, the Supplier is Processing Personal Data relating to Data Subjects and/or service Users as part of the Services, the Supplier shall:
- 3.4.1 complete and publish an annual information governance assessment using the NHS information governance toolkit;
 - 3.4.2 achieve a minimum level 2 performance against all requirements in the relevant NHS information governance toolkit;
 - 3.4.3 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;

- 3.4.4 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;
 - 3.4.5 put in place and maintain policies that describe individual personal responsibilities for handling Personal Data and apply those policies vigorously;
 - 3.4.6 put in place and maintain a policy that supports its obligations under the NHS Care Records Guarantee (being the rules which govern information held in the NHS Care Records Service, which is the electronic patient/service User record management service providing authorised healthcare professionals access to a Data Subject's integrated electronic care record);
 - 3.4.7 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 Agreement;
 - 3.4.8 where appropriate, have a PoC 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;
 - 3.4.9 at all times comply with any information governance requirements and/or processes as may be set out in Schedule 5; and
 - 3.4.10 comply with any new and/or updated requirements, Guidance and/or Policies notified to the Supplier by the Authority from time to time (acting reasonably) relating to the Processing and/or protection of Personal Data.
- 3.5 Where any Personal Data is Processed by any Sub-contractor of the Supplier in connection with this Agreement, the Supplier shall procure that such Sub-contractor shall comply with the relevant obligations set out in Clause 2 of this Schedule 3, as if such Sub-contractor were the Supplier.
- 3.6 The Supplier shall indemnify and keep the Authority indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings whatsoever or howsoever arising from the Supplier's unlawful or unauthorised Processing, destruction and/or damage to Personal Data in connection with this Agreement.

4 Freedom of Information and Transparency

- 4.1 The Parties acknowledge the duties of Authority 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.
- 4.2 The Supplier shall assist and cooperate with the Authority to enable it to comply with its disclosure obligations under the FOIA, Codes of Practice and Environmental Regulations. The Supplier agrees:
 - 4.2.1 that this Agreement and any recorded information held by the Supplier on the Authority's behalf for the purposes of this Agreement are subject to the

- obligations and commitments of the Authority under the FOIA, Codes of Practice and Environmental Regulations;
- 4.2.2 that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under the FOIA, Codes of Practice and Environmental Regulations is a decision solely for the Authority;
 - 4.2.3 that where the Supplier receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Supplier itself is subject to the FOIA, Codes of Practice and Environmental Regulations it will liaise with the Authority as to the contents of any response before a response to a request is issued and will promptly (and in any event within two (2) Business Days) provide a copy of the request and any response to the Authority;
 - 4.2.4 that where the Supplier receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Supplier is not itself subject to the FOIA, Codes of Practice and Environmental Regulations, it will not respond to that request (unless directed to do so by the Authority) and will promptly (and in any event within two (2) Business Days) transfer the request to the Authority;
 - 4.2.5 that the Authority, acting in accordance with the Codes of Practice issued and revised from time to time under both section 45 of FOIA, and regulation 16 of the Environmental Regulations, may disclose information concerning the Supplier and this Agreement; and
 - 4.2.6 to assist the Authority in responding to a request for information, by processing information or environmental information (as the same are defined in FOIA and the Environmental Regulations) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of FOIA, and providing copies of all information requested by the Authority within five (5) Business Days of that request and without charge.
- 4.3 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 Agreement is not Confidential Information.
 - 4.4 Notwithstanding any other term of this Agreement, the Supplier consents to the publication of this Agreement 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.
 - 4.5 In preparing a copy of this Agreement for publication under Clause 4.4 of this Schedule 3, the Authority may consult with the Supplier to inform decision making regarding any redactions but the final decision in relation to the redaction of information will be at the Authority's absolute discretion.
 - 4.6 The Supplier shall assist and cooperate with the Authority to enable the Authority to publish this Agreement.

- 4.7 Where any information is held by any Sub-contractor of the Supplier in connection with this Agreement, the Supplier shall procure that such Sub-contractor shall comply with the relevant obligations set out in Clause 3 of this Schedule 3, as if such Sub-contractor were the Supplier.

5 Information Security

- 5.1 Without limitation to any other information governance requirements set out in this Schedule 3, the Supplier shall:

5.1.1 notify the Authority forthwith of any information security breaches or near misses (including without limitation any potential or actual breaches of confidentiality or actual information security breaches) in line with the Authority's information governance Policies; and

5.1.2 fully cooperate with any audits or investigations relating to information security and any privacy impact assessments undertaken by the Authority and shall provide full information as may be reasonably requested by the Authority in relation to such audits, investigations and assessments.

- 5.2 Where required in accordance with Schedule 5, the Supplier will ensure that it puts in place and maintains an information security management plan appropriate to this Agreement, 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 UK Data Protection Legislation.

- 5.3 Where required in accordance with Schedule 5, the Supplier shall obtain and maintain certification under the HM Government Cyber Essentials Scheme.

Schedule 4

Definitions and Interpretations

1 Definitions

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

Active Site	means any Provider Site which has recorded at least one Vaccination Event in the Billing Period being invoiced.
Active Site License Fee	means the monthly fees paid per Provider Site actively undertaking vaccination delivery of one or more vaccine types; and applicable on the basis of one or more Vaccination Event occurring at that location in the Billing Period.
Agreement	means the form of contract at the front of this document and all schedules attached to this form of contract;
Authority Body	means any other government health body affiliated with the NHS England; per the meaning given in section 275 of the National Health Service Act 2006, as amended by section 138(2)(c) of Schedule 4, to the Health & Social Care Act 2012;
Billing Period	means the duration of service delivery that is invoiced in arrears; usually a calendar month commencing on the 1 st of the month and ending on the last calendar day of that month; or any earlier date in the event of Service suspension or Termination.
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 Agreement
Business Continuity Event	means any event or issue that could impact on operations of the Supplier and its ability to provide the Services, at any time during the entire Term of the Agreement.
Business Continuity Plan	means the Supplier's plan to provide any interim services or alternative services and to manage the return of operations of its PoC System in the event of the loss of 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;
Codes of Practice	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
Commencement Date	means the date, agreed between the Parties, on which the Supplier actually commences the delivery of the Services to its contracted Service Recipients (that will be solely

	provisional on the Authority confirming that the PoC System has achieve full assurance) and from which date the Active Site License Fees would be payable to the Supplier.
Commercial Schedule	means the document set out at Schedule 7 to this Agreement;
Commissioning Fee	The monthly fixed fee paid in arrears, to the Supplier ensuring that, non-exclusively, the Authority's operational and support requirements; system standards; variation to vaccination models, update of technical and vaccine Templates; and ongoing assurance requirements etc; are met by the Supplier.
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: <ul style="list-style-type: none"> (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 Variation Process	means the process that must be followed by the Parties in order to present, review and agree any change to this Agreement and/or the Services and as defined in Schedule 8
Contracting Authority	means any contracting authority as defined in regulation 3 of the Public Contracts Regulations 2015 (SI 2015/102) (as amended), other than the Authority;
Contract Manager	means for each Party, the individuals specified in the Key Provisions; or such other person notified by a Party to the other Party from time to time in accordance with Clause 7.1 of Schedule 2;
Contract Price	means the price exclusive of VAT that is payable to the Supplier by the Authority for the full and proper performance by the Supplier of the Services and its obligations under the Agreement, as defined in the Commercial Schedule (7);
Data Controller	shall have the same meaning as set out in the UK GDPR;
Data Processor	shall have the same meaning as set out in the UK GDPR;
Data Protection Legislation	means (i) the Data Protection Act 1998 or, from the date it comes into force, the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (ii) the UK GDPR, the Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing Law as

	amended from time to time; and (iii) all applicable Law about the processing of personal data and privacy;
Data Protection Protocol	means the document of that name to be provided to the Supplier by the Authority (and as may be amended from time to time), and which shall append the Schedule 3 herein.
Data Subject	shall have the same meaning as in the UK GDPR and shall be applicable to those members of the public (as patient) attending any Provider Site in order to have its personal and health data recorded in the PoC System, as part of the process to receive the defined vaccine, as a Vaccination Event at that location.
Dispute	means any serious issue, difference or question of interpretation or construction arising out of or in connection with this Agreement, 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 Agreement directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
Dispute Notice	means a written notice of dispute given by one Party to the other, notifying the receiving Party, of the issues perceived by the Party giving notice, such that it wishes to officially raise a Dispute in respect of the Agreement on a specified date and setting out the grounds for such Dispute
Dispute Resolution Procedure	means the process for resolving Disputes as set out in Clause 20 of Schedule 2 or, the process for resolving Disputes as set out in Schedule 9.
Effective Date	means the date on which the Agreement comes into force between the Parties (irrespective of the actual date of signature by either Party), from which date the Commissioning Fee shall be due to the Supplier. The Effective Date does not guarantee the Supplier the ability to deliver the Services to any Service Recipient or receive any Active Site License Fee.
Environmental Regulations	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
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;
Expiry	the “natural” ending of the Term of this Agreement (ie on the Expiry Date, as defined under Key Provisions)
Expiry Date	The specified date on which the Agreement naturally Expires in relation to the Term of this Agreement

