**DPS Schedule 6 (Order Form and Order Schedules)**

**Order Form**

ORDER REFERENCE: 21\_04\_02

THE BUYER: NHS Business Services Authority

BUYER ADDRESS Stella House, Goldcrest Way, Newcastle upon Tyne, NE15 8NY

THE SUPPLIER: Atos IT Services UK Limited

SUPPLIER ADDRESS:Atos, MidCity Place, 71 High Holborn, London, WC1V 6EA

REGISTRATION NUMBER: 01245534

DUNS NUMBER: 229500657

DPS SUPPLIER REGISTRATION SERVICE ID:N/A

APPLICABLE DPS CONTRACT

This Order Form is for the provision of the Deliverables and dated 5 November 2021.

It’s issued under the DPS Contract with the reference number RM6173 for the provision of Robotic Process Automation (“RPA”) services.

DPS FILTER CATEGORY(IES):

1. **Design (Strategy and Business Transformation)**
   1. Business Strategy and Change Management
   2. Business Case Development
   3. Analytics
   4. Automation Roadmapping
   5. Setting up a Centre of Excellence
2. **Build (Problem Solving and Tech Solutions)**
   1. Business Process Improvement
   2. Process Discovery
   3. Desktop Automation
   4. Robotic Process Automation
   5. Optical Character Recognition
   6. Smart Workflow
   7. Analytics
3. **Live (Resource and Training)**
   1. Time and Materials Resource
   2. Training In-House Capability with Digital Skills
   3. Workforce Training
   4. Coaching

ORDER INCORPORATED TERMS

The following documents are incorporated into this Order Contract. Where numbers are missing we are not using those schedules. If the documents conflict, the following order of precedence applies:

1. This Order Form including the Order Special Terms and Order Special Schedules.
2. Joint Schedule 1 (Definitions and Interpretation) RM6173.
3. The following Schedules in equal order of precedence:

* Joint Schedules for RM6173
  + Joint Schedule 2 (Variation Form)
  + Joint Schedule 3 (Insurance Requirements)
  + Joint Schedule 4 (Commercially Sensitive Information)
  + Joint Schedule 6 (Key Subcontractors)
  + Joint Schedule 7 (Financial Difficulties)
  + Joint Schedule 8 (Guarantee)
  + ~~Joint Schedule 9 (Minimum Standards of Reliability)~~ – Not Used
  + Joint Schedule 10 (Rectification Plan)
  + Joint Schedule 11 (Processing Data)
  + Joint Schedule 12 (Supply Chain Visibility)

* Order Schedules for 21\_04\_02
  + Order Schedule 1 (Transparency Reports)
  + Order Schedule 3 (Continuous Improvement)
  + Order Schedule 5 (Pricing Details)
  + Order Schedule 6 (ICT Services)
  + Order Schedule 7 (Key Supplier Staff)
  + Order Schedule 8 (Business Continuity and Disaster Recovery)
  + Order Schedule 9 (Security)
  + Order Schedule 10 (Exit Management)
  + ~~Order Schedule 11 (Installation Works)~~ – Not Used
  + ~~[Order Schedule 12 (Clustering)~~ – Not Used
  + Order Schedule 13 (Implementation Plan and Testing)
  + Order Schedule 14 (Service Levels)
  + Order Schedule 15 (Order Contract Management)
  + Order Schedule 16 (Benchmarking)
  + ~~Order Schedule 17 (MOD Terms)~~ – Not Used
  + Order Schedule 18 (Background Checks)
  + ~~Order Schedule 19 (Scottish Law)~~ – Not Used
  + Order Schedule 20 (Order Specification)
  + ~~Order Schedule 21 (Northern Ireland Law)~~ – Not Used
  + ~~Order Schedule 22 (Lease Terms)~~ – Not Used

1. CCS Core Terms (DPS version) v1.0.1
2. Joint Schedule 5 (Corporate Social Responsibility) RM6173
3. Order Schedule 4 (Order Tender) as long as any parts of the Order Tender that offer a better commercial position for the Buyer (as decided by the Buyer) take precedence over the documents above.

