

DPS Schedule 6 (Order Form Template and Order Schedules)

Order Form

ORDER REFERENCE: C103319

THE BUYER: **NHS England**

BUYER ADDRESS **Quarry House, Quarry Hill, LS2 7UE**

THE SUPPLIER: Employee Pulsecheck Ltd (trading as Ipsos Karian and Box Ltd)

SUPPLIER ADDRESS: **22 Lendal, York, YO1 8AA**

REGISTRATION NUMBER:

DUNS NUMBER:

DPS SUPPLIER REGISTRATION SERVICE ID:

APPLICABLE DPS CONTRACT

This Order Form is for the provision of the Deliverables and dated 04/01/23
It's issued under the DPS Contract with the reference number RM6126 DPS Contract
Reference number for the provision of Survey Services

DPS FILTER CATEGORY(IES):
Employee / staff engagement and satisfaction research

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) **DPS RM6126**
3. **DPS RM6126** Special Terms
4. The following Schedules in equal order of precedence:
 - Joint Schedules for **RM6126 Research & Insights DPS**
 - Joint Schedule 2 (Variation Form)
 - Joint Schedule 3 (Insurance Requirements)
 - Joint Schedule 4 (Commercially Sensitive Information)
 - Joint Schedule 6 (Key Subcontractors)
 - Joint Schedule 10 (Rectification Plan)
 - Joint Schedule 11 (Processing Data)
 - Order Schedules for **RM6126 Research & Insights DPS**
 - Order Schedule 3 (Continuous Improvement)
 - Order Schedule 4 (Order Tender)
 - Order Schedule 5 (Pricing Details)
 - Order Schedule 7 (Key Supplier Staff)
 - Order Schedule 8 (Business Continuity and Disaster Recovery)
 - Order Schedule 9 (Security) Part B will apply
 - Order Schedule 10 (Exit Management)
 - Order Schedule 15 (Order Contract Management)
 - Order Schedule 16 (Benchmarking)
 - Order Schedule 20 (Order Specification)
5. CCS Core Terms (DPS version) v1.0.3
6. Joint Schedule 5 (Corporate Social Responsibility) **RM6126 Research & Insights DPS**
7. 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:
None

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ORDER START DATE: **13th February 2023**

ORDER EXPIRY DATE: **13th February 2024**

ORDER INITIAL PERIOD: **12 months with option to extend up to 36 months.**

DELIVERABLES

Option B: See details in Order Schedule 20 (Order Specification). 'Doc 2 - Statement of Requirements' will form the deliverables and will be added to Schedule 20 upon award of contract.

MAXIMUM LIABILITY

The limitation of liability for this Order Contract is stated in Clause 11.2 of the Core Terms.

The Estimated Year 1 Charges used to calculate liability in the first Contract Year is **£540,000.**

ORDER CHARGES

Option B: See details in Order Schedule 5 (Pricing Details). The Supplier's submitted pricing in the form of 'Questionnaire 2 – Commercial Questionnaire' will form the pricing and will be added to Schedule 5 upon award of contract.

All changes to the Charges must use procedures that are equivalent to those in Paragraphs 4, 5 and 6 (if used) in DPS Schedule 3 (DPS Pricing)

The Charges will not be impacted by any change to the DPS Pricing. The Charges can only be changed by agreement in writing between the Buyer and the Supplier because of:

- Indexation
- Benchmarking using Order Schedule 16 (Benchmarking)

REIMBURSABLE EXPENSES

None. Included in price submitted.

PAYMENT METHOD

Payments will be made on completion of each milestone detailed within the statement of requirements.

NHS England will pay correctly addressed and undisputed invoices within 30 days in accordance with the requirements of the Contract. Suppliers to NHS England, must ensure comparable payment provisions apply to the payment of their sub-contractors and the sub-contractors of their sub-contractors. Invoices should clearly state as a minimum:

- Organisational entity that ordered the goods and services, that is NHS England
- Purchase order number

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- Contact name (Directorate)
- Clear description, costs including VAT (if applicable)
- More information is available from NHSSBS Good invoicing practice [NHS SBS - Good Invoicing Practice](#).

All invoices should be submitted electronically via Tradeshift. Tradeshift is a free to use service for suppliers, registration is completed directly by the supplier and is integrated with ISFE (Finance system). Full guidance for suppliers is available at: [Welcome to NHS SBS's Tradeshift Network](#).

Once registered suppliers will submit invoices directly to this platform. Note that any invoice submitted without a Purchase Order it will be rejected.

If you are an SME supplier or low volume supplier then the web-based portal at <http://www.tradeshift.com/supplier/nhs-sbs/> is likely to be the best solution.

If you are a high volume supplier, you may wish to integrate to the Tradeshift platform for invoice automation. If you are interested in integrating please contact SBS-W.e-invoicingqueries@nhs.net.

BUYER'S INVOICE ADDRESS:

See above

BUYER'S AUTHORISED REPRESENTATIVE

TBC

BUYER'S ENVIRONMENTAL POLICY



BUYER'S SECURITY POLICY

Information Security Policy Version number: v2.0 Available online here:
[information-security-policy-v4.0.pdf \(england.nhs.uk\)](#)

SUPPLIER'S AUTHORISED REPRESENTATIVE



SUPPLIER'S CONTRACT MANAGER



PROGRESS REPORT FREQUENCY

Weekly (during one meeting per week)

PROGRESS MEETING FREQUENCY

Weekly

KEY STAFF

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

KEY SUBCONTRACTOR(S)