Exit Plan	means the document created by the Supplier and agreed between the Parties that shall manage the activities (eg data retention, transfer and/or deletion), Service Recipient and regulatory obligations and all respective timelines, for the off-boarding and exit transition of the Supplier in the event of Expiry or Termination of the Agreement.
Equality Legislation	means 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 Plan	means the Supplier's plan to manage and achieve a structured and compliant termination of its service provision at any or all of those Provider Sites using the Supplier's PoC System, which the Supplier must comply with during the Term and/or in relation to the Expiry Date or early Termination of this Agreement;
FOIA	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
Force Majeure Event	<p>means any event beyond the reasonable control of the Party in question to include, without limitation:</p> <ul style="list-style-type: none"> (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 Agreement; (b) acts of terrorism; (c) flood, storm or other natural disasters; (d) fire; (e) unavailability of public utilities and/or access to transport networks to the extent no diligent supplier could reasonably have planned for such unavailability as part of its business continuity planning; (f) government requisition or impoundment to the extent such requisition or impoundment does not result from any failure by the Supplier to comply with any relevant regulations, laws or procedures (including such laws or regulations relating to the payment of any duties or taxes) and subject to the Supplier having used all reasonable legal means to resist such requisition or impoundment; (g) compliance with any local law or governmental order, rule, regulation or direction applicable outside of England and Wales that could not have been reasonably foreseen;

	<p>(h) industrial action which affects the ability of the Supplier to provide the Services, but which is not confined to the workforce of the Supplier or the workforce of any Sub-contractor of the Supplier; and</p> <p>(i) a failure in the Supplier's and/or Authority's supply chain to the extent that such failure is due to any event suffered by a member of such supply chain, which would also qualify as a Force Majeure Event in accordance with this definition had it been suffered by one of the Parties;</p> <p>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;</p>
Fraud	means any offence under any law in respect of fraud in relation to this Agreement or defrauding or attempting to defraud or conspiring to defraud the government, parliament or any Contracting Authority;
Good Industry Practice	means the exercise of that degree of skill, diligence, prudence, risk management, quality management and foresight which would reasonably and ordinarily be expected from a skilled and experienced service provider engaged in the provision of services similar to the Services under the same or similar circumstances as those applicable to this Agreement, 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 these are published and publicly available or the existence or their contents have been notified to the Supplier by the Authority and/or the Department of Health, 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;
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;
Key Provisions	means those requirements and details, set out in Schedule 1;
KPI	means the key performance indicators, set out in Schedule 6
Law	<p>means any applicable legal requirements including, without limitation,:</p> <p>(a) any applicable statute or proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument as applicable in England and Wales;</p>

	<p>(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);</p> <p>(c) any enforceable community right within the meaning of section 2(1) European Communities Act 1972;</p> <p>(d) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales;</p> <p>(e) requirements set by any regulatory body as applicable in England and Wales;</p> <p>(f) any relevant code of practice as applicable in England and Wales; and</p> <p>(g) any relevant collective agreement and/or international law provisions (to include, without limitation, as referred to in (a) to (f) above);</p>
Losses	all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services) proceedings, demands and charges whether arising under statute, contract or at common law;
NHS/NHSE	means the National Health Service England;
Notice	means any official communication in writing made between the Parties, with address to each Party's representatives as defined under Clause 3 of the Key Provisions.
Occasion of Tax Non-Compliance	<p>means:</p> <p>(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:</p> <p>(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;</p> <p>(ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or</p> <p>(b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a civil penalty for fraud or evasion</p>

ODS Code	means the valid and NHS recognised code that uniquely identifies each contracted Service Recipient engaged to provide vaccination services to the English public
Party	means the Authority or the Supplier as appropriate and Parties means both the Authority and the Supplier;
Personal Data	shall have the same meaning as defined per the UK GDPR;
PoC System	means the Point of Care application owned, hosted, managed and deployed by the Supplier, and made available under contract to the Service Recipients, to use at their Provider Site(s), to record Vaccination Events for all in-scope vaccine types, capturing Data Subject health record Personal Data.
PoC Specification	means either or both of the Point of Care Overall Functional Requirements and Point of Care Overall Non-Functional Requirements, as referenced in Schedule 5, Annex A
Policies	means those strategies, rules and procedures defined and approved by the English government that the Authority is obliged to operate to and as notified to the Supplier from time to time, that the Supplier will be obliged to operate to;
Process/ed (in relation to data)	shall have the same meaning as defined in the UK GDPR. Process and Processing shall be construed accordingly.
Provider Site	means any Community Pharmacy location, and/or satellite vaccination site that has an assigned and unique organisation (“ODS”) code (defined at link https://odsportal.digital.nhs.uk/) that has been Onboarded to the Supplier’s PoC System to record Vaccination Events.
Purchase Order	means the Authority document registering awarded funding to the Supplier, further to the execution of the Agreement.
Remedial Plan	means the plan that a Party in breach shall create to resolve any Service failure, Performance failure and/or PoC System non-compliance etc, which will have clear actions, timeline and milestone deliverables agreed between the Parties.
Service	means those operations, deliverables and performances to be provided by the Supplier in accordance with the Agreement, specifically within Schedules 5 and 6, as may be amended and/or updated in accordance with Schedule 8 of this Agreement from time to time;
Service Credit	means those deductions which may be made in the event of the Supplier failing to deliver the Services in accordance with the KPI’s as defined in Schedule 6 (Performance Parameters)
Service Information	means the description of Supplier’s PoC System and Services offered, which may be included to and/or used to update the Authority’s (online) service catalogue to the market.

Service Period	means the duration over which the Supplier's PoC System provided the Services at any Provider Site, commencing on the first date of operation post Onboarding, usually the 1 st of any month, and ending on the last date of Supplier's operation at that Provider Site.
Service Recipient	means a Community Pharmacy entity contracted by NHS England and identified by a unique ODS Code, to deliver approved vaccinations on behalf of NHSE and which may have multiple Provider Sites under its control.
Service Specification	means the Schedule 5
Staff	means all persons employed or engaged by the Supplier to perform its obligations under this Contract including any Sub-contractors and person employed or engaged by such Sub-contractors;
Subcontractor	means a party, other than the Supplier, that has been engaged under subcontract to support the Supplier in its provision of the Services under this Contract;
Successor	means any 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 Agreement;
Supplier	means the entity engaged to provide the Services, as named on the first page of this Agreement;
Term	means the duration of this Agreement, as set out in the Key Provisions;
Terminate/Termination	Means any early ending of this Agreement, ahead of the Expiry Date, as effected by Termination Notice by either Party.
Termination Notice	means a written notice of termination given by one Party to the other, notifying the receiving Party of intention of the Party giving notice, that it wishes to Terminate this Agreement on a specified date and setting out the grounds for such Termination
Third-Party	means any other entity not under contract to this Agreement;
UK GDPR	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018; being, the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council (GDPR), as amended by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 and The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2020.

Vaccination Event	means the moment when an eligible Data Subject is administered any English government approved vaccine, delivered under NHS mandate, at a Provider Site.
Vaccination Service Instance Register	means the monthly report documenting ODS code, name and location of each Provider Site provided with the Services by the Supplier's PoC System for Vaccination Event recording.
VAT	means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax.

- 1.1 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.
- 1.2 References to any legal entity shall include any body that takes over responsibility for the functions of such entity.
- 1.3 References in this Agreement to a "Schedule", "Appendix", "Paragraph" or to a "Clause" are to schedules, appendices, paragraphs and clauses of this Agreement.
- 1.4 References in this Agreement to a day or to the calculation of time frames are references to a calendar day unless expressly specified as a Business Day.
- 1.5 Unless set out in the Commercial Schedule as a chargeable item and subject to Clause 28.6 of Schedule 2, the Supplier shall bear the cost of complying with its obligations under this Agreement.
- 1.6 The headings are for convenience only and shall not affect the interpretation of this Agreement.
- 1.7 Words denoting the singular shall include the plural and vice versa.
- 1.8 Where a term of this Agreement 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.
- 1.9 Where there is a conflict between the Supplier's responses to the Authority's requirements (the Supplier's responses being set out in Schedule 5), and any other part of this Agreement, such other part of this Agreement shall prevail.
- 1.10 Where a document is required under this Agreement, the Parties may agree in writing that this shall be in electronic format only.
- 1.11 Where there is an obligation on the Authority to procure any course of action from any Third-Party, this shall mean that the Authority shall use its reasonable endeavours to procure such course of action from that Third-Party.
- 1.12 Any guidance notes in grey text do not form part of this Agreement.

- 1.13 Any Breach Notice issued by a Party in connection with this Agreement 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 Agreement shall have the meaning as defined in such Schedule or document.

Schedule 5

Service Specification

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1 Definitions

- 1.1 The following definitions shall apply to this Schedule 5 of the Agreement. If any defined terms appear in this Schedule 5, that are not defined below, they shall have the meaning set out in Schedule 4 (Definitions).

Addenda	means the additional specifications detailing any Authority required change of requirements (including functional and non-functional requirements) to the PoC System and Services, and any new vaccine types and/or updated vaccines.
Admin User	means the employee designated by the Service Recipient as the lead operator of the PoC System, able to create and administer User roles and identities, and provide log-in credentials to such Users, for the purposes of the Services.
Affiliates	
Compliance Date	the specified date(s) by which the PoC System and Services must be compliant against the PoC Specification, Addenda and/or in respect of any other change that the Authority has required, in order to be assured to delivery of the Services.

