**NHSR\_42**

**Provision of LEGAL PANEL SERVICES**

**Framework for NHS Resolution**

**HEALTH RELATED LEGAL SERVICES**

**FRAMEWORK AGREEMENT**

**March 2022**

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# Confirmation of Appointment

|  |  |  |
| --- | --- | --- |
| Date: | |  |
| Firm Details: | Full Name: |  |
| Address: (Including facsimile number and email) |  |
| Principal Contact: |  |
| Details for Legal Notices: (if different from above): |  |
| Lot(s) for which the Firm is appointed: | | Lot 1 & Lot 2 |
| Firm's Approved Offices:  (applicable to Lot 1 only): | |  |
| Key Personnel: | |  |
| Firm's Helpline Number: | |  |
| Commencement Date: | | 1st March 2022 |
| Superseding of previous agreements: | |  |
| Agreement Ref: | | NHSR\_42 |

By signing and returning this Confirmation of Appointment the parties acknowledge and agree that they have read and will be bound by all the terms of this Framework Agreement and all of its Schedules in the attached form.

|  |  |
| --- | --- |
| Signed  Signature: ……………………………….  Duly authorised for and on behalf of the Firm  Name:…………………………  Position:………………………….  Date:…………………………………. | Signed  Signature: ……………………………….  Duly authorised for and on behalf of the Authority  Name:……………………………………  Position: ………………………….  Date: ……………………………………. |

# FRAMEWORK AGREEMENT

## BACKGROUND

A The Firm has been selected, on the basis of a tender submitted by it in a competitive procurement process and in accordance with the Invitation to Tender, to be a member of a panel of firms suitable for appointment to provide the Beneficiaries with certain health related legal services.

B This Framework Agreement sets out the procedure and basis on which the Beneficiaries may purchase specific Services from the Firm and/or may appoint the Firm to one or more specialist-panels comprising firms that may be selected to provide particular specialist advice.

**IT IS AGREED:**

## DEFINITIONS AND INTERPRETATION

* 1. This Framework Agreement (which incorporates the Standard Terms), and each subsequent appointment within the scope of the Framework Agreement (whether as Preferred Supplier or by way of any Instructions), shall be interpreted in accordance with Framework Schedule 8.

## TERM OF APPOINTMENT

* 1. Subject to earlier termination in accordance with the Standard Terms or otherwise by operation of Applicable Laws, the appointment of the Firm under this Framework Agreement shall take effect on the Commencement Date and shall, subject to clause 2.2, continue for a period of three (3) Years from that date (the **“Initial Term”**).
  2. The Authority may, at its discretion, decide to extend the term by a period of up to one (1) further Year from expiry of the Initial Term by providing the Firm with written notice setting out the period of extension at least three (3) months prior to the expiry of the Initial Term.
  3. Save to the extent otherwise expressly agreed, if any Beneficiary commissions, or the Firm provides to a Beneficiary, any Services otherwise than within the scope of this Framework Agreement (including if any Services are commissioned or provided after the expiry of this Framework Agreement or in any other manner otherwise than in accordance with this Framework Agreement) that commissioning or provision shall be governed by the terms of this Framework Agreement unless notified otherwise by the Authority.

## FIRM'S APPOINTMENT

* 1. The Authority appoints the Firm to the relevant Framework Panels as an Authorised Provider for the duration of this Agreement.
  2. As an Authorised Provider the Firm shall, subject to the remaining provisions of this clause 3, be eligible to be considered for the award by Beneficiaries of Instructions.
  3. The appointment of the Firm is limited to the Lots described in the Confirmation of Appointment and, subject to clause 3.4, is also limited:
     1. to the extent that the Confirmation of Appointment specifies Approved Offices with respect to the Services, to the provision of the Services by those offices; and
     2. to the extent that the Confirmation of Appointment specifies Key Personnel, to provision by those Key Personnel.
  4. The Authority may, from time to time by written notice to the Firm, vary the scope of any Services, Approved Offices or Key Personnel applicable to the Firm's appointment as an Authorised Provider as specified in the Confirmation of Appointment provided that it shall, save in the case of emergencies, consult with the Firm before doing so.
  5. Without prejudice to any Instruction when issued, nothing in this Framework Agreement shall oblige any Beneficiary to Instruct the Firm or any other provider and any Beneficiary shall be entitled at any time to decline to Instruct any provider whatsoever even if it has followed a procedure contemplated by this Framework Agreement.

## PREFERRED SUPPLIER STATUS

* 1. Any Beneficiary may, to the extent it considers it appropriate, take into account the benefits of developing a continuing familiarity (an **"Established Relationship"**) on the part of a limited number of providers with a certain category of In-Scope Services, being either:
     1. all In-Scope Services required by the Beneficiary with respect to that Lot; or
     2. certain specified In-Scope Services (for example, all such Services as may relate to an individual NHS Member) required by the Beneficiary with respect to that Lot

in selecting which provider to appoint to provide Services within that category.

* 1. To the extent that a Beneficiary may, from time to time, consider the development or existence of Established Relationships to be beneficial in selecting which provider to Instruct within a particular category of Services, it may appoint one or more providers (which may, or may not, include the Firm) as a preferred supplier (**"Preferred Supplier"**) with respect to that category.
  2. Where a Beneficiary has nominated one or more Preferred Suppliers with respect to a category of Services, it may take that status into account in deciding which provider to Instruct with respect to any Services within that category.
  3. Nomination as a Preferred Supplier may be made by Appointment Letter or:
     1. within any Instructions; or
     2. otherwise in such form and manner as the relevant Beneficiary considers appropriate.
  4. A Beneficiary may require that, as a condition of nomination as a Preferred Supplier, a provider commits to make available certain specified Additional Services.