No other Supplier terms are part of the Order Contract. That includes any terms written on the back of, added to this Order Form, or presented at the time of delivery.

ORDER SPECIAL TERMS

The following Special Terms are incorporated into this Order Contract:

Special Term 1 – Non-exclusivity

The Buyer hereby appoints the Supplier as its non-exclusive provider of RPA services (or any other services) during the Contract Period.

Special Term 2 - Statement of Work definition

The following definition of “Statement of Work” or “SOW” shall be added to Joint Schedule 1 (Definitions): means a document that defines specific activities, deliverables, costs and timelines to be provided by the Supplier in the format set out in Annex A to the Order Form.

Special Term 3 – Statement of Work

Services are to be called-off under this Contract by mutually agreed Statement of Works. For the avoidance of doubt, any terms of a given Statement of Work, as a document incorporated by this Order Form, shall be treated as part of this Order Form.

Special Term 4 – Statement of Work

All Statement of Works must be agreed and executed by the Parties to become effective.

Special Term 5 – Statement of Work

A Statement of Work can add to or vary the terms and conditions of this Contract where it does so expressly.

Special Term 6 - ICT Policy definition

The definition of “ICT Policy” contained in Joint Schedule 1 (Definitions) shall be deleted in its entirety and replaced by the following definition: the Buyer’s policy in respect of information and communications technology, referred to in the Order Form, in force at the Order Start Date, or the policy in respect of information and communications technology of any NHS organisation referred to in a Statement of Works (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure.

Special Term 7 - IPR

Paragraph 9.1.1 of Order Schedule 6 (ICT Services) shall be amended to state as follows: “…..all rights and interests in the Specially Written Software and New IPR together with and including:….”

Special Term 8 – IPR

Paragraph 9.1.1.1 of Order Schedule 6 (ICT Services) shall be amended to include: “New IPR”.

Special Term 9 – IPR

Nothing in this Contract grants the Supplier any rights in the Buyers Software and/or the Buyers System, save for those granted to the Supplier under Paragraph 9.5 of Order Schedule 6 (ICT Services).

Special Term 10 - IPR

For the avoidance of doubt, where the Supplier is instructed under this Contract to work on a system commissioned by another NHS organisation, no rights in the system will be granted to the Supplier save for the provision of a royalty-free, non-exclusive, non-transferable licence during the Contract Period, solely to the extent necessary for providing the Deliverables in accordance with this Contract.

Special Term 11 – IPR

The IPR in any RPA processes created by the Supplier using a tool licensed by the Buyer or created as a result of configuring or modifying (howsoever described) a tool licensed by the Buyer will be assigned by the Supplier to the Buyer with full title guarantee, subject to the terms of any EULA entered into by the Buyer.

Special Term 12 – Thoughtonomy EULA

At the Buyer’s request, the Supplier shall enter into a EULA with Thoughtonomy without delay in respect of use by the Supplier of Thoughtonomy Software for the purpose of providing the Deliverables in accordance with this Contract in a form reasonably required by the Buyer.

Special Term 13 – Other EULAs

The Supplier shall enter into other EULAs in respect of Buyer Software which will be used by the Supplier for the purpose of providing the Deliverables under this Contract during the Contract Period upon request by the Buyer, in the form reasonably required by the Buyer.

Special Term 14 –EULAs

The Supplier will comply with the terms of any EULA which the Supplier enters into in accordance with Special Terms 12 and 13 above.

Special Term 15 - Security Policy definition

The definition of “Security Policy” contained in Joint Schedule 1 (Definitions) shall be deleted in its entirety and replaced by the following definition: the Buyer’s security policy, referred to in the Order Form, in force as at the Order Start Date, or the security policy of any NHS organisation referred to in a Statement of Works (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure.