Incident	Shall mean any operational impact to the Services with varying degrees of severity as described in Schedules 5 and 6
Materials	means the Templates, PoC Specifications, Addenda and any other documentation explicitly designated as a Material from time to time by the Authority.
On/Off-boarding	means the action by the Supplier to add any new Service Recipient and/or new Provider Site(s) onto its PoC System for delivery of the Services, or to remove any Service Recipient and/or Provider Site(s) respectively, which may include action to transition the Service Recipient and/or Provider Site(s) to the Authority's designated solution.
Out of Hours	means those hours not defined under the Support Hours definitions
Performance Parameters	means collectively and separately those measures by which the quality of the Supplier's Services shall be evaluated, and any Service Credits shall be applied.
POC Specification	means the documents detailing the Authority's requirements (including functional and non-functional requirements) of the PoC System's capabilities in order to deliver the Services, as made available by the Authority, online from time to time.
Resolve	means where a total solution or lasting and effective work around has been put in place by the Supplier to ensure that the Service Recipient (and its associated Provider Sites) can use the PoC System materially as intended. Where Resolved / Resolution shall be interpreted accordingly.
Service Credits	means the monetary deductions that the Authority may make from the monthly Contract Price, in accordance with the criteria defined in Schedule 6.
Severity Level	means the designated degree of urgency relating to any issue or query raised, and which will determine the speed with which such issue or query must be addressed and Resolved by the Supplier, in accordance with the parameters defined in Schedule 6
Service Remediation	means the status that the Authority has right to place the Supplier Services into, in the event of non-compliance to the PoC Specification and/or need for rectification of the Services etc. This requires Supplier to use all reasonable efforts to (re)design, (re)code and (re)implement any programming changes required to its PoC System, so that it is brought into substantial conformance with the POC Specification and any Addenda. During such state the Supplier may not offer the Services to any Provider Site, nor receive any Active Service Fees, and it shall provide update to the Authority no less than twice per week until such time as it is agreed that compliance to the PoC Specification and/or any other issue raised has been Resolved.

Support Hours	Means those hours during which the Supplier is expected to actively provide service support to its Service Recipients; further defined as Core Hours and On-Call Hours.
Third-Party Materials	Means the documents, designs and information provided by any Third-Party to either the Supplier or Authority for these Services, over which neither Party shall hold any intellectual property rights
Templates	Means the defined structure of data requirements applicable to each Vaccine Product or Vaccine Type, that the Authority shall publish to the Supplier for commissioning of the Vaccine Types and Vaccine Products that the Supplier wishes to offer in Service
User	Means the employees/partners/locums or sub-contractors of the Service Recipient, authorised by the Service Recipient to conduct Vaccination Events at the Provider Site.
Vaccine Product	Means the different Section 7a vaccines available under Preventative Health services (eg COVID or Flu or RSV etc)
Vaccine Type	Means the different iterations of a Vaccine Product, typically released prior to each planned vaccine campaign.

1.2 By its signature to this Agreement, the Supplier confirms that its PoC System:

- 1.2.1 Is a secure, web-based clinical data collection and communications platform with such service management features, that meet the POC Specification.
- 1.2.2 has encryption levels and system design such that it is appropriately secure for the recording and storing of special category ("Patient Identifiable Data") Data Subject information,
- 1.2.3 as well as capable of transmitting/transferring such Data Subject information, using HSCN connections and NHSmail, and,
- 1.2.4 meets the requirements of the Data Protection Legislation, and other clinical, security and data requirements, as set out in this Agreement, any applicable clinical regulations and the PoC Specification.

2 Licence and Intellectual Property Rights

2.1 Subject to the Authority's rights in the Materials, neither the Authority nor its Agent(s) may:

- 2.1.1 copy the PoC System or merge or incorporate the PoC System (or any part thereof) with or into any other software nor (subject to any rights under any applicable law that cannot be excluded) attempt to disassemble, decompile, translate, modify, adapt or reverse engineer the PoC System; nor lease, rent, assign, transfer, disclose, loan, redistribute, sub-lease, sub-license or create derivative works from the PoC System;
- 2.1.2 use the PoC System in a manner which (in the Supplier's reasonable opinion, acting in good faith) is excessive and/or puts any undue strain on the PoC System; nor
- 2.1.3 use the PoC System or any portion thereof as a component of or a base for products or services prepared for commercial sale, sublicense, lease, access or distribution.

- 2.2 The Supplier shall retain all Intellectual Property Rights in the PoC System and any outputs that may be created in provision of Services (including through any Addenda) under this Agreement. Specifically, the Parties hereby agree and acknowledge that the Authority shall not be entitled to any Intellectual Property Rights in:
 - 2.2.1 the PoC System itself; and/or
 - 2.2.2 any code or software created by the Supplier in delivering the Services under this Agreement (including under any Addenda),
 - 2.2.3 which shall at all times remain the property of the Supplier (and/or its Third-Party licensors).
 - 2.2.4 The Parties agree that the Authority shall retain all Intellectual Property Rights in the Materials of this Agreement.
- 2.3 The Authority hereby grants the Supplier a non-exclusive, sub-licensable, licence for it and its Sub-contractors to use the Materials as necessary in order to properly provide the Services and otherwise fulfil its obligations under this Agreement.
- 2.4 To the extent that any Intellectual Property Rights in the Materials exist and vest in the Supplier, then the Supplier shall hereby (and with full title guarantee by way of present and future assignment):
 - 2.4.1 assign all such Intellectual Property Rights in the Materials (if any) it has, to the Authority (subject to any Third-Party rights in the Third-Party Materials, if any);
 - 2.4.2 waive all moral rights in respect of the use to be made of the Materials under this Agreement to which the Supplier may now or at any future time be entitled under the Copyright, Designs and Patents Act 1988; and
 - 2.4.3 agree that Clauses 10, 11.3 and 12.4, of Schedule 2 apply in relation to the Materials (insofar as the same have been created by the Supplier under this Agreement).

3 PoC System Capabilities and POC Specification

- 3.1 The Authority has published a set of requirements, the PoC Specification, which defines the expected minimum functionality of the PoC Systems, and which the PoC System will be assured against, in order to be approved to deliver the Services at Provider Sites and receive the Contract Price. The current PoC Specifications can be found on-line at the site, defined by the link in Annex A to this Schedule 5.
- 3.2 Where there is any addition or amendment to the PoC Specification, such changes will be managed via the process described in the “Changes to the POC Specification” section defined in this Schedule 5.
- 3.3 The Supplier’s PoC System must meet and be assured to each “MUST” criteria defined in the current PoC Specification, as well as being capable of delivering each “SHOULD” capability, unless the Authority in its sole discretion determines that any specific SHOULD is not applicable to the Supplier’s PoC System, as the criteria is otherwise met.
- 3.4 In the event that the PoC System does not meet any of the defined “MUST” criteria at any time, the Supplier will be considered in breach of this Agreement and the Authority reserves the right to action any of the following service management steps:
 - 3.4.1 to apply Service Credits to the Supplier’s affected invoices accordingly and in line with the Performance Parameters in Schedule 6, and
 - 3.4.2 to place the Supplier in Service Remediation, requiring that a Remedial Plan is created and agreed without delay, or

- 3.4.3 if such breach is not resolved in accordance with any agreed Remedial Plan, to Terminate this Agreement, in accordance with Clause 14 of Schedule 2.

4 Changes to the PoC Specification

- 4.1 The Authority may publish Addenda, information on vaccine types and amended versions of the PoC Specification at any time, throughout the Term of this Agreement.
- 4.2 The final decision as to the content, actual progression and timescales for implementation of any update and/or change to the PoC Specification, shall be at the Authority's sole discretion, acting reasonably.
- 4.3 Any information that the Authority provides to the Supplier will be published only in the format, defined by the Authority. While the Supplier may reasonably ask for clarification, no additional or separate coding, data formatting or individualised specialisations will be undertaken by the Authority.
- 4.4 For the avoidance of doubt, all changes, upgrades and/or updates required to the Suppliers' PoC System, regardless of size or complexity will be compensated solely through the payment of the monthly Commissioning Fee.
- 4.5 Unless otherwise agreed in writing with the Authority, maintenance of its PoC System's compliance against the most up to date published version of the PoC Specification, and its associated Addenda, is a condition on the Supplier for continued engagement to any vaccination campaign and this Agreement.
- 4.6 Upon publication of any updated PoC Specification or Addenda, the Authority shall notify the Supplier in writing of the expected Compliance Date to be met for readiness of any changes and provision of its updated clinical documentation accordingly.
- 4.7 Therefore, in each instance of update or upgrade to the PoC Specification or release of an Addenda, the Supplier shall undertake to provide the Authority with a plan for actioning the necessary developments to its PoC System to meet such Compliance Date and shall further provide weekly updates against that plan to the Authority's appointed delivery teams accordingly.
- 4.8 The Supplier shall act to implement any changes as a result of any update to the PoC Specification and/or Addenda, onto its PoC System and the Services, outside of Service Recipient operational hours, wherever possible, and shall work collaboratively with the Authority's delivery teams to ensure that Services remain Available to the Provider Sites during the Support Hours as a minimum.
- 4.9 The Supplier shall make the Authority aware of any known maintenance or scheduled Service "down-time", as a result of any implementation of any change or update/upgrade to the PoC Specification or Addenda, with no less than 5 Business Days' Notice.
- 4.10 In the event that the Supplier becomes aware of any issue with its PoC System, that would result in it not being able to deliver the Services at any time, it must immediately raise this to the Authority's attention, in writing.
- 4.11 Further to the Authority's publication of any change, update/upgrade to the PoC Specification or Addenda, and in the event that the Supplier either:
- 4.11.1 fails to meet the specified Compliance Date for any update and/or change; or
 - 4.11.2 notifies the Authority that it is unable to meet the specified Compliance Date; or

- 4.11.3 notifies the Authority that it does not intend to comply with the update and/or change (ie being compliant to the most up to date version of the PoC Specification)
- 4.12 then the Authority may in its sole discretion, decide to:
 - 4.12.1 grant the Supplier a waiver or extension of time to update and supply such new/further documents for review under assurance, or
 - 4.12.2 to apply Service Credits to the Supplier's invoice for the affected Billing Period accordingly and in line with the Performance Parameters in Schedule 6, and
 - 4.12.3 to place the Supplier in Service Remediation, requiring that a Remedial Plan is created and agreed without delay, or
 - 4.12.4 if such breach is not resolved in accordance with any agreed Remedial Plan, to Terminate this Agreement, in accordance with Clause 14 of Schedule 2.