## APPOINTMENT PROCEDURES – LOTS 1

* 1. The provisions of this clause 5 apply to the selection of a provider:
     1. to be instructed with respect to any specific services; or
     2. to be nominated as a Preferred Supplier

in each case within the scope of Lot 1.

* 1. Subject to the procedures set out in this clause 5, a Beneficiary may select a provider in accordance with such criteria and process as it may, in its absolute discretion, consider appropriate.
  2. Before selecting a provider a Beneficiary may, where relevant, seek and consider the views of any NHS Member for which the provision of Services is relevant.
  3. In making any selection a Beneficiary shall:
     1. only consider for selection such firms as the Beneficiary considers (whether as a result of a further specific tender or otherwise) are capable of providing the Services in question; and
     2. use such criteria as it considers appropriate which may include, without limitation, the following:
        1. in the case of specific instructions, any Preferred Supplier status (where relevant);
        2. the volumes of work being handled, or which have been handled, under the Framework by any potential providers across all of their respective offices;
        3. the capacity of any potential providers to handle new instructions in the area in which the need has arisen;
        4. the prior experience of any potential providers concerned in the subject matter of the new instructions;
        5. the performance of any potential providers concerned under their applicable KPI's;
        6. the need to secure value for money;
        7. any Additional Services offered or provided by any potential providers; and
        8. the willingness or otherwise of any potential providers to accept previous Instructions in respect of which they were capable of providing the relevant Services.

## APPOINTMENT PROCEDURES – LOT 2

* 1. The provisions of this clause 6 apply to the selection of a provider:
     1. to be instructed with respect to any specific Services; or
     2. to be nominated as a Preferred Supplier; or
     3. to be included within a mini-competition process in accordance with clause 6.4 below.

in each case within the scope of Lot 2.

* 1. Subject to the procedures set out in this clause 6, a Beneficiary may select a provider in accordance with such criteria and process as it may, in its absolute discretion, consider appropriate.
  2. In making any selection a Beneficiary shall:
     1. only consider for selection such firms as the Beneficiary considers (whether as a result of a further specific tender or otherwise) are capable of providing the Services in question; and
     2. use such criteria as it considers appropriate which may include, without limitation, the following:
        1. in the case of specific Instructions, any Preferred Supplier status (where relevant);
        2. the volumes of work being handled, or which have been handled, under the Framework by any potential providers across all of their respective offices;
        3. the capacity of any potential providers to handle new instructions in the area in which the need has arisen;
        4. the prior experience of any potential providers concerned in the subject matter of the new instructions;
        5. the performance of any potential providers concerned under their applicable KPI's;
        6. the need to secure value for money;
        7. the Additional Services offered or provided by any potential providers; and
        8. the willingness or otherwise of any potential providers to accept previous Instructions in respect of which they were capable of providing the relevant Services.
  3. A Beneficiary may, where it considers it practical to do so, conduct a mini-competition to identify the chosen provider(s) subject always to the following value guidelines:
     1. in respect of any appointment the anticipated value of which is less than £25,000, a mini competition is unlikely to be necessary;
     2. in respect of any appointment the anticipated value of which is equal to, or exceeds, £25,000 but is less than £50,000, a mini-competition process, if held, is likely to be undertaken between a maximum of three (3) firms selected by the Beneficiary from Framework Panel Lot 2; and
     3. in respect of any appointment the anticipated value of which is equal to, or exceeds, £50,000, a mini-competition process, if held, is likely to be undertaken between all members of Framework Panel Lot 2.

provided that a Beneficiary is unlikely to undertake any mini-competition in respect of Services for which it has already appointed one or more Preferred Suppliers.

* 1. A Beneficiary may organise a mini-competition in such manner as it considers appropriate provided that it will normally:
     1. issue an invitation to submit a response to a mini-competition to all relevant firms which will detail its requirements, the information which organisations must provide and details of the award criteria and method of evaluation;
     2. evaluate the responses to such an invitation as it sees fit subject to the following parameters:
        1. financial issues (weighting 20-80%);
        2. qualitative issues (weighting 20-80%).
  2. A Beneficiary shall not be required to organise a mini-competition in any circumstances where it does not consider that to be appropriate for example but without limitation, by reference to the urgency with which the advice is required.

## INSTRUCTIONS

* 1. Instructions may be issued in such form, and may contain such information, as the relevant Beneficiary considers appropriate provided that a non-exhaustive indicative list of the content of instructions shall be as follows:
     1. the Instructed Services;
     2. confirmation of the basis upon which the agreed fees will be calculated;
     3. the partner at the firm with overall responsibility for, and any Key Personnel nominated with respect to, the supply of the Instructed Services;
     4. the Beneficiary’s representative for the purpose of the Instructions; and
     5. any Approved Sub-Contractors in connection with those Instructions.
  2. If the Firm is selected to be appointed as a Preferred Supplier or to be instructed it shall not be obliged to accept such Instructions but must confirm to the relevant Beneficiary whether it accepts those Instructions:
     1. within any period specified by the Beneficiary; and
     2. in any event within five (5) working days (or a reasonable time if shorter).
  3. If the Firm:
     1. declines to accept the Instructions; or
     2. fails to accept those Instructions within the period referred to in clauses 7.2.1 and 7.2.2 above

the Beneficiary may withdraw those Instructions and may instruct another provider.