Special Term 16 – Implementation Plan

Paragraph 2.1 of Order Schedule 13 (Implementation Plan and Testing) Part A shall be deleted in its entirety and replaced by the following: A draft of the Implementation Plan is set out in the Annex to this Schedule. Where a Statement of Work provides that an Implementation Plan is required, the Supplier will provide a draft Implementation Plan within the time period set out in the Statement of Work.

Special Term 17 – Implementation Plan

Paragraph 2.3 of Order Schedule 13 (Implementation Plan and Testing) Part A shall be amended to read as follows: “….If the Parties are unable to agree to the contents of the Implementation Plan within the number of Working Days from its submission as set out in the Statement of Work, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.”

Special Term 18 – Implementation Period

Paragraph 7.1 of Order Schedule 13 (Implementation Plan and Testing) Part A shall be deleted in its entirety and replaced with the following: The Implementation Period will be the time period as set out in the Statement of Work.

Special Term 19 – Test Strategy

Paragraph 3.1 of Order Schedule 13 (Implementation Plan and Testing) Part B shall be deleted in its entirety and replaced by the following: Where provided for in a Statement of Work, the Supplier shall develop the final Test Strategy as soon as is practicable after the SOW Date but in any case within the time period as set out in the Statement of Work.

Special Term 20 – Test Plan

Paragraph 4.1 of Order Schedule 13 (Implementation Plan and Testing) Part B shall be deleted in its entirety and replaced by the following: Where provided for in a Statement of Work, the Supplier shall develop Test Plans and submit these for Approval as soon as practicable but in any case within the number of Working Days as set out in the Statement of Work prior to the start date for the relevant Testing as specified in the Implementation Plan.

Special Term 21 – Test Specification

Paragraph 6.1 of Order Schedule 13 (Implementation Plan and Testing) Part B shall be deleted in its entirety and replaced by the following: Where provided for in a Statement of Work, following approval of a Test Plan, the Supplier shall develop the Test Specification for the relevant Deliverables as soon as reasonably practicable and in any event within the number of Working Days as set out in the Statement of Work prior to the start of the relevant Testing (as specified in the Implementation Plan).

Special Term 22 – Test Report

Paragraph 7.5 of Order Schedule 13 (Implementation Plan and Testing) Part B shall be deleted in its entirety and replaced by the following:

Where provided for in a Statement of Work, the Supplier shall provide the Buyer in relation to each Test:

7.5.1 a draft Test Report prior to the date on which the Test is planned to end within the time period as set out in the Statement of Work; and

7.5.2 the final Test Report prior to completion of the Testing within the time period as set out in the Statement of Work.

Special Term 23 – Project Management

Paragraph 2.1 of Order Schedule 15 (Order Contract Management) shall be deleted in its entirety and replaced by the following: The Supplier and the Buyer shall each appoint a Project Manager for the purposes of each Statement of Work through whom provision of the Services and the deliverables shall be managed day-to-day throughout the duration of the Statement of Work.

Special Term 24 – Relevant Convictions

Paragraph 2 of Order Schedule 18 (Background Checks) shall be amended to read as follows: “Relevant Conviction” means any conviction listed at Annex 1 to this Schedule and any conviction set out in a Statement of Work.

Special Term 25 – Supplier Non-Performance arising from an Authority Cause

Clause 5 of the DPS Core Terms shall be deleted in its entirety and replaced by the following:

5.1 If Supplier Non-Performance arises from an Authority Cause the Supplier will, as soon as is reasonably practicable from becoming aware, provide an estimate of the time and resources needed to rectify the Delivery, including a breakdown of the Supplier’s reasonable additional expenses which will be incurred in rectifying the Delivery.

5.2 Where the Buyer rejects the estimate provided by the Supplier in accordance with Clause 5.1, or the Supplier fails to provide the estimate within 10 Working Days of the Supplier Non-Performance, the Buyer may terminate the Contract under Clause 10.4.1.

5.3 Where the Contract is terminated pursuant to Clause 5.2, Clause 10.5.1 shall not apply and the Supplier will be entitled to reasonable and proven additional expenses incurred as a result of the Authority Cause up to the date of the Termination Notice and to relief from Delay Payments, liability and Deduction under this Contract directly resulting from the Authority Cause.