Qualtrics

E-AUCTIONS

Not applicable

COMMERCIALLY SENSITIVE INFORMATION

Not applicable

SERVICE CREDITS

Not applicable

ADDITIONAL INSURANCES

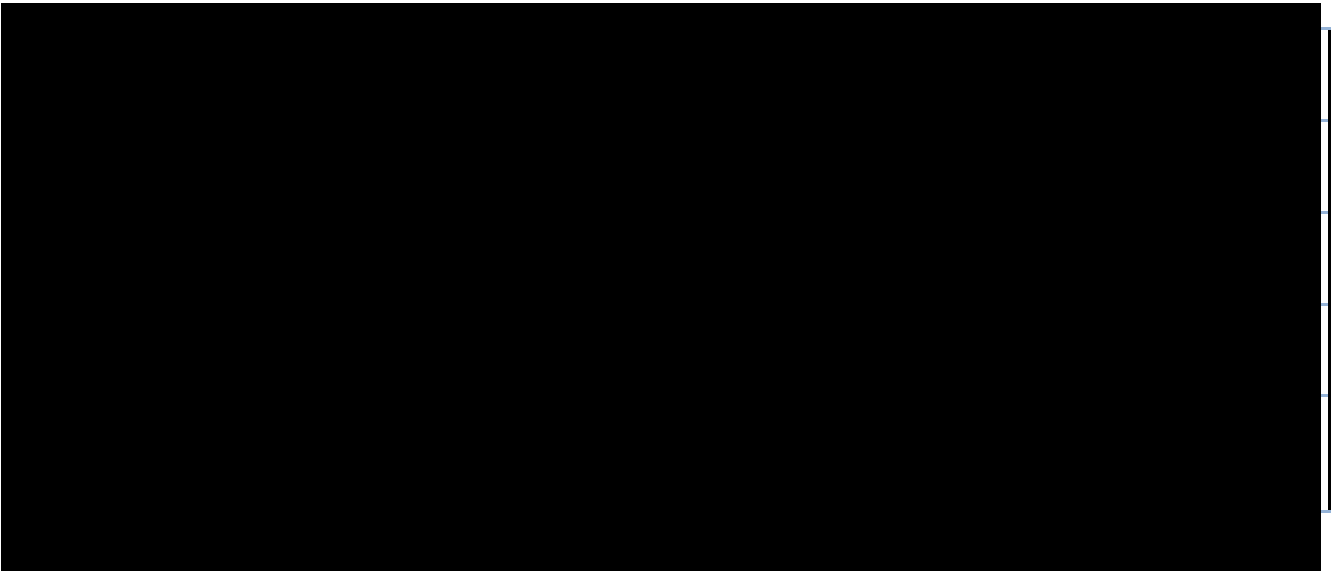
Not applicable

GUARANTEE

Not applicable

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)



Order Schedule 4 (Order Tender)

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Order Schedule 4 (Order Tender)



Order Schedule 5 (Pricing Details)

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Order Schedule 5 (Pricing Details)

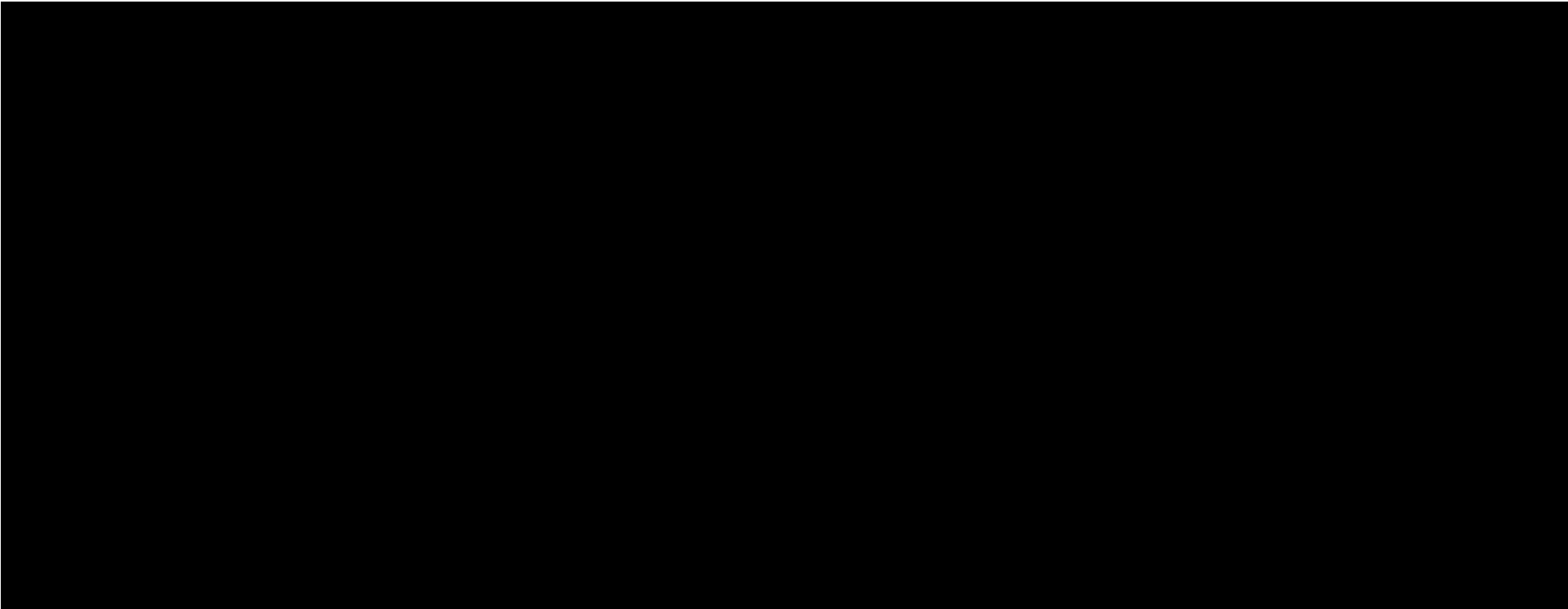
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People Pulse

Suppliers are requested to provide a full breakdown of costs (including travel and expenses) **Exclusive of VAT** for the delivery of all activities as detailed in the scope of requirements