5 Clinical Compliance

- 5.1 The Supplier and its PoC System must comply with the digital clinical standards, as defined in the current version of the document called "DCB0129", which can be found on-line via the following web-page link:
 DCB0129: Clinical Risk Management: its Application in the Manufacture of Health IT Systems - NHS England Digital
 and which includes a requirement for Supplier holding a compliant and up-to-date version of the following documents:
 - 5.1.1 Clinical Safety Case Report
 - 5.1.2 Clinical Hazard log
 - 5.1.3 Clinical Risk Management Plan
- 5.2 These documents shall be updated and supplied by the Supplier, to the Authority no later than 2 weeks before any communicated assurance period (ie post any developments, release of Addenda etc) and the agreed Compliance Date.
- 5.3 The Authority retains the right to request a copy of the most up to date versions of these documents at any time.
- 5.4 Where there is a failure to provide the documents defined at Clause 5.1 within the timescales determined by the Authority, then the Authority may in its sole discretion:
 - 5.4.1 grant the Supplier a waiver or extension of time to update and supply such new/further documents for review under assurance, or
 - 5.4.2 to apply Service Credits to the Supplier's invoice for the affected Billing Period accordingly and in line with the Performance Parameters in Schedule 6, and
 - 5.4.3 to place the Supplier in Service Remediation, requiring that a Remedial Plan is created and agreed without delay, or
 - 5.4.4 if such breach is not resolved in accordance with any agreed Remedial Plan, to Terminate this Agreement, in accordance with Clause 14 of Schedule 2.

6 New Vaccine Products and Varied Vaccine Types

- 6.1 In commissioning any new Vaccine Product to its Services, the Supplier must follow the requirements for Clinical Compliance in accordance with Clause 5 of this Schedule

5 and adhere to the different operational assurance processes specific to each new Vaccine Product, according to the requirements determined by NHSE.

- 6.2 The Supplier shall be able to implement a new Vaccine Product, (eg RSV, MMR etc,) to Service within its PoC System, within no longer than 6 weeks of being notified of its release by the Authority. The new vaccine structure shall meet all data and recording requirements as defined within the POC specification, such that it allows for the essential Authority assurance and approval ahead of the Supplier being allowed to offer that Vaccine Product to the Service Recipient marketplace.
- 6.3 Suppliers are expected to self-manage the commissioning and decommissioning of Vaccine Types within existing Vaccine Product structures, as required and indicated by the Authority from time to time.
- 6.4 Suppliers must update the Vaccine Types presented through their PoC Systems, according to the availability and release of new types, in not more than two (2) weeks of such information being published through the Government's Green Book for Immunisation Against Infectious Diseases, which latest copy can be found via the link: <https://www.gov.uk/government/collections/immunisation-against-infectious-disease-the-green-book>
- 6.5 The Authority retains the right to review the PoC System at any time to confirm that the PoC System complies with the latest published version of the Government Green Book recommendations and requirements for each specific Vaccine Product.
- 6.6 In the event that it is found that any POC system does not meet the current Green Book recommendations, the Authority may at their discretion:
 - 6.6.1 grant the Supplier a waiver or extension of time to update and supply such new/further documents for review under assurance, or
 - 6.6.2 to apply Service Credits to the Supplier's invoice for the affected Billing Period accordingly and in line with the Performance Parameters in Schedule 6, and
 - 6.6.3 to place the Supplier in Service Remediation, requiring that a Remedial Plan is created and agreed without delay, or
 - 6.6.4 if such breach is not resolved in accordance with any agreed Remedial Plan, to Terminate this Agreement, in accordance with Clause 14 of Schedule 2.

7 Service Recipients and Onboarding

- 7.1 The Supplier should note that Service Recipients are free to select and engage their preferred PoC System from any on the list of assured Suppliers (which can be found at link: Point of Care - NHS Digital) and the Supplier shall provide its PoC System equally for all Service Recipients. Equally, the Authority shall not act to influence such choice or engagement, save that it shall have the right to remove any such Supplier from the list, that does not meet the Clinical or Service or System requirements. The Supplier shall provide its PoC System equally for all Service Recipients.
- 7.2 When Onboarding new Service Recipients, the Supplier must use the existing ODS Codes, where these are already available, and the Authority has confirmed that they are in compliance.
- 7.3 The Supplier shall record, and maintain, all required details of all Service Recipients to which it provides the Services, under this Agreement, through a month-end provision of the "Vaccinations Service Instance Register" (a template for this is provided in Annex B to this Schedule 5), which it shall provide at the monthly service meeting as well as publish via email to england.poconboarding@nhs.net.

- 7.4 The Supplier shall be obliged to provide an up-to-date copy of the Vaccinations Service Instance Register in advance of each monthly service management meeting, as further defined under Clause 7 of Schedule 2.
- 7.5 Recognising that in times of scaling ahead of any new vaccination campaign there may be a large turn-around of Service Recipients, the Supplier will have the operational facility and its PoC System, the ability to bulk On/Offboard Service Recipients in accordance with the respective Performance Parameters, defined in Schedule 6.

8 PoC System Users

- 8.1 For each Service Recipient Onboarded to the Supplier's Services, the Supplier shall provide the following facilities to the Service Recipient Users:
 - 8.1.1 create an Admin User role for the Service Recipient defined "lead" User, providing username, password and a six-letter security code to allow access to the PoC System via the Service Recipient's own internet or HSCN connection, as a minimum.
 - 8.1.2 provide training and training manuals for such Admin User on the functions and requirements of the PoC System to allow for correct and successful entry of Vaccination Event data.
 - 8.1.3 provide the ability for each such Admin User to create and administer any additional User identities and passwords that it may require.
 - 8.1.4 provide any additional training and/or support to other Users at the Service Recipient as may be required from time to time.
 - 8.1.5 In the event that Supplier has questions regarding Service Recipient Onboarding, it may raise these via the Authority link: england.poconboarding@nhs.net.

9 The PoC System Vaccination Event Reporting, Data Quality and Data Access

- 9.1 Service data, Personal Data, and special category/health Personal Data will be collected by the PoC System, by the User inputting Vaccination Events to the specific Vaccine Type Templates. Therefore, it is essential that:
 - 9.1.1 The Supplier accurately integrates the Templates for each campaign to its PoC System in a timely manner to allow for assurance by the Authority ahead of any vaccination campaign, and in order that the Supplier will be able to partake in that campaign. Failure to achieve this in time, may result in the Supplier being suspended from engagement in that specific vaccination campaign.
 - 9.1.2 The PoC System User interface has capabilities to monitor and manage Accuracy for the data sent to the Authority and Authority Bodies, in accordance with the data quality thresholds defined by the Authority, as listed in Schedule 6. The Authority reserves the right to undertake an evaluation of the Supplier's PoC System data accuracy, on no less than a quarterly basis.
 - 9.1.3 Wherever such evaluation shows that the data quality does not meet the defined required thresholds, the Authority will consider the individual use cases in respect of the specific data elements affected, and may at their discretion:
 - 9.1.4 grant the Supplier a waiver of data quality issues, or
 - 9.1.5 raise a breach of Services in accordance with clause 14 of Schedule 2, requiring the Supplier to follow a Remedial Plan, and/or

- 9.1.6 suspend the Supplier's right to provide the Services to any Service Recipient until such time as its data Accuracy issues are Resolved to its satisfaction., which may include obligation to Off-board any affected Service Recipients to an alternative solution accordingly.