5.4 Where the Buyer accepts estimate provided by the Supplier in accordance with Clause 5.1:

* + 1. Neither CCS or the Buyer can terminate the Contract under Clause 10.4.1;
    2. the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract, providing that the Supplier has taken all reasonable steps to keep costs within the estimate provided to the Buyer;
    3. the Supplier is entitled to additional time needed to make the Delivery;
    4. the Supplier cannot suspend the ongoing supply of the Deliverables.
  1. Clauses 5.3 and 5.4 will only apply where the Supplier:
     1. gives notice to the Party responsible for the Authority Cause within 10 (ten) Working Days of becoming aware;
     2. demonstrates that the Supplier Non-Performance only happened because of the Authority Cause;
     3. mitigated the impact of the Authority Clause.

Special Term 26 – Processing Data

Clause 1 of Joint Schedule 11 (Processing Data) shall be amended to include the words “and/or Statement of Work” after the words “under a Contract” on both occasions.

Special Term 27 – Force Majeure Event definition

The definition of “Force Majeure Event” contained in Joint Schedule 1 (Definitions) shall be amended to include the following: pandemics, epidemics, global health emergencies (including but not limited to viral outbreaks, contamination or plague).

Special Term 28 – Force Majeure Event definition

The definition of “Force Majeure Event” contained in Joint Schedule 1 (Definitions) shall be amended to delete the following words: “any failure of delay caused by a lack of funds”.

Special Term 29 – Force Majeure Event

The Parties acknowledge that the Contract has been entered into during the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) (“Covid-19”) epidemic, and this is not as at the date of this Contract a Force Majeure Event. Where a Force Majeure event occurs due to developments in the Covid-19 epidemic, but Parties agree that they shall attempt in good faith to agree any additional measures that may be required to ensure ongoing performance of the obligations of the Parties before any termination under Clause 20.2 of the DPS Core Terms is invoked.

Special Term 30 – Guarantee

In addition to the provisions contained in Joint Schedule 8 (Guarantee), at the discretion of the Buyer, where the Buyer notifies the Supplier that the agreement of a Statement of Work will be conditional upon receipt of an Order Guarantee, then, on or prior to the execution of the Statement of Work, the Supplier shall deliver to the Buyer:

* an executed Order Guarantee from an Order Guarantor; and
* a certified copy extract of the board minutes and/or resolution of the Order Guarantor approving the execution of the Order Guarantee.

Special Term 31 – Guarantee

Paragraph 3.2 of Joint Schedule 8 (Guarantee) shall be amended to read as follows: “Where a Buyer has procured an Order Guarantee from the Supplier under Paragraph 3.1 above or Special Term 30 of the Order Form, the Buyer may terminate the Order Contract for Material Default where:”

Special Term 32– Deliverables

Clause 3.1 of the DPS Core Terms shall be amended to include the following: in compliance with clinical risk management standards, including but not limited to DCB0160 and DCB0129.

Special Term 33 – Indirect Losses

Where a SOW relates to the automation of a process for another NHS organisation, the Losses of that organisation in respect of any Default shall be treated as Losses of the Authority, which the Authority shall be entitled to bring a claim in respect of. Clause 11 (including in respect of limitations and exclusions on recoverable Losses) shall apply in respect of such Loss, as if it were a Loss of the Authority. For the avoidance of doubt, the Supplier shall not have any greater liability to the Authority under this Special Term 33 that it would have had if such Losses had been suffered by the Authority.

Special Term 34 – Warranty

In respect of the warranty period referred to at Clause 3.1.2 of the DPS Core Terms, the remedying of any obvious defect shall be at no cost to the Buyer and such remedial action shall continue at no cost to the Buyer until the defect is remedied to the reasonable satisfaction of the Buyer. The testing provisions of Order Schedule 13 (Implementation Plan and Testing) shall be complied with in respect of any work undertaken to remedy a defect (unless otherwise agreed by the Buyer).