Deliverable Item - please refer to the tender specification for full description of requirements	Description of tasks - Provide a detailed description of each chargeable task	Total Cost (Contract Year 1) Exc VAT	Total Cost (Contract Year 2)Exc VAT	Total Cost (Contract Year 3) Exc VAT	Total Cost (Contract Year 4) Exc VAT
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Order Schedule 10 (Exit Management)

1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

"Exclusive Assets"	Supplier Assets used exclusively by the Supplier or a Key Subcontractor in the provision of the Deliverables;
"Exit Information"	has the meaning given to it in Paragraph 3.1 of this Schedule;
"Exit Manager"	the person appointed by each Party to manage their respective obligations under this Schedule;
"Net Book Value"	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the DPS Application or Order Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
"Non-Exclusive Assets"	those Supplier Assets used by the Supplier or a Key Subcontractor in connection with the Deliverables but which are also used by the Supplier or Key Subcontractor for other purposes;
"Registers"	the register and configuration database referred to in Paragraph 2.2 of this Schedule;
"Replacement Goods"	any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
"Replacement Services"	any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
"Termination Assistance"	the activities to be performed by the Supplier pursuant to the Exit Plan, and

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	other assistance required by the Buyer pursuant to the Termination Assistance Notice;
"Termination Assistance Notice"	has the meaning given to it in Paragraph 5.1 of this Schedule;
"Termination Assistance Period"	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule;
"Transferable Assets"	Exclusive Assets which are capable of legal transfer to the Buyer;
"Transferable Contracts"	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
"Transferring Assets"	has the meaning given to it in Paragraph 8.2.1 of this Schedule;
"Transferring Contracts"	has the meaning given to it in Paragraph 8.2.3 of this Schedule.

2. Supplier must always be prepared for contract exit

- 2.1 The Supplier shall within 30 days from the Start Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.
- 2.2 During the Contract Period, the Supplier shall promptly:
 - 2.2.1 create and maintain a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and
 - 2.2.2 create and maintain a configuration database detailing the technical infrastructure and operating procedures through which the Supplier provides the Deliverables
("Registers").

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2.3 The Supplier shall:

- 2.3.1 ensure that all Exclusive Assets listed in the Registers are clearly physically identified as such; and
- 2.3.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.

2.4 Each Party shall appoint an Exit Manager within three (3) Months of the Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

3. Assisting re-competition for Deliverables

- 3.1 The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").
- 3.2 The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.
- 3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).
- 3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

4. Exit Plan

- 4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer an Exit Plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer.

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- 4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 4.3 The Exit Plan shall set out, as a minimum:
 - 4.3.1 a detailed description of both the transfer and cessation processes, including a timetable;
 - 4.3.2 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
 - 4.3.3 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
 - 4.3.4 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
 - 4.3.5 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
 - 4.3.6 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
 - 4.3.7 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
 - 4.3.8 proposals for the disposal of any redundant Deliverables and materials;
 - 4.3.9 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
 - 4.3.10 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.
- 4.4 The Supplier shall:
 - 4.4.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:
 - (a) every six (6) months throughout the Contract Period; and
 - (b) no later than twenty (20) Working Days after a request from the Buyer for an up-to-date copy of the Exit Plan;
 - (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;

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- (d) as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and
- 4.4.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.
- 4.5 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.
- 4.6 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

5. Termination Assistance

- 5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
 - 5.1.1 the nature of the Termination Assistance required; and
 - 5.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the date that the Supplier ceases to provide the Deliverables.
- 5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the Termination Assistance Notice period provided that such extension shall not extend for more than six (6) Months beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier of such this extension no later than twenty (20) Working Days prior to the date on which the provision of Termination Assistance is otherwise due to expire. The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
- 5.3 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

6. Termination Assistance Period

- 6.1 Throughout the Termination Assistance Period the Supplier shall:
 - 6.1.1 continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;
 - 6.1.2 provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
 - 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
 - 6.1.4 subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Performance Indicators (PI's) or Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;
 - 6.1.5 at the Buyer's request and on reasonable notice, deliver up-to-date Registers to the Buyer;
 - 6.1.6 seek the Buyer's prior written consent to access any Buyer Premises from which the de-installation or removal of Supplier Assets is required.
- 6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.
- 6.3 If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

7. Obligations when the contract is terminated

- 7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:
 - 7.2.1 vacate any Buyer Premises;
 - 7.2.2 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely

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responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;

7.2.3 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:

- (a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and
- (b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.

7.3 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Deliverables shall be terminated with effect from the end of the Termination Assistance Period.

8. Assets, Sub-contracts and Software

8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:

8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or

8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.

8.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Supplier, the Buyer shall notify the Supplier setting out:

8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");

8.2.2 which, if any, of:

- (a) the Exclusive Assets that are not Transferable Assets; and
- (b) the Non-Exclusive Assets,

the Buyer and/or the Replacement Supplier requires the continued use of; and

8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"),

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in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services.

- 8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.
- 8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 8.5 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
 - 8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
 - 8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.
- 8.7 The Buyer shall:
 - 8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
 - 8.7.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.
- 8.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.
- 8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 19 (Other

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people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

9. No charges

- 9.1 Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.