10 Data Extraction and Transmission

- 10.1 The required data (as confirmed by the Authority) for each Vaccination Event, as recorded by the Service Recipient, shall be transmitted by the Supplier on a daily basis, in a secure and automated manner by the PoC System to the following Authority recipient destinations:
- 10.1.1 NHSE Data Processing Service (DPS); and
 - 10.1.2 respective Data Subject's GP and/or
 - 10.1.3 NHSE Patient Database Service (PDS) if that is requested by the Authority.
 - 10.1.4 The Supplier shall therefore have in place, from the Commencement Date, the ability to share all required captured data, by either data transmission, via the Authority's specific Application Programming Interface (API), called the "IMS FHIR API" or by data extraction, via provision of a Comma Separated Value (.CSV) file. In any event, the Supplier acknowledges and agrees that in order to continue to receive the Contract Price under this Agreement, it will perform any and all required developments such that its PoC System is integrated to the IMS FHIR API by no later than 1st July 2025.
 - 10.1.5 For CSV files, a file extract will be generated in accordance with the data requirements and PoC Specification, to be sent to the Authority (or approved nominee) on a daily basis and by the cut-off times defined in the current PoC Overall Functional Specification, which current, up to date version can be found at the following link:
<https://digital.nhs.uk/developer/api-catalogue/vaccination>
- 10.2 In the event of transmission by .CSV file and in all other events where any Data Subject and special category data must be emailed, the Supplier agrees to only communicate such Data Subject and special category data (e.g. patient demographics and NHS numbers) using an nhs.net email address.
- 10.3 Where the supplier does not currently hold such nhs.net email address it must indicate this to the Authority, to allow for provision of one to the Supplier prior to the Commencement Date.
- 10.4 Additionally, the Supplier shall flow all required recorded Vaccination Event data to the Authority Body NHS Business Services Authority (BSA) for management of payment claims by the contracted Service Recipients. To facilitate this, the Supplier shall implement integration between its PoC System and the BSA payment system (MYS)
- 10.5 In the event that the PoC System suffers any outage, such that it is Unavailable to perform transmission of data, via the API or otherwise, then all such data must be sent as soon as the PoC System becomes Available again.
- 10.6 Further to Clause 12 of this Schedule 5, the Supplier shall ensure that in the event of any Service Remediation action, and/or Offboarding of any Service Recipient, that the data pertaining to each Vaccination Event recorded and entered by any Service Recipient shall be available to it, for reporting, onward transfer and/or record update/amendment for a period of not less than 60 Business Days after any such suspension or Offboarding of Services has been completed for that specific Service Recipient and/or Provider Site.

11 Service Support and Support Hours

- 11.1 The Supplier agrees that it will provide the following service management and support facilities as a minimum, as an integral part of the Services:
- 11.1.1 A helpdesk function for the Service Recipient Users, that will allow them to log service issues and queries, and which will provide response and resolution times in line with the requirements defined in Schedule 6 (Performance Criteria) and which must operate over the Core Support Hours as a minimum.
 - 11.1.2 A dedicated generic email address for the Authority, to provide for a single point of contact between the Parties in the event of Service outage.
- 11.2 The Supplier shall provide support for the Services to Service Recipients throughout the Support Hours, as defined below for Core Hours and On Call Hours respectively:
- 11.2.1 **“Core Hours”** are those between 8.00am to 6.00pm Monday to Friday (excluding English bank holidays)
 - 11.2.2 **“On-Call Hours”** are those between 8.00am to 6.00pm on Saturday and Sundays and English bank holiday days.
- and where these Support Hours shall take precedence over any other scheduled support defined in any other contract.
- 11.3 The Supplier acknowledges and agrees that the Service levels for Availability and Severity 1 incidents, as set out under Schedule 6 of this Agreement shall be measured across all Support Hours.
- 11.4 All other Service Levels shall be measured within Core Hours only.
- 11.5 The Supplier shall provide first line support to Users,
- 11.5.1 applying reasonable endeavours to investigate and Resolve any Incident or other issue with the PoC System or Templates
 - 11.5.2 in accordance with the Severity Level (per Schedule 6 definitions) assigned to that specific Incident and/or query by the Supplier,
 - 11.5.3 save that the Authority shall have the right to adjust such Severity Level where in its sole determination such adjustment is required to assure Service delivery to the respective vaccination campaign.
- 11.6 Where the Supplier is unable to Resolve any Incident within the expected times according to Severity Level definitions in Schedule 6, the Supplier will notify the Authority of the issue(s).
- 11.7 The Authority may choose to provide the Supplier with access to its helpdesk system, **“ServiceNow”** allowing the Parties to manage and exchange communications in relation to Incidents within that system. In the event that the Parties do so, they agree that all Incidents should initially be raised to the Supplier for its resolution, in accordance with Clause 11.2 of this Schedule 5, and the ‘clock’ for the purposes of the Supplier’s obligation to Resolve the issue under the Clause 11.3, shall only start ticking once such Notices are received by the Supplier.
- 11.8 If any Service Recipient raises an Incident, complaint or query, to the Authority, then the Authority will:
- 11.8.1 create a ticket in its helpdesk system “ServiceNow” and

- 11.8.2 assign a Severity Level to it according to the parameters defined in Schedule 6 that, in its understanding, best applies to the circumstances of the Incident, acting reasonably and in good faith.
- 11.8.3 provide the ticket number, issue details and the Severity Level, directly to the Supplier for its Resolution.
- 11.9 The Supplier shall then review the Incident and designated Severity Level and notify the Authority if it disagrees with the designation, specifying its reasons why it disagrees. If the Parties do disagree on the assigned Severity Level, then:
 - 11.9.1 the Parties shall use best efforts to Resolve the dispute as soon as possible and, if relevant, in accordance with clause 20 of Schedule 2; and
 - 11.9.2 the Supplier shall manage the Incident on the basis of the Severity Level originally designated by the Authority in accordance with this Clause 11 until such dispute is Resolved. This shall not be deemed to be acceptance of the Severity Level designated by the Authority.
- 11.10 The Parties shall agree to 'stop the clock' only during any period that the Supplier is unable to fulfil its obligations due to a failure on the part of the Authority to discharge its obligations.
- 11.11 If there is no disagreement, the Supplier shall deal with the Incident in accordance with the Performance Parameter assigned to that Severity Level, as defined in Schedule 6.
- 11.12 Any information accessed by the Supplier via the Authority's service desk and/or ServiceNow instance and/or any information inputted into ServiceNow by the Supplier, shall be treated as Confidential Information under this Agreement; and
- 11.13 Information contained in the PoC System may be accessed by any person or organisation providing support and authorised by the Authority. The Authority shall ensure that it complies with its obligations under Schedule 3 of this Agreement in respect of any disclosure of Confidential Information to such Third-Parties.

12 Service Default, Service Remediation and Termination

- 12.1 In the event that the Supplier fails to implement any required change, update/upgrade or Addenda, and/or is found to be non-compliant with the POC Specification without written acknowledgement from the Authority, then the Authority may at its discretion declare the Supplier to be in a state of Service Remediation.
- 12.2 In the event that the Supplier repeatedly fails to implement any required change, and/or is found to continue to be non-compliant with the PoC Specification further to any Service Remediation event, then the Authority may at its discretion, issue a Breach Notice in line with Clause 14.4 of Schedule 2 and may require the Supplier to Off-board its Service Recipients to any Authority designated Successor and create a Remedial Plan for resolution of the issues before the Services can be recommenced.
- 12.3 Should the Supplier still fail to address its compliance to the PoC Specification and/or Service requirements, in a reasonable time, then the Authority may elect to provide Termination Notice to the Supplier in line with Clause 14.8 of Schedule 2.

13 Business Continuity and Disaster Recovery

- 13.1 The Supplier's organisation and the services provided will be underpinned by a robust "**Business Continuity Management System**" (BCMS).
- 13.2 The Supplier shall ensure that the methodology, processes, standards and resources associated to the Business Continuity Management System comply with the relevant provisions of ISO/IEC 22301, ISO/IEC 27001, ISO/IEC 27031, ISO/IEC 22318 and

other relevant industry standards such as the Business Continuity Institute Good Practice Guidelines and ITIL®.

- 13.3 Leadership at top management level and in other relevant management roles will be identified to enable the necessary governance, escalation and direction for the BCMS.
- 13.4 Adequate staffing, facilities and technology resource will be deployed to establish, maintain and improve the organisation's BCMS.
- 13.5 Organisation-wide business impact analysis will be undertaken and maintained to ensure that in the event of disruption, there are defined recovery time and recovery point objectives in place for all activities, including any internal business operations that could impact the continued delivery of services.
- 13.6 The Supplier shall create and maintain a plan to reinstate the Services as soon as possible after any interrupting event, and a plan to recover the overall business (as PoC System) and Services operations in the event of any disaster, the **"Business Continuity and Disaster Recovery (BC/DR) Plan"**.
- 13.7 The BC/DR Plan shall recognise external threats such as those in the National Risk Register and organisation specific threats identified through horizon scanning and internal threat assessments.
- 13.8 The Supplier shall provide a copy of such BC/DR Plan to the Authority, no later than three (3) months after the Effective Date of this Agreement, for its review and approval.
- 13.9 The BC/DR Plan can be developed as a separate or combined BCMS and IT Service Continuity Management (ITSCM) document, but in any case, the documentation must:
 - 13.9.1 include a full description of the Supplier's BCMS and ITSCM programmes, describing the methodology for response and recovery; how the plans will operate and be maintained; how Business Continuity and IT Service Continuity will be tested by the Supplier and how frequently; and, how the plans will deliver the expected recovery targets defined in Schedule 6.
 - 13.9.2 contain identification of potential disaster scenarios, the technical design and specification of the system, backup methodology including details of the data backup and data verification strategy, details of all relevant data networks and communication links, invocation process, service recovery procedures, and steps to be taken upon resumption of the services to address any prevailing effect of the failure or disruption to services.
 - 13.9.3 detail how the Supplier ensures compliance with security standards with compliance maintained throughout any period the BC/DR Plan is invoked.
 - 13.9.4 set out the method of recovering or updating lost data that was collected, or which ought to have been collected, during a failure or disruption to preserve data integrity, and ensure no more than the allowed data loss.
- 13.10 The Supplier shall have established processes to manage and assure supply chain continuity. Any interdependencies between Supplier's supply chain and/or stakeholders, including outside organisations and Third-Parties, will be identified within the BC/DR Plan, with appropriate plans in place to cover disruption to the supply chain.
- 13.11 The Supplier shall ensure that the BC/DR Plan and associated documents are kept up to date and tested (according to a defined schedule, at least annually and whenever a material change is made to the PoC System), to ensure that business continuity and disaster recovery solutions function as designed and meet their objectives.
- 13.12 The Supplier will undertake a business continuity test at least annually in order to validate the effectiveness of its business continuity strategies..