ORDER START DATE: **24th November 2021**

(Date of which the last of the parties signs the Order Form)

ORDER EXPIRY DATE: **36 months from Order Start Date**

ORDER INITIAL PERIOD: 36 Months

DELIVERABLES

The overarching Deliverable is to provide the services as set out in Order Schedule 20 (Order Specification), with individual Deliverables being set out in Statement of Works.

MAXIMUM LIABILITY

The limitation of liability for this Order Contract is no more than the greater of £5 million or 150% of the Estimated Yearly Charges.

The Estimated Year 1 Charges used to calculate liability in the first Contract Year is£2 million.

ORDER CHARGES

See details in Order Schedule 5 (Pricing Details)

REIMBURSABLE EXPENSES

Recoverable as stated in the DPS Contract.

PAYMENT METHOD

Bank transfer following an electronic invoice from the Supplier.

BUYER’S INVOICE ADDRESS:

NHS Business Services Authority

Stella House, Goldcrest Way, Newcastle upon Tyne, NE15 8NY

Email: [nhsbsa.accountspayable@nhs.net](mailto:nhsbsa.accountspayable@nhs.net)

BUYER’S AUTHORISED REPRESENTATIVE

Michael Brodie

CEO

[Commercialservicesteamdl@nhs.net](mailto:Commercialservicesteamdl@nhs.net)

Stella House, Goldcrest Way, Newburn Riverside. Newcastle upon Tyne, NE15 8NY

BUYER’S ENVIRONMENTAL POLICY

SHEPOL 001 Environmental Policy (12/08/2020) (Revision M) available online at: [SHEPOL 001 Environmental Policy\_0.pdf (nhsbsa.nhs.uk)](https://www.nhsbsa.nhs.uk/sites/default/files/2020-09/SHEPOL%20001%20Environmental%20Policy_0.pdf)

BUYER’S SECURITY POLICY

ISMSPOL 001 Information Security Policy (January 2021) (V3.0) available online at: [Information Security Policy (nhsbsa.nhs.uk)](https://www.nhsbsa.nhs.uk/sites/default/files/2021-04/Information%20Security%20Policy.pdf)

SUPPLIER’S AUTHORISED REPRESENTATIVE

Stuart Michie

Client Delivery Director – Healthcare and Life Sciences UK&I  
[stuart.michie@atos.net](mailto:stuart.michie@atos.net)

71 High Holborn, London, WC1V 6QS

SUPPLIER’S CONTRACT MANAGER

Andy Fitt  
Principal – Healthcare Consulting Northern Europe  
[andy.fitt@atos.net](mailto:andy.fitt@atos.net)   
71 High Holborn, London, WC1V 6QS

PROGRESS REPORT FREQUENCY

As set out in a Statement of Work.

PROGRESS MEETING FREQUENCY

As set out in a Statement of Work.

KEY STAFF

See DPS Order Schedule 7 – Key Supplier Staff

Additional Key Staff may be identified by the Supplier in a Statement of Work during the Contract Period.

KEY SUBCONTRACTOR(S)

None

Key Subcontractors may be identified by the Supplier in a Statement of Work during the Contract Period.

COMMERCIALLY SENSITIVE INFORMATION

Day rates on the SFIA pricing rate cards

SERVICE CREDITS

Not applicable

ADDITIONAL INSURANCES

Not applicable.

GUARANTEE

See Special Term 30 above.

SOCIAL VALUE COMMITMENT

The Supplier agrees, in providing the Deliverables and performing its obligations under the Order Contract, that it will comply with the social value commitments in Order Schedule 4 (Order Tender).

|  |  |  |  |
| --- | --- | --- | --- |
| **For and on behalf of the Supplier:** | | **For and on behalf of the Buyer:** | |
| Signature: |  | Signature: |  |
| Name: | Stuart Michie | Name: | Michael Brodie |
| Role: | Client Delivery Director | Role: | Chief Executive |
| Date: | 08/11/2021 | Date: | 24 November 2021 |

**ANNEX A**

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