10. Dividing the bills

- 10.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:

10.1.1 the amounts shall be annualised and divided by 365 to reach a daily rate;

10.1.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and

10.1.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

Joint Schedule 11 (Processing Data)

Definitions

1. In this Schedule, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

“Processor Personnel” all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under a Contract;

Status of the Controller

2. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:

- (a) “Controller” in respect of the other Party who is “Processor”;
- (b) “Processor” in respect of the other Party who is “Controller”;
- (c) “Joint Controller” with the other Party;
- (d) “Independent Controller” of the Personal Data where the other Party is also “Controller”,

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

Where one Party is Controller and the other Party its Processor

3. Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller.
4. The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
5. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
 - (a) a systematic description of the envisaged Processing and the purpose of the Processing;
 - (b) an assessment of the necessity and proportionality of the Processing in relation to the Deliverables;

Joint Schedule 11 (Processing Data)

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- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
6. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:
- (a) Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 14.3 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Personal Data Breach;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - (c) ensure that :
 - (i) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this Joint Schedule 11, Clauses 14 (*Data protection*), 15 (*What you must keep confidential*) and 16 (*When you can share information*);
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
 - (d) not transfer Personal Data outside of the UK or EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

Joint Schedule 11 (Processing Data)

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- (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and
 - (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
7. Subject to paragraph 7 of this Joint Schedule 11, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
 - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - (f) becomes aware of a Personal Data Breach.
8. The Processor's obligation to notify under paragraph 6 of this Joint Schedule 11 shall include the provision of further information to the Controller, as details become available.
9. Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 6 of this Joint Schedule 11 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:

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- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Personal Data Breach; and/or
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
10. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Joint Schedule 11. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the Processing is not occasional;
 - (b) the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
 - (c) the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
11. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
12. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
13. Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
- (a) notify the Controller in writing of the intended Subprocessor and Processing;
 - (b) obtain the written consent of the Controller;
 - (c) enter into a written agreement with the Subprocessor which give effect to the terms set out in this Joint Schedule 11 such that they apply to the Subprocessor; and
 - (d) provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
14. The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
15. The Relevant Authority may, at any time on not less than thirty (30) Working Days' notice, revise this Joint Schedule 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an

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applicable certification scheme (which shall apply when incorporated by attachment to the Contract).

16. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Relevant Authority may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Where the Parties are Joint Controllers of Personal Data

17. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 2 to this Joint Schedule 11.

Independent Controllers of Personal Data

18. With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
19. Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
20. Where a Party has provided Personal Data to the other Party in accordance with paragraph 8 of this Joint Schedule 11 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
21. The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
22. The Parties shall only provide Personal Data to each other:
 - (a) to the extent necessary to perform their respective obligations under the Contract;
 - (b) in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
 - (c) where it has recorded it in Annex 1 (*Processing Personal Data*).
23. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational

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measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.

24. A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
25. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):
 - (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
 - (b) where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
 - (i) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
 - (ii) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
26. Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
 - (a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
 - (b) implement any measures necessary to restore the security of any compromised Personal Data;
 - (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
 - (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.

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27. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).
28. Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
29. Notwithstanding the general application of paragraphs 2 to 16 of this Joint Schedule 11 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with paragraphs 18 to 27 of this Joint Schedule 11.

Annex 1 - Processing Personal Data

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

- 1.1 The contact details of the Relevant Authority's Data Protection Officer are: Carol Mitchell, Head of IG, carol.mitchell5@nhs.net Mob: 07917 734195
- 1.2 The contact details of the Supplier's Data Protection Officer are: Matt Jolley, Cyber, Security and Risk Manager Matt.Jolley@karianandbox.com
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p>The Relevant Authority is Controller and the Supplier is Processor</p> <p>The Parties acknowledge that in accordance with paragraph 2 to paragraph 15 and for the purposes of the Data Protection Legislation, the Relevant Authority is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none">• <i>Data provided in any sample/HR files to the supplier. Including control of the retention period of that data.</i> <p>The Supplier is Controller and the Relevant Authority is Processor</p> <p><i>The Parties acknowledge that for the purposes of the Data Protection Legislation, the Supplier is the Controller and the Relevant Authority is the Processor in accordance with paragraph 2 to paragraph 15 of the following Personal Data:</i></p> <ul style="list-style-type: none">• <i>Survey responses</i>• <i>Survey data</i>

	<p>The Parties are Joint Controllers</p> <p><i>The Parties acknowledge that they are Joint Controllers for the purposes of the Data Protection Legislation in respect of:</i></p> <ul style="list-style-type: none"> • <i>Any branding used on resulting reports</i> <p>The Parties are Independent Controllers of Personal Data</p> <p><i>The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:</i></p> <ul style="list-style-type: none"> • <i>Business contact details of Supplier Personnel for which the Supplier is the Controller,</i> • <i>Business contact details of any directors, officers, employees, agents, consultants and contractors of Relevant Authority (excluding the Supplier Personnel) engaged in the performance of the Relevant Authority's duties under the Contract) for which the Relevant Authority is the Controller,</i> • None applicable
Duration of the Processing	13/02/23 – 13/02/24
Nature and purposes of the Processing	<i>Collection, recording, reporting, storage of employee survey data</i>
Type of Personal Data	<i>Role, age, gender, type of work (e.g. bank / permanent), ethnicity, gender identity, management / supervisory responsibilities, caring responsibilities, disability,</i>

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Categories of Data Subject	<i>NHS employees</i>
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under Union or Member State law to preserve that type of data	<i>In accordance with the Corporate Records Retention Policy, section 12, we will keep the reports and aggregated data reports for 10 years after completion of a given survey. The data will then be removed from the storage.</i>

Annex 2 - Joint Controller Agreement

1. Joint Controller Status and Allocation of Responsibilities

1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 2 (Joint Controller Agreement) in replacement of paragraphs 2-15 of Joint Schedule 11 (Where one Party is Controller and the other Party is Processor) and paragraphs 7-27 of Joint Schedule 11 (Independent Controllers of Personal Data). Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.

1.2 The Parties agree that the **[Supplier/Relevant Authority]**:

- (a) is the exclusive point of contact for Data Subjects and is responsible for all steps necessary to comply with the UK GDPR regarding the exercise by Data Subjects of their rights under the UK GDPR;
- (b) shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
- (c) is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the UK GDPR;
- (d) is responsible for obtaining the informed consent of Data Subjects, in accordance with the UK GDPR, for Processing in connection with the Deliverables where consent is the relevant legal basis for that Processing; and
- (e) shall make available to Data Subjects the essence of this Annex (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the [Supplier's/Relevant Authority's] privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).