* 1. The acceptance by the Firm of any Instructions will create a legally binding obligation upon the Firm (either in accordance with clause 7.2 or in any such other manner as the relevant Beneficiary may expressly agree) to provide the relevant Services specified in the Instructions and in accordance with the Standard Terms and any specific terms agreed as part of the appointment.
  2. If a Beneficiary requests the Firm to supply services which are the same as or similar to the Services, the Firm shall promptly and in any event within five (5) Working Days of that request by the Beneficiary and before starting any supply of such Services, inform the Beneficiary of the existence of this Framework Agreement.
  3. If any NHS Members merge to form a new entity, the Authority may undertake a new selection process in accordance with the procedures set out in clauses 5 and 6 above.

## APPLICABLE TERMS AND CONDITIONS

* 1. The Standard Terms shall be deemed to be incorporated each time the Firm is appointed under this Framework Agreement on the basis that, each time there is a new appointment the warranties, representations and undertakings in the Standard Terms shall be deemed to be repeated by the Firm in relation to the circumstances existing at that time.
  2. An appointment may also incorporate any other terms and conditions as the relevant Beneficiary may consider appropriate in relation to the subject matter of the specific appointment.
  3. In the case of any conflict between the requirements of this Framework Agreement, any appointment terms and conditions or any other document, the Standard Terms shall take precedence. No Firm is permitted to incorporate any other terms and conditions, including but not limited to its own terms and conditions, in relation to this Framework Agreement or its appointment to provide the Services.

## COMMERCIAL TERMS

* 1. Unless otherwise expressly agreed in writing, the charges for all work provided pursuant to Instructions shall be calculated in accordance with the Agreed Fees.
  2. Throughout the term of its appointment, the Firm shall provide the Additional Services in accordance with Part B of Framework Schedule 2.

## PROVISION OF MANAGEMENT INFORMATION

* 1. The Firm shall, at no charge to the Authority, submit to the Authority complete and accurate Management Information in accordance with the provisions of Part B of Framework Schedule 6 (Management Information).
  2. If the Authority shares the Management Information with any Beneficiary, the Authority shall inform such Beneficiary of the sensitive nature of that information and shall request that Beneficiary not to disclose it to any person who is not a Crown body or another Beneficiary (unless required to do so by Applicable Laws).

## PERFORMANCE MANAGEMENT

* 1. The Firm will attend performance review meetings (**"Performance Review Meetings"**) with the Authority not less than quarterly and more frequently when requested by the Authority. At each Performance Review Meeting the Firm will discuss with the Authority:
     1. all aspects of the performance of the Services including any issues of concern on the part of either party; and
     2. any failure by the Firm to achieve any KPI Target or KPI Threshold.
  2. If the Firm's performance in respect of any KPI measure is below the relevant KPI Target or KPI Threshold:
     1. if the Authority considers that failure to be critical, the Firm shall immediately instigate a rectification plan which will resolve the issue within seven (7) days;
     2. in all other cases the Firm shall instigate a rectification plan which will resolve the issue as soon as reasonably practicable and in any event in no more than three (3) months.
  3. All rectification plans will be agreed with the Authority. If a rectification plan cannot be agreed at a Performance Review Meeting or a rectification plan does not resolve the relevant performance issue within the required period, the matter will considered a dispute which shall be escalated in accordance with the Disputes Procedure. If it remains unresolved, the Authority may terminate this Framework Agreement.
  4. The provisions of clauses 11.1 to 11.3 shall also apply at the request of any Beneficiary in respect of any Instructions or appointment (including any appointment as Preferred Supplier) pursuant to this Framework Agreement save that references to the Authority shall, in that event, be interpreted as references to the relevant Beneficiary.

## FRAMEWORK AGREEMENT MANAGEMENT

* 1. This Framework Agreement shall be managed in accordance with Part A of Framework Schedule 6 (Framework Management).
  2. The Firm acknowledges that each Beneficiary is independently responsible for the conduct of its award of an appointment under this Framework Agreement and that the Authority is not responsible or accountable for and shall have no liability whatsoever in relation to the conduct or performance of any Beneficiary (other than the Authority) in relation to this Framework Agreement or any appointment.

## VALUES

* 1. The Firm shall operate in accordance with the following organisational values of the Authority during its performance of the Services and in all written and oral communications with the Authority and Beneficiaries:
     1. professional – the Firm shall be dedicated to providing a professional, high quality services, working flexibility to find effective and efficient solutions;
     2. expert – the Firm shall bring its unique skills, knowledge and expertise in its performance of the Services;
     3. ethical – the Firm shall act with honesty, integrity and fairness;
     4. respectful – the Firm shall treat people with consideration and respect, and encourage supportive, collaborative and inclusive team working.