- 13.13 The Supplier will undertake disaster recovery testing at least annually. The testing must demonstrate that, in the event of an Incident impacting Availability, the system can be maintained and recovered within the Recovery Time Objective and that data can be restored within the Recovery Point Objective as defined in Schedule 6.
- 13.14 The Authority may request to witness such tests; and if so requested, the Supplier must comply and provide full access and visibility of the execution of these tests, including access to documentation and the execution of procedures throughout the whole test and the resolution of any issues that occur during the Testing window.
- 13.15 The Supplier shall review and update the BC/DR Plan and the risk analysis on which it is based, on a regular basis, but as a minimum, once every 12 months. Upon update, the BC/DR Plan shall be re-issued to the Authority for its further review and approval.

Schedule 5 - Annex A: Point of Care Requirements Specifications

The current specifications for the Point of Care Overall Functional Requirements and Point of Care Overall Non-Functional Requirements, can be found at the following link:

<https://digital.nhs.uk/developer/api-catalogue/vaccination>

Schedule 5 - Annex B: Vaccine Instance Register Template



Vaccination Service
Instance Register_v2.x

Schedule 6

Service Performance Criteria

1 Performance Parameters

1.1 The following service level measurement parameters shall be applicable in respect of the Supplier's provision of the Services and/or Supplier's PoC System operations:

- 1.1.1 Availability
- 1.1.2 Business Continuity/Disaster Recovery
- 1.1.3 Onboarding
- 1.1.4 Data Quality
- 1.1.5 Service Incident and/or query management

1.2 The Parties agree that any failures to achieve the respective response and/or resolution times, as set out herein, shall not count towards Supplier performance evaluation, nor be included for the purposes of assessing any Service Credits due from the Supplier, in the event that such failure is caused by any of:

- 1.2.1 connectivity (including internet connections) issues at any Provider Site(s);
- 1.2.2 issues with any hardware or software (but excluding the PoC System) being used by any Provider Site(s);
- 1.2.3 issues caused by the actions, omissions or user error of any Users when using the PoC System not in accordance with the terms of this Agreement;
- 1.2.4 any asynchronous PoC System data-calls (e.g. background processes); and/or
- 1.2.5 any planned maintenance that has been notified to, and agreed with the Authority, no less than 5 Business Days prior to its actioning.

1.3 Supplier's compliance with the Performance Parameters, shall be measured during Support Hours for the purposes of calculation of any Service Credits. The Parties agree to 'stop the clock' in respect of measurement of Performance Parameters:

- 1.3.1 outside of the defined Support Hours (i.e. where notification of an Incident sent by the Authority to the Supplier is sent outside of the Support Hours, it shall only be deemed received by the Supplier and with the respective Performance Parameters to be applicable from the next Support Hour period, and
- 1.3.2 during any period where any Incident or query has been put on-hold due to information pending, that is essential to the resolution of such event.

2 Availability

2.1 The Authority will measure the Availability of the Supplier's Services (including the PoC System) where:

- 2.1.1 "Availability" shall be defined as a percentage over the previous Service Period.
- 2.1.2 Availability shall be calculated using Agreed Service Time and Downtime parameters, where:

- (i) The “Agreed Service Time” is the total number of Support Hours expected through any Service Period, and
- (ii) The “Downtime” shall be the number of hours in which the Services and/or PoC System: a) have been out of Service for unscheduled repair, inspection or maintenance, or b) is not functioning under normal conditions (ie there is a business continuity or disaster event) or c) is not operating as expected during the Support Hours and a Severity 1 ticket has been raised against it.

2.2 The Availability measurement will be applied on a monthly basis in arrears, to the previous Service Period, as follows:

$$\text{Availability \%} = (\text{Agreed Service Time} - \text{Downtime}) \div \text{Agreed Service Time}$$

2.3 The Supplier shall structure and manage its PoC System solution and infrastructure in such a manner that it can ensure a 99.9% Availability of the Services to the Service Recipients during the defined Support Hours as a minimum, and Services Credits will become applicable should Availability fall below 99.5% in any one Service Period.

3 Business Continuity / Disaster Recovery

3.1 The Authority will measure Supplier’s response to any business continuity (ie Service interruption) or disaster recovery (ie Service loss) events using the following target measures:

- 3.1.1 Recovery Time Objective (RTO): being the target maximum length of time it should take to restore normal operations following any Services outage or data loss.
- 3.1.2 Recovery Point Objective (RPO): being the target maximum amount of data the Authority can tolerate losing through and following any Services outage.

3.2 The Supplier shall operate the activities under its BC/DR Plan such that the following Performance Parameters for the respective Service recovery targets can be met:

- 3.2.1 RPO: Maximum of 5 minutes data loss; and
- 3.2.2 RTO: Within 4 Support Hours.

4 Onboarding

4.1 In respect of managing the Service Recipients joining or leaving the Services provided through its PoC System, the Supplier shall:

- 4.1.1 act to configure, activate and Onboard each new Service Recipient, contracted to it, without delay but in any event, within no longer than two (2) Business Days of such request to join its Services, being notified to it. The Supplier shall then deliver the corresponding set-up and installation services in accordance with Clause 7 of Schedule 5.
- 4.1.2 be able to bulk On/Offboard Provider Sites, such that, as a minimum it is capable of Onboarding not less than 500 Provider Sites every three (3) Business Days

5 Data Quality

- 5.1 Through daily operations, the Supplier shall use reasonable endeavours to ensure that the time for end-to-end processing of synchronous data calls from its PoC System, made by Users within Service Hours and within the boundaries of the Supplier's data centre will be not more than:
- 5.1.1 60 seconds 98% of the time; and
 - 5.1.2 120 seconds 99.5% of the time.
- 5.2 Once the Supplier has integrated its PoC System to the IMS FHIR API, the Vaccination Event data must be transmitted via this API, to the Authority (or its approved nominated recipient) within no longer than two (2) hours after such Vaccination Event data is first recorded by the User at the Provider Site.
- 5.3 The Supplier shall ensure that for each Vaccination Event, data transmitted to the Authority and Authority Bodies meets data quality for:
- 5.3.1 An Accuracy threshold of no less than 99%
 - (i) Where “**Accuracy**” shall be defined as the degree to which the captured data correctly describes the “real world” Data Subject and Vaccination Event being recorded.
 - 5.3.2 A Completeness threshold of no less than 99.9%
 - (i) Where “**Completeness**” shall be defined as the percentage of data actually populated into the PoC System, as against the possible status of 100% completion of all parameters.
 - 5.3.3 A Consistency threshold of no less than 95%
 - (i) Where “**Consistency**” is defined as how close the data capture d by the PoC System aligns to, or in uniformity with another or a reference dataset; Providing the ability to match data across multiple databases, based on: does the PoC System hold the same a) number of records as comparison NHSE records, b) the same attributes or value for the same data criteria and/or c) holds the same definition for reference data labels as other records systems

6 Service Incident - Severity Levels; Response and Resolution Times

- 6.1 The following Severity Levels shall be applied in respect of all Incidents and queries raised against the Supplier's provision of the Services and/or the Supplier's PoC System operations, whether raised by the Service Recipient or the Authority.

Severity 1	Major Incident	means total or almost total loss of Services, PoC System cannot be used to record Vaccination Events at multiple active Provider Sites. The operational impact is severe, and data is/has been lost.
Severity 2	Severe Incident	means the functionality of the PoC System is severely degraded limiting usability to record Vaccination Events by multiple Users. The operational impact is significant with risk of overall data loss.
Severity 3	Serious Incident	means the PoC System can be used to record Vaccination Events but is not behaving as expected for at least one Service Recipient, is operationally disruptive and risks data loss at affected sites.

Severity 4	Moderate Incident	means the PoC System can be used to record Vaccination Events but is not behaving as expected for at least one Service Recipient. The operational impact is moderate and manageable.
Severity 5	Minor Incident or Query	means the PoC System can be used to record Vaccination Events but is not behaving as expected, for at least one active Provider Site, and the operational impact is minor; or is a query raised.

- 6.2 Supplier shall respond to any Incident or issue raised to it, in accordance with the following defined Severity Levels. For the avoidance of doubt, the Supplier answering a call during On-Call Hours or outside of the defined Service hours shall be deemed to be the Supplier providing the Authority with a response:

Severity Level	Target Response Time Core Hours	Target Response Time On-Call Hours
1	Within 30 minutes	Within 30 minutes
2	Within 30 minutes	Within 30 minutes
3	Within 4 Core Hours	-
4	Within 8 Core Hours	-
5	Within 16 Core Hours	-

- 6.3 Supplier shall use its best endeavours to Resolve to any Incident or issue raised to it, in accordance with the following defined Severity Levels:

Severity Level	Target Resolution Time
1	<ul style="list-style-type: none"> • Within 2 hours if raised within the Support Hours; or • (if raised outside of Support Hours) by the start of the next Support Hours period providing always that the Supplier shall have at least 2 hours to achieve target Resolution.
2	<ul style="list-style-type: none"> • Within 2 hours, if raised within Support Hours; or • (if raised outside of the Support Hours) by the start of the next Core Hours period.
3	<ul style="list-style-type: none"> • Within 8 hours if raised within Support Hours; or • (if raised outside of Support Hours) by the end of the following Core Hours period.
4	Within 16 Core Hours
5	Within 5 Business Days

7 Service Ticket and Problem Management

- 7.1 Where the Supplier requires further information in relation to any Incident, to be provided other parties, the Parties agree to suspend the measurement of the Target Resolution Time (or 'stop the clock') until such time as the Supplier has received such required information.