1.3 Notwithstanding the terms of clause 1.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Controller.

2. Undertakings of both Parties

2.1 The Supplier and the Relevant Authority each undertake that they shall:

- (a) report to the other Party every 12 months on:

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

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

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

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- (g) take all reasonable steps to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:
 - (i) are aware of and comply with their duties under this Annex 2 (Joint Controller Agreement) and those in respect of Confidential Information;
 - (ii) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where the that Party would not be permitted to do so; and
 - (iii) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;
- (h) ensure that it has in place Protective Measures as appropriate to protect against a Personal Data Breach having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Personal Data Breach;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (i) ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that it holds; and
- (j) ensure that it notifies the other Party as soon as it becomes aware of a Personal Data Breach.

2.2 Each Joint Controller shall use its reasonable endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.

3. Data Protection Breach

3.1 Without prejudice to clause 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within 48 hours, upon becoming aware of any Personal Data Breach or circumstances that are likely to give rise to a Personal Data Breach, providing the other Party and its advisors with:

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- (a) sufficient information and in a timescale which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation; and
- (b) all reasonable assistance, including:
 - (i) co-operation with the other Party and the Information Commissioner investigating the Personal Data Breach and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
 - (ii) co-operation with the other Party including taking such reasonable steps as are directed by the other Party to assist in the investigation, mitigation and remediation of a Personal Data Breach;
 - (iii) co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach; and/or
 - (iv) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Personal Data Breach, with complete information relating to the Personal Data Breach, including, without limitation, the information set out in Clause 3.2.

3.2 Each Party shall take all steps to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Personal Data Breach as it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Personal Data Breach, including providing the other Party, as soon as possible and within 48 hours of the Personal Data Breach relating to the Personal Data Breach, in particular:

- (a) the nature of the Personal Data Breach;
- (b) the nature of Personal Data affected;
- (c) the categories and number of Data Subjects concerned;
- (d) the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained;
- (e) measures taken or proposed to be taken to address the Personal Data Breach; and
- (f) describe the likely consequences of the Personal Data Breach.

4. Audit

4.1 The Supplier shall permit:

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Model Version: v1.3

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- (a) the Relevant Authority, or a third-party auditor acting under the Relevant Authority's direction, to conduct, at the Relevant Authority's cost, data privacy and security audits, assessments and inspections concerning the Supplier's data security and privacy procedures relating to Personal Data, its compliance with this Annex 2 and the Data Protection Legislation; and/or
- (b) the Relevant Authority, or a third-party auditor acting under the Relevant Authority's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 UK GDPR by the Supplier so far as relevant to the Contract, and procedures, including premises under the control of any third party appointed by the Supplier to assist in the provision of the Deliverables.

4.2 The Relevant Authority may, in its sole discretion, require the Supplier to provide evidence of the Supplier's compliance with Clause 4.1 in lieu of conducting such an audit, assessment or inspection.

5. Impact Assessments

5.1 The Parties shall:

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

6. ICO Guidance

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

7. Liabilities for Data Protection Breach

[Guidance: This clause represents a risk share, you may wish to reconsider the apportionment of liability and whether recoverability of losses are likely to be hindered by the contractual limitation of liability provisions]

- 7.1 If financial penalties are imposed by the Information Commissioner on either the Relevant Authority or the Supplier for a Personal Data Breach ("**Financial Penalties**") then the following shall occur:
- (a) if in the view of the Information Commissioner, the Relevant Authority is responsible for the Personal Data Breach, in that it is caused as a result of the actions or inaction of the Relevant Authority, its employees, agents, contractors (other than the Supplier) or systems and procedures controlled by the Relevant Authority, then the Relevant Authority shall be responsible for the payment of such Financial Penalties. In this case, the Relevant Authority will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Personal Data Breach. The Supplier shall provide to the Relevant Authority and its third party investigators and auditors, on request and at the Supplier's reasonable cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach;
 - (b) if in the view of the Information Commissioner, the Supplier is responsible for the Personal Data Breach, in that it is not a Personal Data Breach that the Relevant Authority is responsible for, then the Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Relevant Authority and its auditors, on request and at the Supplier's sole cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach; or
 - (c) if no view as to responsibility is expressed by the Information Commissioner, then the Relevant Authority and the Supplier shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 34 of the Core Terms (Resolving disputes).
- 7.2 If either the Relevant Authority or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction ("Court") by a third party in respect of a Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.
- 7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the "Claim Losses"):
- (a) if the Relevant Authority is responsible for the relevant Personal Data Breach, then the Relevant Authority shall be responsible for the Claim Losses;
 - (b) if the Supplier is responsible for the relevant Personal Data Breach, then the Supplier shall be responsible for the Claim Losses: and

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- (c) if responsibility for the relevant Personal Data Breach is unclear, then the Relevant Authority and the Supplier shall be responsible for the Claim Losses equally.

7.4 Nothing in either clause 7.2 or clause 7.3 shall preclude the Relevant Authority and the Supplier reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Personal Data Breach, having regard to all the circumstances of the Personal Data Breach and the legal and financial obligations of the Relevant Authority.

8. Termination

If the Supplier is in material Default under any of its obligations under this Annex 2 (*Joint Controller Agreement*), the Relevant Authority shall be entitled to terminate the Contract by issuing a Termination Notice to the Supplier in accordance with Clause 10 of the Core Terms (*Ending the contract*).

9. Sub-Processing

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

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

10. Data Retention

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

Order Schedule 20 (Order Specification)

This Schedule sets out the characteristics of the Deliverables that the Supplier will be required to make to the Buyers under this Order Contract

Order Schedule 20 (Order Specification)
Order Ref:
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People Pulse tender specification

September 2022

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Introduction and background

1.1 Background of the requirement

Our ambition is to provide every employee in the NHS with the opportunity to regularly feedback on their experiences at work. This should be done via an employee pulse check which is methodologically sound and provides a data set down to national, regional, system, organisational, directorate and team level and a demographic breakdown, whilst maintaining confidentiality of results.