# **Schedule 1 Beneficiaries**

* Department of Health;
* NHS Litigation Authority – operating as NHS Resolution (Authority);
* Care Quality Commission;
* Health Education England;
* Human Fertilisation and Embryology Authority;
* Health Research Authority;
* Human Tissue Authority;
* Medicines and Healthcare Products Regulatory Agency;
* National Institute for Health and Care Excellence;
* National Treatment Agency for Substance Misuse;
* NHS Blood and Transplant;
* NHS Business Services Authority;
* NHS Commissioning Board (known as NHS England);
* NHS Digital;
* NHS England & NHS Improvement;
* Professional Standards Authority for Health and Social Care;
* Public Health England/[UK Health Security Agency](https://en.wikipedia.org/wiki/UK_Health_Security_Agency);

and any and all other entities which are currently, or may at any time during the life of the Framework become, arm's length bodies or agencies of the Department of Health and Social Care.

# Schedule 2 Fees

**PART A**

**Fees applicable insofar as Firm is appointed to Lot/Panel 1**



**Fees applicable insofar as Firm is appointed to Lot/Panel 2**

**Role**

**Rate**

**Partner or equivalent title**

**with 10 years or more PQE**

**Partner or equivalent title**

**with 5-9 years PQE and**

**solicitor or equivalent title 10**

**years or more PQE**

**Solicitor or equivalent title 5-**

**9 years PQE**

**Solicitor or equivalent title**

**NQ-4 years PQE**

**Legal Executive**

**Paralegal and trainee**

Travelling time will not be chargeable.

Travel will be paid in accordance with rates notified to the Organisation from time to time and will consist of reimbursement for second class rail travel and limited mileage where public transport options are not available.  Please note that (otherwise than as stated above in relation to expert reports) photocopying and/or secretarial support, postage and general office administration costs will not be considered as a disbursement and shall be absorbed as an office expense within the overall remuneration rate.

**PART B Additional Services**

The Firm shall provide the following Additional Services to any Beneficiary that has appointed it on an on-going basis as part of the Agreed Fee as and when reasonably agreed between the Firm and that Beneficiary:

1. Library and research services;
2. Secondees;
3. Secretarial support and administrative support;
4. Office services;
5. Premises to accommodate conferences and other events;
6. Legal and other training services;
7. Seminars, exhibitions and conferences;
8. Contributions to the Beneficiary's publications, extranet and website content;
9. Speakers at conferences and seminars hosted by the Beneficiary;
10. Helpline facilities to support Beneficiaries and/or customers;
11. Market Intelligence, data analytics to support strategic objectives;
12. Project support;
13. Support/contributions to assist beneficiaries with Legal and/or Scheme reforms; and
14. Such other services as enable the Beneficiaries to achieve their corporate objectives, e.g. supporting learning from claims.

A Beneficiary may select from the Additional Services contained in this Schedule as and when they choose, but all firms must ensure that they are capable of fulfilling all of the Additional Services. The specific Additional Services required shall be detailed in each individual appointment between the relevant Beneficiary and the relevant Firm.

The Additional Services shall also include any such services as have been proposed by the Firm in its Tender and agreed by a Beneficiary.

No Additional Services shall attract a fee or requirement for any Beneficiary to make any payment.

**PART C Form of Appointment Letter**

[Letterhead of Beneficiary]

[Name and address of Firm(s)]

[Reference number]

[Date]

Dear Sirs,

**Preferred Supplier Status**

This is an Appointment Letter written pursuant to the Health-related Legal Services Framework Agreement between the National Health Service Resolution or any Beneficiary and you dated [ ] (the “**Framework Agreement**”). It shall be interpreted in accordance with, and shall incorporate the Standard Terms provided for in, the Framework Agreement.

The purpose of this letter is to inform you that you have been appointed by [insert name of Beneficiary] (the "**Appointer**") from Framework Panel Lot [x] in accordance with the appointment procedures in the Framework Agreement as a Preferred Supplier.

As a Preferred Supplier, you may, from time to time, be instructed to carry out on behalf of the Appointer:

1. all In-Scope Services required by the Appointer with respect to Lot [x]; or
2. certain specified In-Scope Services required by the Appointer with respect to Lot [x].

Notwithstanding your appointment as a Preferred Supplier, it shall remain at the absolute discretion of the Appointer as to whether to Instruct you within a particular category of Services.

The Appointer may appoint one or more Preferred Suppliers. If the Appointer has nominated more than one Preferred Supplier with respect to a category of Services, it shall be at the discretion of the Appointer to decide which provider to Instruct with respect to any Services.

As a condition of your appointment as a Preferred Supplier, you commit to make available the Services, the Additional Services and, if required by the Appointer, certain specified additional services as instructed to you from time to time.

Instructions from the Appointer shall be given to you each time new Instructions are required. Such Instructions may be given orally or in writing and will at all times be interpreted in accordance with, and shall incorporate the Standard Terms provided for in the Framework Agreement.

As a Preferred Supplier you are not obliged to accept Instructions but must confirm to the Appointer whether you accept any Instructions:

1. within any period specified by the Appointer; and
2. in any event within five (5) working days (or a reasonable time if shorter).

If you decline to accept the Instructions or fail to accept those Instructions within the period referred to above, the Appointer may withdraw those Instructions and may instruct another provider.

The acceptance by you of any Instructions will create a legally binding obligation upon you to provide the relevant Services specified in the Instructions and in accordance with the Standard Terms and any specific terms agreed as part of the appointment.

The Appointer may terminate your appointment as a Preferred Supplier at any time at their absolute discretion.

Yours faithfully

………………………………………………….