- 7.2 In respect of each Severity Level 1 or Severity Level 2 Incident raised and registered; the Supplier shall create a record (to be called a “Problem Record”), within 2 Business Days of that Incident being Resolved.
- 7.3 The Problem Record will be used to manage, track and audit the Supplier’s reasonable endeavours to fix or mitigate any underlying issues and/or cause of any Severity 1 or Severity 2 Incident, in their Services and/or PoC System, such that the Incident is precluded from recurring.
- 7.4 The Supplier will act to achieve a resolution to any such Problem Record with the following Performance Parameters
- 7.4.1 Severity 1 Problem Resolution – 30 Business Days
- 7.4.2 Severity 2 Problem Resolution– 60 Business Days

8 Service Credits

- 8.1 In the event that the Supplier fails to meet the Performance Parameter obligations defined under this Agreement, without prejudice to the Authority’s other rights under this Agreement, the Authority shall be entitled to require that the Supplier undertakes the relevant remedial action and/or shall be entitled to claim the corresponding Service Credits, as defined below:

Performance Parameter	Service Credit
Availability	<p>If PoC System Availability is below 99.5% the Performance Parameter level for any one Service Period: then Service Credits equal to 50% of the previous Service Period’s Commissioning Fee shall be deducted from the next invoice.</p> <p>If the Supplier’s performance measures below the Performance Parameter level in two or more consecutive Service Periods, then Service Credits equal to 100% of the previous Service Periods’ Commissioning Fees shall be deducted from the next invoice due.</p>
Business Continuity / Disaster Recovery	<p>If the RTO is greater than 4 Support Hours, then 100% of the Commissioning Fee from the affected Service Period shall be deducted from the next invoice due.</p> <p>If the RPO is:</p> <ul style="list-style-type: none"> greater than 5 minutes but less than 15mins then, 30% of the Active Site Fees of the affected Service Period greater than 15 mins but less than 4 hours then, 60% of the Active Site Fees of the affected Service Period greater than 4hours then, 100% of the Active Site Fees of the affected Service Period <p>shall be deducted from the next invoice due.</p>
Data Quality	<p>If the data captured by the Supplier’s PoC System is:</p> <ul style="list-style-type: none"> Not transferred to the Authority (or its nominated recipient) within 2 hours of its input by the User, after the second Service Period since the Supplier’s successful integration to the IMS FHIR API is completed and assured to service, then the Authority shall have the right to deduct 15% of the Active Service Fees, from each invoice(s) for each affected Service Period(s) <p>If the data captured by the Supplier’s PoC System, for the following parameters:</p> <ul style="list-style-type: none"> Accuracy – falls below 99% in any one Service Period then the Authority will have right to implement a Service Remediation review on Supplier. Should this continue across multiple Service Periods, the Authority shall have right to deduct Service Credits in the value of 20% of the Active Site Fees, from the invoices for each affected Service Period(s)

	<ul style="list-style-type: none"> • Completeness – falls below 99.9% in any one Service Period then the Authority will have right to deduct 10% of the Active Site Fees, as Service Credits from the invoice for the affected Service Period. Should this continue across multiple Service Periods, the Authority shall have right to deduct Service Credits in the value of 25% of the Active Site Fees, from the invoices for each affected Service Period(s) • Consistency - falls below 95% in any one Service Period then the Authority will have right to implement a Service Remediation review on Supplier. Should this continue across multiple Service Periods, the Authority shall have right to deduct Service Credits in the value of 20% of the Active Site Fees, from the invoices for each affected Service Period(s) 										
Incident Management Resolution	<p>For each Service Period, and for each Incident raised in it, of the following Severity Levels, where such Incident is not Resolved within the Performance Parameter, then the following Service Credits may be applied by the Authority:</p> <table border="1"> <tr> <td>1</td><td>25% of the Active Service Fees of the Service Period in which such Incident was first raised and for each Service Period in which the Incident subsequently continues to remain open*</td></tr> <tr> <td>2</td><td>25% of the Active Service Fees of the Service Period in which such Incident was first raised*</td></tr> <tr> <td>3</td><td>10% of the Active Service Fees of the Service Period in which such Incident was first raised*</td></tr> <tr> <td>4</td><td>In the event that the same Incident recurs at this Severity Level repeating over 3 consecutive Service Periods or more, then 10% of the Active Site Fees of the Service Period in which such Incident is raised for the third time*</td></tr> <tr> <td>5</td><td>Authority shall have right to raise a Service Remediation on the Supplier through the monthly contract management meeting, for improvement.</td></tr> </table> <p>* Multiple tickets logged (ie for a Sev 1 or 2) by multiple Provider Sites/sources for the same issue in the same Service Period will be consolidated and counted as one Incident only.</p>	1	25% of the Active Service Fees of the Service Period in which such Incident was first raised and for each Service Period in which the Incident subsequently continues to remain open*	2	25% of the Active Service Fees of the Service Period in which such Incident was first raised*	3	10% of the Active Service Fees of the Service Period in which such Incident was first raised*	4	In the event that the same Incident recurs at this Severity Level repeating over 3 consecutive Service Periods or more, then 10% of the Active Site Fees of the Service Period in which such Incident is raised for the third time*	5	Authority shall have right to raise a Service Remediation on the Supplier through the monthly contract management meeting, for improvement.
1	25% of the Active Service Fees of the Service Period in which such Incident was first raised and for each Service Period in which the Incident subsequently continues to remain open*										
2	25% of the Active Service Fees of the Service Period in which such Incident was first raised*										
3	10% of the Active Service Fees of the Service Period in which such Incident was first raised*										
4	In the event that the same Incident recurs at this Severity Level repeating over 3 consecutive Service Periods or more, then 10% of the Active Site Fees of the Service Period in which such Incident is raised for the third time*										
5	Authority shall have right to raise a Service Remediation on the Supplier through the monthly contract management meeting, for improvement.										
Problem Management Resolution	<p>For each Service Period in which an open Problem Record exists, the Supplier shall provide a written plan of action, update on progress against any agreed plan and any reason that the Problem Record remains unresolved.</p> <p>Should the Supplier fail to resolve the Problem Records for any two or more Severity 1 Incidents, within the 30 Business Day Performance Parameter, over three or more consecutive Service Periods, then the Authority shall have right to deduct Service Credits in the value of 50% of the previous Service Period's Contract Price.</p>										

***Note:** For the avoidance of doubt, whilst the Service Credits set out in the table above are cumulative, the Supplier's total liability for Service Credits due in any one Service Period shall not exceed 100% of the previous Service Period's charges.

Schedule 7

Commercial Schedule

1 Contract Price

- 1.1 In consideration of the Supplier's actions to manage and maintain its PoC System, from the Effective Date the Authority shall pay the Supplier the Commissioning Fee of ten thousand pounds (£10,000), on a monthly basis throughout the Term.
- 1.2 In consideration of the Supplier providing the Services to its contracted Service Recipient(s), the Authority shall pay the Supplier the following monthly Active Site License Fee(s):
- 1.2.1 The sum of thirty pounds (£30) shall be paid for the first vaccine type in delivery at each Service Recipient location (validated by a unique, NHS recognized, ODS code) that has recorded at least one Vaccination Event in the previous Billing Period.
 - 1.2.2 The additional sum of two pounds (£2) shall be paid cumulatively, for each subsequent and additional vaccine type in delivery at each Service Recipient location (validated by an NHSE recognised ODS code) that has recorded at least one Vaccination Event for each additional vaccine type being claimed in the previous Billing Period.
 - (i) e.g.: If the Service Recipient using the Supplier's PoC System for Vaccination Event data capture and flow, delivers at least one Vaccination Event for ANY ONE vaccine type (eg Flu or COVID or RSV etc) in the Billing Period, the Supplier will receive the £30 license fee.
 - (ii) If this Service Recipient, then also delivers at least one Vaccination Event of ONE OTHER vaccine type in the same Billing Period, then the Supplier would receive an additional £2 license fee; bringing its monthly license fee total for that Service Recipient to £32, and
 - (iii) If this same Service Recipient, then also delivers at least one Vaccination Event of ANY third vaccine type in the same Billing Period, then the Supplier would receive a further £2 license fee; bringing its monthly license fee total for that Service Recipient to £34; and so on.

2 Invoicing and Payment Arrangements

- 2.1 The Supplier shall raise an invoice on a monthly basis, for the previous Billing Period, (ie in arrears) providing the following information (the "Backing Data") to substantiate each invoice value, that clearly:
- 2.1.1 Lists, by parent ODS code, all Service Recipients that it has contracted and delivered the Services to.
 - 2.1.2 Defines the number of NEW Vaccination Events recorded during the Billing Period (noting that amendment to any existing Vaccination Event record shall not count as a new Vaccination Event in that Billing Period) by Service Recipient (ie cumulatively across all Provider Sites under that Service Recipient), and
 - 2.1.3 Defines the vaccine type(s) delivered by each Service Recipient, and across all Provider Sites applicable to that Service Recipient.