In July 2020, the [We are the NHS: People Plan 2020/21 – action for us all was released setting out](#) actions to support transformation across the whole NHS. It focuses on how we must all continue to look after each other and foster a culture of compassion, inclusion and belonging, continuous employee listening as well as action to grow our workforce, train our people, and work together differently to deliver patient care. NHS People Plan has been further prioritised in the national planning guidance for [2021/22](#) and [2022/23](#), and work continues to take these priorities forward over the longer term, aligned with the NHS Long Term Plan.

Alongside the People Plan, NHS England also released the People Promise which is the first unifying framework for Employee Experience in the NHS.

The NHS People Plan outlined actions to support employee voice (p.27), this included plans to roll out a more frequent survey to understand our NHS people's varied experience through national listening tools and local tools and this is further reiterated within the People Promise element 'We each have a voice that counts'. The key actions outlined in the People Plan to support this ambition were:

- to realign the NHS Staff Survey to the People Promise elements,
- to introduce the National Quarterly Pulse Survey, and
- to continue the delivery of the monthly People Pulse.

As a result, in 2021, the NHS Staff Survey, one of the largest employee surveys in the world, was redesigned to enable effective measurement of Employee Experience aligned to the seven elements of the People Promise.

In July 2020, at the start of the Covid-19 pandemic, NHS England introduced the People Pulse, a monthly pulse survey for trusts and other organisations within the healthcare setting to use free of

charge. Due to the invaluable insight from the People Pulse, its success has grown considerably with over 210,000 responses collected since July 2020, and NHS England has continued to support the delivery of the People Pulse since the launch.

Additionally, the People Plan committed to the delivery of the first ever National Quarterly Pulse Survey (NQPS), measuring the concept of Employee Engagement on regular basis. Participation of the NQPS has become a mandatory requirement for trusts from April 2022, replacing the Staff Friends and Family Test (FFT). All three tools – the NHS Staff Survey, the National Quarterly Pulse Survey and the People Pulse – are part of delivering on the commitment in the People Promise to ensure that ‘we each have a voice that counts’, by listening well and effectively to our NHS people, providing valuable insight, knowledge and understanding of employee experience to aide discussions and decision making at a local, regional and national level.

1.2 About the People Pulse

The People Pulse is a short, monthly, online pulse survey which provides snapshot information of Employee Experience at a given time and is offered free of charge. The tool is voluntary for organisations to participate in. The survey measures employee sentiment such as feeling informed, team support and feeling supported in health and wellbeing, as well as employee mood and feedback. It continues to be maintained and developed by the national Staff Experience and Engagement team alongside a contractor with employee engagement and experience expertise who provides support with data collection, question development, results analysis, and provision of the People Pulse survey reporting platform. Although the response rate is much lower than the annual Staff Survey, the data and trends from the Pulse survey provides valuable insights with a good level of margin of error statistical reliability and quality received from over 110 organisations who are using this tool regularly.

Through the People Pulse organisations at a local, regional, and national level have been able to gain insight into employee experience and sentiment in the NHS contributing to the development of national health and wellbeing, pay review, and other people related policies. Through this, the People Pulse contributes to the delivery of the workforce priorities stated in the NHS Planning Guidance.

As well as being a crucial component in the delivery of the People Promise element 'we each have a voice that counts' it is also integral to the wider strategic theme of Looking After Our People, and improving retention through the People Promise Exemplar programme working with 23 NHS trusts across all seven regions.

The People Pulse platform is also used by many organisations as the method of delivering the National Quarterly Pulse Survey which is a mandated quarterly survey commissioned by government to track Employee Engagement in the NHS.

Due to the fact that People Pulse data is updated monthly, it is especially valuable in interpreting staff experience alongside other monthly performance data which is used routinely within the NHS.

2. Objectives

The ambition is to implement a pulse check which makes effective use of digital technology, contains questions that are sound, valid and robust with tested data, enables a consistent and standardised view across the NHS and allows comparison within the NHS and where possible with other sectors. The survey must be easy to implement in and adaptable to organisations with complex structures and provide detailed local results and a regional and national umbrella overview in a clear and easily understood format.

The key objectives to consider are:

- Design, development and delivery of a digital survey platform which allows for organisations to use local hierarchies/organisational structures and local questions.
- Delivery of a survey and reporting platform fit for the future, potentially expanding to contain data from multiple sources relating to both employee and patient experience as well as potential performance metrics to maximise the use of data.
- Design of methodically sound survey questions with supporting evidence

- Analysis of results with complex structure, requiring analysis by demographic information, including organisational types.
- In depth analysis and advice provided to the national Staff Engagement and Experience team on the results.
- Ability to visualise and download data in multiple format types enabling easy manipulation of data to maximise its use at all levels.
- Maximise the reach and response rate from staff across professions and settings of care
- Support NHS England with design of engagement and communication strategy to increase regular participation in the survey from both organisations and staff

We would also expect the supplier to provide;

- Access to benchmarking data which should not be limited to the healthcare sector and should include benchmarking against other sectors/ organisations.
- Experience and engagement expertise to ensure the NHS remains informed of innovation in this field.
- Support with identification of the best digital platforms and advancements to maximise NHS England's approach to pulse surveys
- Technical and project management support to ensure that the survey is designed and delivered reliably, with good levels of customer service and support, including addressing queries and concerns from end users (i.e., NHS organisations).

3. The requirement

3.1 Overview of the requirement

The overall requirement for this work is to provide a digital data collection and reporting platform for a national employee pulse check, which can be used across all parts of the NHS and of Integrated Care Systems (ICSs) (e.g., primary care, social care) and the complexity this brings, analytical dashboard provision as well as expertise in developing employee experience surveys and in-depth analysis of results, whilst informing of wider innovation and developments in employee experience. This will allow both national, regional and local teams to capture, report and feed into decision

making the experiences at work of our NHS People, on a more regular basis than the yearly NHS Staff Survey

This tender may require a data transfer from the current data collection system to any new system to enable trend data and further insights to be preserved. When a Supplier bids for the tender, it will be assumed that any potential costs associated with such a transition will be included in the final price submitted by Suppliers.