For and on behalf of [insert name of Beneficiary]

# Schedule 3 Contract and Performance Monitoring

The Service Levels set out below apply to both Lots, and are indicative and subject to confirmation by the Authority:

**Part A - Service Levels**

**Clinical Schemes:**

|  |  |  |
| --- | --- | --- |
| **Instruction Type** | **Service/task** | **Service Level**  **(all timescales run from instruction unless stated)** |
| **Initial triage** | Acknowledgment of instruction | **1 working day** |
| Return of file | **5 working days** |
| **Liability Investigation package** | Acknowledgment of instruction | **1 working day** |
| Update on progress of investigations and indication of date of completion | **10 working days** |
| Provision of advice/expert evidence/LOR | **30 working days** |
| **Pre-lit Direct Instruction** | Acknowledgment of instruction | **1 working day** |
| Initial advice to obtain instructions and advise on reserve and key data | **10 working days** |
| Updating reserve changes and/or key data | **5 working days** from becoming aware of change |
| Reporting | **At agreed strategic stages** |
| Final report | **5 working days** from resolution or all agreed steps taken |
| **Expert quantum instruction** | Acknowledgment of instruction | **1 working day** |
| Update on progress of investigations and indication of date of completion | **10 working days** |
| Provision of advice and expert evidence | As agreed with case manager |
| **Litigation procedural instruction to file AOS/defence** | Acknowledgment of instruction | **1 working day** |
| Final report | **5 working days** from resolution or all agreed steps taken |
| **Litigation – delegated authority** | Acknowledgment of instruction | **1 working day** |
| Initial report with reserve advice and key data | **10 working days** |
| Updating reserve changes and/or key data | **5 working days** from becoming aware of change |
| Final report | **5 working days** from resolution |
| **Litigation – direct instruction** | Acknowledgment of instruction | **1 working day** |
| Initial advice | **10 working days** |
| Updating | **5 working days** from becoming aware of change to reserve advice and/or key data and/or plan for resolution |
| Reporting | 1. With authority for defence not less than **14 days before due date** then 2. At agreed strategic stages |
| **Inquest** | Acknowledgment of instruction | **1 working day** |
| Reporting/updating | **At Agreed strategic stages** |
| Final report | **5 working days from inquest** |
| **Mediation** |  |  |
| **Instruction to arrange  and support mediation (this does not apply if the claim is already subject to direct instructions)** | Acknowledgment of instruction | **1 working day** |
| Initial advice to obtain instructions and advise on reserves and key data | **10 working days** |
| Updating reserve changes and/or key data | **5 working days** from becoming aware of change |
| Reporting | **At agreed strategic Stages** |
| Final report and submission of  mediation outcome form | **5 working days** from date of mediation |

**Non clinical schemes:**

|  |  |  |
| --- | --- | --- |
| **Instruction Type** | **Service Level** | **Performance Guidance (all timescales run from date of submission of instruction unless stated)** |
| **PADS** | Acknowledgment of instruction | **1 working day** |
| Initial advice | **10 working days** |
| Final report | **5 working days from resolution** (provision of disclosure or hearing) |
| **MOJ Stage 3** | Acknowledgment of instruction | **1 working day** |
| Initial advice | **10 working days** |
| Updating reserve changes and/or key data | **5 working days** from becoming aware of change |
| Report | **20 days before hearing** (papers or oral) |
| Final report | **5 working days from resolution** (settlement agreed or hearing) |
| **Litigation procedural instruction to file AOS/defence** | Acknowledgment of instruction | **1 working day** |
| Final report | **5 working days** from resolution or all agreed steps taken |
| **Litigation – delegated authority** | Acknowledgment of instruction | **1 working day** |
| Initial report with reserve advice and key data | **10 working days** |
| Updating reserve changes and/or key data | **5 working days** from becoming aware of change |
| Final report | **5 working days** from resolution |
| **Litigation – direct instruction** | Acknowledgment of instruction | **1 working day** |
| Initial advice | **10 working days** |
| Updating | **5 working days** from becoming aware of change to reserve advice and/or key data and/or plan for resolution |
| Reporting | 1. With authority for defence not less than **14 days before due date** then 2. At agreed strategic stages |
| **Inquest** | Acknowledgment of instruction | **1 working day** |
| Reporting/updating | **At agreed strategic stages** |
| Final report | **5 working days from inquest** |

**PART B Key Performance Indicators (KPIs)**

**Lot 1**

KPIs for Lot 1 as set out below are indicative and are subject to confirmation by the Authority.

The Authority will directly track the KPI information for all Authority-instructed matters.

The Firm must provide to the Authority in a report (with such frequency as the Authority requires):

1. the information set out below for each matter instructed by a Beneficiary other than the Authority; and
2. such other information that the Authority requires.