- 2.2 The fees hereinabove are defined exclusive of VAT and Suppliers should provide invoice to the Authority with inclusion of VAT at the prevailing rate.
- 2.3 The Contract Price defined herein is the full payment contemplated by the Authority for the provision of the Services, as set out in the Agreement, including, for the avoidance of doubt the provision of all updates, changes and support requirements as defined in Schedules 5 and 6 of the Agreement.
- 2.4 Payment shall be made on Supplier submission of monthly invoice in accordance with the terms of Clause 8 of the Key Provisions under the Agreement and subject Supplier's provision of the required Backing Data.

Schedule 8

Contract Variation Process

1. The Authority's Contract Manager shall keep a "Contract Variation Log" which allows for unique internal numbering of any change requests raised.
2. Where a Variation is identified as required, a Change Request Form (Annex A to this Schedule 8) will be generated by the single point of contact (or nominated deputy) (the "Sending Party"). These will be authorised by the nominated Supplier signatory role and/or the Authority signatory role, as appropriate (depending on which Party requests the change).
3. The Change Request Form is then e-mailed by the Sending Party to the other Party's single point of contact for progression (the "Receiving Party").
4. The receipt of the form will be confirmed by the Receiving Party to the Sending Party with details of the internal change request number allocated for use in future enquiries, and indicative timescales for completion of internal review by the Receiving Party.
5. After internal review (including additional associated costs) by the Receiving Party and any joint review required between the Parties the Change Request will either be accepted or rejected by the Receiving Party.
 - 5.1 If the Receiving Party rejects the Change Request, then the Receiving Party shall confirm the reasons for such rejection in writing to the Sending Party.
 - 5.2 If the Receiving Party accepts the Change Request, then any required implementation controls and additional charges shall be agreed between the Parties.
 - 5.3 Where such implementation controls include consequential amendments to this Agreement, then such amendments shall be agreed in writing and signed by both Parties and shall constitute a formal Variation to this Agreement in accordance with Clause 19 of Schedule 2.
6. On completion of implementation of the Change Request the Parties shall agree a date for review of the implementation which will usually be the date of the next Service Management Meeting, but earlier if appropriate and agreed between the Parties.
7. Progress against any outstanding Change Requests will be reported by the relevant Party, at each Service Management Meeting.

Schedule 8-Annex A: Variation of Contract Form

Reference		Date of Issue	
Variation Description			
Variation Number			

Further to the Agreement for the Provision of Services by _____
(the Supplier) to NHS England (the Buyer); the **Authority/Supplier** (*delete as appropriate*) makes the following representation for Variation to the **Agreement/Services** (*delete as appropriate*):

Description of Variation

Reason for Variation

Commercial consequences of Variation

Any effect on other terms and clauses of the Agreement by the Variation

Effective Date of Variation	Commencement Date of Variation

Signature of Acceptance of the Parties			
Name (<i>Authority Representative</i>)	Title (<i>Authority's Representative</i>)	Signature	Date
Name (<i>Supplier's Representative</i>)	Title (<i>Supplier's Representative</i>)	Signature	Date

Schedule 9

Dispute Management Procedures

1 Dispute Process

- 1.1 In the case of a Dispute the Supplier and the Authority shall make every reasonable effort to communicate and cooperate with each other with a view to resolving the Dispute and agree to follow the Dispute Resolution Procedure set out herein.
- 1.2 The Parties shall first seek to resolve any Dispute through escalation in accordance with the management levels as set out in Clause 4 of the Key Provisions to this Agreement.
- 1.3 Following the service of a Dispute Notice the Parties shall first seek to resolve the Dispute by convening a meeting between the Authority's Contract Manager and the Supplier's Contract Manager (together the "**Contract Managers**").
 - 1.3.1 The meeting of the Contract Managers must take place within five (5) Business Days of the date of the Dispute Notice (the "**Dispute Meeting**").
 - 1.3.2 The Contract Managers shall be given five (5) Business Days following the date of such Dispute Meeting to resolve the Dispute; before escalating to the next level should resolution not be achieved.
 - 1.3.3 Respective representatives at each level, shall each have five (5) Business Days, during which they will hold a Dispute Meeting and use their reasonable endeavours to resolve the Dispute before escalating the matter to the next level(s) until all levels have been exhausted.
 - (i) The Contract Managers can agree to further meetings, in addition to the Dispute Meetings at each escalation level, but such meetings must be held within the five (5) Business Day timetable defined for each escalation level.
 - 1.3.4 If at any point it becomes clear that the timetable set out cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the timetable. Any agreed extension to the timetable shall have the effect of delaying the start of the subsequent stages by the period agreed in the extension.
 - 1.3.5 The final level of the escalation process shall be deemed exhausted on the expiry of five (5) Business Days following escalation to the last management level, unless otherwise agreed by the Parties in writing.
- 1.4 If the Dispute Resolution Procedure set out in paragraph 1.2 of this Schedule 9 has been exhausted and fails to resolve the Dispute, either Party may request the Dispute be resolved by way of a binding mediation process (the "**Expert Determination**").
 - 1.4.1 For the avoidance of doubt, the Expert shall determine all matters (including, without limitation, matters of contractual construction and interpretation) in connection with any Dispute referred to such binding Expert Determination and pursuant to paragraph 1.5 of this Schedule 9.
- 1.5 Where any Dispute is referred to Expert Determination, the following process will apply:
 - 1.5.1 The Party wishing to refer the Dispute to Expert Determination shall give notice in writing ("**Notice of Referral**"), to the other Party informing it of its wishes and giving brief details of its position in the Dispute.
 - 1.5.2 The Parties shall attempt to agree upon a single Expert (who must have no connection with the Dispute unless both Parties have consented in writing)

(the “**Expert**”). For the avoidance of doubt, where the Dispute relates to contractual interpretation and construction, the Expert may be Queen’s Counsel.

- 1.5.3 In the event that the Parties fail to agree upon an Expert within ten (10) Business Days following the date of the Notice of Referral (or if the person agreed upon is unable or unwilling to act), the Parties agree that the expert will be nominated and confirmed to be appointed by the Centre for Effective Dispute Resolution.
- 1.5.4 The Expert Determination process must commence within five (5) Business Days of the appointment of the Expert.
- 1.5.5 The Expert must be willing and able to complete the expert determination process within thirty (30) Business Days of the date on which the Parties provide their final representations.
- 1.5.6 The Authority and the Supplier will cooperate with any person appointed as Expert 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.
- 1.5.7 Neither Party will terminate such Expert Determination process until each Party has made its opening presentation and the Expert has met each Party separately for at least one hour or one Party has failed to participate in the Expert Determination process. After this time, either Party may terminate the Expert Determination process by Notice to the other Party.
- 1.5.8 The Expert shall act as an expert not as an arbitrator or legal advisor. There will be no formal hearing and the Expert shall regulate the procedure as he sees fit.
- 1.5.9 The Parties shall each have the right to make written representations to the Expert and will, with reasonable promptness, provide the Expert with such assistance and documents as the Expert reasonably requires for the purpose of reaching a decision. Such representations must be made within twenty-eight (28) Business Days of the Expert being appointed, or fourteen (14) Business Days after the last documents requested by the Expert have been provided to the Expert, whichever is the later (“**Date of Final Representations**”). Any documents provided to the Expert and any correspondence to or from the Expert, including email exchanges, shall be copied to the other Party simultaneously.
- 1.5.10 The Expert shall have the power to open up, review and revise any certificate, opinion, requisition or notice and to determine all matters in Dispute (including his jurisdiction to determine matters that have been referred to him).
- 1.5.11 The Expert may take such advice and assistance from professional advisers or other Third-Parties as he reasonably considers appropriate to enable him to reach a determination of the Dispute and may issue orders that one or both of the Parties are to pay such Third-Party costs, stating the proportion. For the avoidance of doubt, where the Expert is not Queen’s Counsel, and the Expert requires advice or assistance on matters of contractual interpretation and construction, the Expert may take such advice and assistance from a Third-Party Queen’s Counsel of their choosing. 1.5.11. The Parties will pay any such Third-Party costs incurred pursuant to this, in such proportions as the Expert shall order. In the absence of such order such Third-Party costs will be split and paid equally.

- 1.5.12 The Expert shall provide the Parties with a written determination of the Dispute (the "Expert's Decision") within thirty (30) Business Days of the Date of Final Representations, which shall, in the absence of fraud or manifest error, be final and binding on the Parties.
- 1.5.13 The Expert's Decision shall include reasons.
- 1.5.14 The Parties agree to implement the Expert's Decision within five (5) Business Days of the Expert's Decision being provided to them or as otherwise specified as part of the Expert's Decision.
- 1.5.15 The Parties agree that the Expert shall be entitled to proceed to give his binding determination should one or both Parties fail to act in accordance with the procedural timetable set out above.
- 1.5.16 The Parties will pay the Expert's costs in such proportions as the Expert shall determine. In the absence of such determination such costs will be shared equally.
- 1.5.17 The Parties agree to keep confidential all information arising out of or in connection with the expert determination, including details of the underlying Dispute, except where disclosure is required by Law.
- 1.6 Neither Party may commence legal proceedings in relation to any Dispute until the full Dispute Resolution Procedures set out herein have been exhausted. For the avoidance of doubt, either Party may commence legal proceedings to enforce the Expert's Decision.
- 1.7 This Schedule 9 shall survive the Expiry of or earlier termination of this Agreement for any reason.