Specific requirements are stated below.

3.2 Survey platform, data collection and analysis

3.2.1 Digital platform

- Provision of a suitable digital platform which is capable of meeting immediate requirements and the ability to increase the take up rate in line with the ambition to understand employee experience more deeply across the NHS, particularly with the complexities of Integrated Care Systems.

3.2.2 Survey platform

- Administration of the survey online.
- Mobile-friendly interface (incl. accessing the survey via QR codes).
- Accessibility of both web-based and mobile friendly versions assessed.
- Able to accommodate complex organisation structures, including, but not limited to, at least 220 trusts, Integrated Care Systems and Boards, Primary Care organisations, Social Care organisations.
- Ability to change question sets, when required, whilst preserving historical data within the platform.

3.2.3 Survey structure

- A mix of quantitative and qualitative questions (up to 30 quantitative and up to 5 qualitative questions) per survey cycle.
- Ability to ask regular questions and add flexible questions in each survey cycle.
- Ability for individual participating organisations to enter own questions.
- Ability for individual participating organisations to enter own hierarchy.
- Consideration given to best practice within and outside healthcare setting.
- Able to run the engagement theme, currently 9 questions every quarter (apart from quarter 3).

3.2.4 Data collection

- Data collection of up to 1.2m responses per year.
- Data collection over at least 12 monthly cycles in a 12-month period.
- Where required, large scale, cost-effective licencing must be considered.

- Survey being accessed by a universal link common for all participating organisations.
- Ability to record partial responses.

3.2.5 Data reporting and analysis

(1) Reporting dashboard and analysis

- Advanced, easy to use, intuitive dashboard that is flexible and adaptable for any future developments according to the NHS needs, without an additional investment (where no major redevelopments are required).
- Real time reporting of response numbers.
- Reports delivered within four working days.
- Ability to download results as they appear on the screen in an editable version (e.g. Excel, Word, PowerPoint) without the need for users to manipulate the data.
- Template for reports – flexible and able to adjust by orgs.
- Analysis should include both quantitative and qualitative data.
- Ability to report employee engagement scores according to NHS construct of engagement (specific calculations required).
- Free text analysis using AI – all comments themed – minimal number of comments that are not themed. Reported by themes and sub-themes on monthly basis.
- Free text analysis using AI – monthly themes alignment to the People Promise with potential sentiment analysis included.
- Free text comments – ability to access representative verbatim comments for historical and/or flexible questions directly on the dashboard.
- Multiple users per organisation to access data
- Self-service of user management by participating organisations.
- Automated emails notifying organisations of the new dashboard and new survey wave as well as other important announcements.
- Key driver analysis for agreed output metrics, which will be reviewed regularly based on the guidance from the suppliers.
- Data download provided by the Supplier which is compatible with the format of submission on the Strategic Data Collection Service.
- Results analysed per demographic characteristic.
- Ability to report as trend data and show fluctuation between survey cycles for both core and flexible questions (when they are repeated during the course of the contract).
- Ability to use benchmarks with organisations outside the NHS for suitable questions.
- Ability to compare results from multiple teams, directorates, and demographics on the reporting dashboard.
- Support with statistical significance, margins of error and representativeness of results.

(2) National reports

- Monthly report provided to the national SEE team with insights from subject matter experts (e.g., occupational psychologists) and statisticians.
- Quarterly in-depth report provided to the national SEE team with insights from subject matter experts and statisticians with comparisons with external sectors and key driver analysis performed on multiple output metrics identified by the Supplier.
- In-depth qualitative thematic analysis of at least four free text questions per month.
- Ad hoc reports supporting NHS England with creating comprehensive evidence base.

(3) Further breakdown of reports

- Filters by demographic characteristics (minimum of 10).
- Filters by organisational type.
- Filters by national, regional, Integrated Care System, organisational, directorate and team level
- Reports separating different healthcare sectors and settings.

3.3 Advisory services and analytical support

3.3.1 Employee engagement and experience expertise

- Regular support from Employee Experience and Engagement specialist with expert knowledge of NHS external sectors / environments advising on best practice and how to tackle issues within the employee engagement and experience area.
- Guidance and advice on making the survey successful.
- Active participation and contribution at the People Pulse Advisory Group.
- Active participation at 3 events a year with wider community

3.3.2 Employee survey expertise

- Proactive advice on how to develop survey which is supported by academic theories around organisational psychology, employee engagement and experience, and behavioural science.
- Proactive guidance on employee surveys: best practice, trends and technology in the UK and worldwide.
- Statistical validation of question set at regular intervals.

3.3.3 Further support

- Support provided to NHS England through the following (not limited to): participating in regular webinars, creating guidance and other documents in collaboration using expertise from other sectors.

- Knowledge sharing between clients including ability to compare data with external benchmark.
- Ability to support ad hoc requests for surveys to evaluate the impact of operational changes or programmes of work on staff experience (e.g., evaluate staff experience before and after a programme of work affecting a specific cohort of staff, such as outpatients, or diagnostics)

3.4 Project management

- Leading of the Project Management such as (not limited to): leading on the project plans, delivery of key milestones from the Supplier sides, use of appropriate project management tools, creation of risk and issues logs, regular Post Initiation Review meetings.
- Weekly project meetings – potential for more frequent meetings when initiating the project.
- Regular support from technology expert when issues arise and/or when developments are needed.
- Support for individual users with technical difficulties.
- Support provided to the Authority organisation.
- Demonstration of the analytical dashboard.
- Contingency plan for emergency support.