| **Measure** | **Definition** | **Comment** | **Target** | **Tolerance** |
| --- | --- | --- | --- | --- |
| Average defence costs | Average defence costs on reaching a closed or PP (periodical payments) status. | Shown by Firm and by damages tranche, as defined by the Authority. | Panel average or below | 10% above Panel average |
| Average claimant costs | Average claimant costs on reaching a closed or PP status. | Shown by Firm and by damages tranche. | Panel average or below | 10% above Panel average |
| Average damages | Average damages on reaching a closed status. Excluding claims closed at zero or reaching a PP status. | Shown by Firm and by damages tranche. | Panel average or below | 10% above Panel average |
| Letter of response | On schedule cases the percentage of cases where the investigation has been completed and letter of response drafted. | Target per value tranche. | Panel average | TBA |
| Time to resolution | From date of first instructions (or commencement of current panel if later) to a settled status. | Shown by Firm and by damages tranche. PPs are given separate consideration. | Panel average or below. |  |
| Reserve accuracy | Accuracy of notified damages reserve prior to settlement | Shown by damages tranche | Within 20% of settlement award. |  |
| Audit scores | Most recent audit score undertaken by Beneficiary. | Shown by Firm and by office. | 80% |  |
| Justified complaints | Complaints re. panel handling found to be justified following investigation. | Complaints on the solicitors' log, or otherwise received from a claimant, Member or elsewhere, found to be justified by the panel manager. | 0 in rolling 3 month period | 3 in rolling 3 month period |

**Lot 2**

In the case of Lot 2, the relevant Beneficiary may determine relevant KPIs as part of the appointment process. The Beneficiary may adopt any of the KPIs set out above and will manage and monitor the Firm's performance of the KPIs as it considers appropriate and may, if it considers it necessary, do so in consultation with the Authority.

The Firm will attend Performance Review Meetings with the Beneficiary not less than quarterly and more frequently when requested by the Beneficiary. At each Performance Review Meeting issues of concern will be discussed. Where a Firm has fallen below the KPIs:

1. where the Beneficiary considers that failure to be critical, the Firm shall immediately instigate a rectification plan which will resolve the issue within seven days; and
2. in all other cases the Firm shall instigate a rectification plan which will resolve the issue as soon as reasonably practicable and in any event in no more than 3 months.

All rectification plans will be agreed with the Beneficiary. If a rectification plan cannot be agreed at a Performance Review Meeting or a rectification plan does not resolve the relevant performance issue within the required period, the matter will be escalated to the Director of Claims or the Technical Claims Director of the Authority and if still unresolved to the Chief Executive of the Authority. If it remains unresolved, the Authority may terminate this Framework Agreement.

# Schedule 4 Standard Terms and Conditions

## PERFORMANCE OF SERVICES

* 1. The Firm shall provide all Instructed Services and Additional Services and otherwise perform its obligations under the Agreement:
     1. in accordance with the requirements of the Agreement (including, for the avoidance of doubt, of the Framework Agreement and any applicable appointment);
     2. in accordance with all Applicable Laws and all regulations, constitutional documents and/or policies applicable to or issued by the Authority;
     3. in accordance with Good Practice and to a Proper Standard and in accordance with the instructions of the Authority;
     4. in accordance with the Service Levels and to a standard which meets or exceeds the Key Performance Indicators as set out in Framework Schedule 3 Part B; and
     5. in accordance with and not exceeding any specific Level of Authority.
  2. The Firm shall:
     1. obtain and maintain all licences, authorisations, consents or permits required in relation to the performance of its obligations under the Agreement;
     2. comply with all reasonable instructions given to it by the Authority and/or any relevant Beneficiary with respect to any Instructed Services, and by the Authority and any relevant Beneficiary with respect to the Additional Services;
     3. co-operate with each Beneficiary and the Authority (and, in each case, their respective other professional advisers); and
     4. comply with Government codes and practices and, to the extent the same are notified to the Firm, any internal policies and procedures of the Authority and each Beneficiary in force from time to time (including policies, procedures, codes and practices relating to staff vetting, security, equality and diversity, confidentiality undertakings and sustainability).
  3. The Firm shall not:
     1. incur any expenditure on behalf of, or for which it will subsequently seek reimbursement from, any Beneficiary without the prior written approval of that Beneficiary;
     2. without the prior written consent of the relevant Beneficiary or the Authority accept any commission, discount, allowance, direct or indirect payment, or any other consideration from any third party in connection with the provision of any Services;
     3. pledge the credit of any Beneficiary in any way; or
     4. engage in any conduct, which in the reasonable opinion of any Beneficiary is prejudicial to that Beneficiary.

## PERSONNEL INVOLVED IN THE SERVICES

* 1. The Firm acknowledges that the Key Personnel are essential to the proper provision of the Services. The Key Personnel shall be responsible for performing such roles as are ascribed to them in the Agreement and such other roles as may be necessary or desirable for the purposes of the Agreement or as may be agreed between the Firm and any Beneficiary from time to time.
  2. In addition to performing such roles, upon request the Firm shall procure that Key Personnel attend Performance Review Meetings at no cost to the relevant Beneficiary.
  3. Without the agreement of the Authority (in the case of Key Personnel specified in the Framework Agreement) or the relevant Beneficiary (in the case of Key Personnel specified in any Instructions or other appointment) the Firm shall not:
     1. release the Key Personnel from supplying Services pursuant to the Agreement except by reason of long-term sickness, maternity leave, paternity leave, termination of employment/partnership; or
     2. appoint any replacements for the Key Personnel provided that in any event the Firm must ensure that any such replacements are of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and are suitable for the responsibilities of that person, and in relation to specific supervisory roles, agreed with the Authority or the relevant Beneficiary.
  4. Any consent required under Clause 2.3:
     1. shall not be unreasonably withheld; and
     2. shall be conditional on appropriate arrangements being made by the Firm to minimise any adverse impact upon any Beneficiary, which could be caused by a change in Key Personnel.
  5. The Authority or any Beneficiary shall have the right to require the removal from involvement in the provision of any Services of any person engaged in the performance of any Services if in the reasonable opinion of the Authority or Beneficiary (as the case may be) the performance or conduct of such person is or has been unsatisfactory or if it shall not be in the public interest for the person to work on the relevant Services provided that before exercising this right the Authority or Beneficiary (as the case may be) shall, save in the case of an emergency, consult with the Firm.
  6. For the duration of the Agreement and for a period of twelve (12) months after the end of it the Firm shall not employ or offer employment to any staff of any Beneficiary who have been associated with the procurement and/or provision of any Services without the prior written consent of the Beneficiary.