3.5 Potential for further developments

- API created between survey platform and HRIS, patient experience data, performance outcomes data, etc. enabling maximising the insights from data from multiple sources

3.6 Data protection processes

- Servers storing data must be located in the UK or the European Union (with appropriate Data Protection clauses).
- The Supplier will ensure that all handling of information strictly adheres to General Data Protected Regulations (GDPR) and the Data Protection Act 2018 and must act only under instruction from the Data Controller, NHS England. The Supplier must be able to demonstrate how they will comply with GDPR and the Data Protection Act, such that all data is used in a responsible and secure manner. The Supplier must demonstrate compliance with ICO. Stringent technical and organisational measures must be taken to ensure data are securely stored and viewed only by personnel directly involved in the People Pulse, and to ensure against unlawful processing, accidental loss, damage or destruction.
- The Supplier will need to agree to a Data Processing Agreement with NHS England as part of the contract and will need to work with NHS England to provide all the information necessary to complete any Data Protection Impact Assessments (DPIA) prior to the commencement of each survey year activity.

- The Supplier will ensure that any access to the People Pulse data is restricted to the minimum necessary information being made available to the minimum number of personnel who have a legitimate and justified need to access this data. All personnel given access to the data will have undergone training in the law of data protection, in their duty of confidentiality under contract and in the care and handling of sensitive data. All data must be stored only on a secure, isolated and encrypted system.
- The Supplier will ensure that all data adhere to Fair Processing requirements, clearly and fully explaining how the individual was selected, how their data will be used, how any information they provide via the survey will be used, and contact details for further queries.
- The Supplier will take appropriate actions to ensure that the data from the survey cannot be used to identify individuals.
- The Supplier must support NHS England in processing any Subject Access or similar requests.

4. NHS England responsibilities – project initiation

- Nomination of a responsible officer to act as NHS England contract manager.
- Nomination of an overall project manager for the People Pulse, and at least one other day-to-day project contact.
- Collaboration when creating materials, questions, reports, etc.
- Sign-off of all final materials.
- Monitoring progress against agreed milestones and help troubleshoot any arising issues.

5. Supplier responsibilities – project initiation

- Identification of a contract manager to oversee the work and liaise with / report to NHS England contract manager.
- Identification of a Project Manager and project support.
- Ensure that the survey is launched in time for March 2023 data collection.
- Arrangement of weekly project meetings.

- Provision of quality assurance information on all aspects of the programme to project meetings or as required by NHS England.
- Scheduling of timely and on-going evaluation information related to the programme to project meetings or as required by NHS England.
- Provision of support to obtain relevant information governance and security clearance.
- The Supplier will establish and share with the Authority an exit strategy in order to protect the continuity of the People Pulse survey beyond the agreed contract. This will be in accordance with the Dynamic Purchasing System terms and conditions.

6. Essential skills

- Extensive expertise in developing surveys measuring employee engagement and experience, including specialist knowledge of evidence base and academic theories
- Extensive experience in delivery of such surveys in large complex organisations, taking into consideration accessibility requirements
- Advanced analytical support
- Advanced developer support to provide the backend of the survey and analytical dashboard
- Frontend and backend survey and analytical dashboard design
- Experience in producing comprehensive executive reports consisting of key driver analysis, knowledge of employee engagement and experience theories and trends as well as advice appropriate for the NHS to take forward to tackle challenges arising from the results.

7. Budget

NHS England has a fixed price cap for this project which should not exceed £500,000 to £540,000 per year (including expenses, excluding VAT). The maximum permitted spend under this agreement is £2,200,000 (excluding VAT) for the full term of the contract, including all extensions.

8. Contract term

The initial term for this contract is 12 months, however there is a possibility of extending it by up to 36 months. The decision about extension will be taken following six-monthly reviews after the initial 12 months. The maximum contract length is 48 months – 12 months initial term + up to 36 months extension.

9. Contract management and monitoring

The Supplier shall monitor the quality of the service provision to ensure NHS England and satisfaction in accordance with the key performance indicators (KPIs). Below are example KPIs which will be fully agreed at the project initiation stage. None of the KPIs will include a financial penalty but may lead to a performance review.

KPI	Measurement	Target	Action
Delivery of monthly survey according to the agreed schedule	Reviewed monthly with regular check points with the supplier to provide opportunity to highlight any issues.	100% deadlines met	Issue will be raised and escalated. The NHS England project team will determine any further action to be taken.
Delivery of monthly results dashboard and monthly & quarterly in-depth national reports according to the schedule agreed with the supplier	Reviewed monthly with regular check points with the supplier to provide opportunity to highlight any issues.	100% deadlines met	Issue will be raised and escalated. The NHS England project team will determine any further action to be taken.
Delivery of project timetable and management of project documentation	Reviewed weekly at project meetings	Delivered to the timescales agreed with the supplier	Issue will be raised and escalated. The NHS England project team will determine any further action to be taken.
Advice on question development provided	Reviewed throughout the year at relevant points in	Delivered to the timescales	Issue will be raised and

to NHS England within the agreed timescale	the questionnaire design timetable.	agreed with the supplier	escalated. The NHS England project team will determine any further action to be taken.
At least 100 trusts use the survey on quarterly basis with circa 30,000 responses submitted quarterly.	Reviewed quarterly with regular check points with the supplier to provide opportunity to highlight any issues.	Over 95% achieved per quarter	Issue will be raised and escalated. The NHS England project team will determine any further action to be taken.

10. Milestones

Milestone and expected delivery date	Payment (in % of contract price)
Pre-mobilisation with supplier (design and set-up) 13 Feb 2023	5%
Project Plan communicated and agreed with NHS England 17 February 2023	5%
Survey and reporting dashboard design and delivery 28 February 2023	50%
Question design 31 March 2023	10%
Data analysis for March 2023 31 March 2023	1.5%
Licences for dashboard 28 February 2023	10%
In depth and monthly report template design 28 February 2023	5%
Employee engagement and experience advisory services incl data analysis – April 2023-Feb 2024	13.5%

Order Schedule 20 (Order Specification)

Order Ref:

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*Payment of each milestone will only be released once NHS England has agreed that the milestone has been passed upon receiving satisfactory evidence