## FEES AND PAYMENT

* 1. The only fees or other charges payable under the Agreement or otherwise for any Services shall be those calculated in accordance with the Agreed Fees, any appointment and any other agreement in writing between the Authority or any relevant Beneficiary, including but not limited to any Instructions.
  2. If at any time during the period of any Instructions the Agreed Fees are reduced, with the result that the Agreed Fees are lower than the fees payable under those Instructions, the fees payable under those Instructions shall automatically be reduced to reflect that change.
  3. In consideration of the Firm's performance of its obligations under Instructions, the Beneficiary shall pay the charges calculated in accordance with the Agreement together, following receipt of a valid VAT invoice, with VAT properly chargeable on the relevant amount.
  4. Unless otherwise instructed by the relevant Beneficiary, the Firm shall:
     1. issue one consolidated monthly invoice for fees arising under the Agreement; and
     2. ensure that each invoice is submitted electronically and contains all appropriate references and a detailed breakdown of the relevant Services provided and any disbursements, in a form determined by the beneficiary, and that it is supported by such other documentation as may reasonably be required by the relevant Beneficiary or the Authority to substantiate the invoice.
  5. Where a Beneficiary receives an invoice validly issued to it in accordance with clause 3.4:
     1. the relevant Beneficiary shall pay any sums properly due and payable to the Firm pursuant to that invoice in cleared funds by no later than thirty (30) calendar days after the date of receipt of such invoice, unless there is an agreed arrangement with the Beneficiary for earlier receipt of payment, in exchange for a discount on fees; and
     2. if the relevant Beneficiary fails to pay any undisputed amount in accordance with clause 3.5.1 it shall pay Interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 on the late payment amount. Such failure to pay shall not entitle the Firm to suspend the supply of any Services.
  6. The Firm shall:
     1. make any payments due to any Beneficiary without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless it has a valid court order requiring an amount equal to such deduction to be paid by that Beneficiary to the Firm; and
     2. indemnify each Beneficiary against any liability, including without limitation any interest, penalties or costs, which are suffered or incurred by or levied, demanded or assessed on that Beneficiary (as the case may be) at any time in respect of the Firm's failure to account for or to pay any VAT relating to payments made to the Firm pursuant to the Agreement. Any amounts due under this Clause 3.6 shall be paid by the Firm not less than five (5) Working Days before the date upon which the tax or other liability is payable by the relevant Beneficiary.
  7. Any overpayment of any amount by any party in connection with any Agreement shall be a sum of money recoverable by the party who made the overpayment from the party in receipt of the overpayment.
  8. If, pursuant to any Agreement, any Beneficiary is entitled to recover or receive any sum of money from the Firm, the relevant Beneficiary may unilaterally deduct that sum from any sum then due, or which at any later time may become due from it to the Firm.

## CONFLICTS

* 1. The Firm shall not at any time during the period of any Instructions knowingly act in any capacity for any person, firm or company in circumstances where, in the opinion of the Authority, a conflict of interest between such person, firm or company and the relevant Beneficiary shall thereby exist in relation to the Instructed Services.
  2. The Firm shall immediately report in writing to the relevant Beneficiary’s Representative any matters which involve or could potentially involve a conflict of interest as referred to in Clause 4.1.

## WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

* 1. As at the date of the Agreement, the Firm warrants represents and undertakes to each Beneficiary that:
     1. it is financially solvent;
     2. all relevant Tenders are true, complete and accurate and any financial information provided by the Firm to any Beneficiary has been prepared in accordance with all relevant generally accepted accounting principles;
     3. there is no claim, dispute, step or proceeding existing or, so far as it is aware, pending or threatened, which will or might affect its ability to perform its obligations under the Agreement; and
     4. the Agreement is executed by a duly authorised representative of the Firm.
  2. The Firm shall promptly notify each Beneficiary in writing:
     1. of any material detrimental change in the financial standing and/or credit rating of the Firm;
     2. if the Firm undergoes a Change of Control;
     3. if the Firm becomes associated in any way with any organisation, firm or individual that would, in the opinion of the Authority, damage the reputation of the Firm in such a way that would also damage the reputation of the Authority; and
     4. provided this does not contravene any Applicable Law, of any circumstances suggesting that a Change of Control is planned or in contemplation.
  3. Both parties shall take all necessary measures to ensure the health and safety of the other party’s employees, consultants and agents visiting their premises.
  4. The Firm undertakes to indemnify the Authority and/or any relevant Beneficiary for any damage suffered as a result of:
     1. any accidental loss, destruction, damage, alteration or disclosure of any Personal Data, Relevant Personal Data or Confidential Information or the unauthorised or unlawful processing of such data and in breach of the Framework Agreement or any Applicable Laws;
     2. any and all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities brought by any NHS Member against the Authority as a result of the actions of the Firm acting in breach of this Framework Agreement or any relevant appointment; and
     3. the Firm exceeding any specific Level of Authority.

## FRAUD

* 1. The Firm shall take all reasonable steps, in accordance with Good Practice, to prevent any Firm Related Fraud.
  2. The Firm shall notify the Authority in writing and immediately if it has reason to suspect that any Firm Related Fraud has occurred, is occurring or is likely to occur save where complying with this provision would cause the Firm or its employees to commit an offence under the Proceeds of Crime Act 2002 or the Terrorism Act 2000.
  3. If there is any Firm Related Fraud:
     1. the Authority may terminate the Framework Agreement; and
     2. any Beneficiary may terminate any Instructions or other appointment,
     3. and in each case may recover the amount of any loss which they may have suffered resulting from such termination (including the costs reasonably incurred of making other arrangements for the supply of the Services) from the Firm.

## BRIBERY AND CORRUPTION

* 1. Throughout the term of the Agreement, the Firm will:
     1. comply with all Anti-Corruption Laws;
     2. not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act if such activity, practice or conduct had been carried out in the UK;
     3. immediately report to the Authority, together with any Beneficiary who might reasonably be affected, with as much detail as is practicable, any request or demand for any undue financial or other advantage of any kind received by the Firm in connection with the performance of any Agreement;
     4. immediately notify the Authority (in writing) if any person who is a foreign public official (as defined in section 6(5) of the Bribery Act) becomes an officer or employee of the Firm or acquires a direct or indirect interest in the Firm (and the Firm warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Framework Agreement); and
     5. from time to time, at the reasonable request of the Authority confirm to the Authority compliance with this Clause 7 by:
        1. the Firm; and
        2. all of the Firm's Associated Persons who are performing any part of the Services,

1. and the Firm will provide such supporting evidence of compliance as the Authority may reasonably request. Such confirmation will be in writing and signed by an officer of the Firm.

## INTELLECTUAL PROPERTY RIGHTS

* 1. Unless agreed otherwise between the parties all Intellectual Property Rights generated as the product of any Services shall vest in the relevant Beneficiary who shall grant to the Firm a non-exclusive licence to use and exploit the same for so long as the Firm remains a party to the relevant Agreement.
  2. Subject to Clause 8.1 and save as expressly granted elsewhere under the Agreement, no Beneficiary shall acquire any right, title or interest in or to the Intellectual Property Rights of the Firm or its licensors and the Firm shall not acquire any right, title or interest in or to the Intellectual Property Rights of any Beneficiary or its licensors.
  3. The Firm shall on demand Indemnify and hold each Beneficiary and the Crown harmless against any and all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which any Beneficiary and or the Crown may suffer or incur as a result of a Third Party IP Claim.
  4. If a Third Party IP Claim arises, the relevant Beneficiary shall notify the Firm in writing of the Claim and shall not make any admissions which may be prejudicial to the defence or settlement of that claim. The Firm shall at its own expense conduct all negotiations and any litigation arising in connection with the claim provided always that the Firm:
     1. shall consult the relevant Beneficiary on all substantive issues which arise during the conduct of such litigation and negotiations;
     2. shall take due and proper account of the interests of the relevant Beneficiary and the Crown;
     3. shall consider and defend the Third Party IP Claim diligently using competent counsel and in such a way as not to bring the reputation of the relevant Beneficiary or the Crown into disrepute; and
     4. shall not settle or compromise the Third Party IP Claim without the prior written approval of the relevant Beneficiary (not to be unreasonably withheld or delayed).
  5. The Firm shall have no rights to use any of any names, logos or trademarks of any Beneficiary without the prior written approval of that Beneficiary.

## DATA PROTECTION

* 1. The Firm shall be registered under the DPA and both the Firm and the relevant Beneficiary shall comply at all times with the Data Protection Legislation and in the case of the Firm shall ensure that any Experts and Sub‑contractors also so comply. The Firm shall not perform its obligations under the Agreement in such a way as to cause the relevant Beneficiary to breach any of its obligations under the Data Protection Legislation and the relevant Beneficiary shall not perform its obligations under the Agreement in such a way as to cause the Firm to breach any of its obligations under the Data Protection Legislation. The relevant Beneficiary shall promptly notify the Firm in writing of any breach of its obligations under this clause 9.1 and if the Firm is in breach of its obligations hereunder it shall promptly notify in writing both the relevant Beneficiary and the Authority.
  2. The Firm shall not cause or permit to be processed, stored, accessed or otherwise transferred outside the United Kingdom any Relevant Personal Data without approval of the relevant Beneficiary. Where the relevant Beneficiary consents to such processing, storing, accessing or transfer outside the United Kingdom, the Firm shall comply with:
     1. the obligations of a Data Controller under the Data Protection Legislation by providing an adequate level of protection to any Relevant Personal Data that is so processed, stored, accessed or transferred; and
     2. any reasonable instructions notified to it by the Authority or relevant Beneficiary.

The Firm must promptly notify the relevant Beneficiary and the Authority if it breaches this clause 9.2.

* 1. The Firm shall:
     1. process the Relevant Personal Data only in accordance with instructions from the relevant Beneficiary and to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Applicable Law or any Regulatory Body;
     2. implement appropriate technical and organisational measures to protect Relevant Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure having regard to the nature of that data and the risks associated with any such loss, destruction, damage, alteration or disclosure;
     3. implement appropriate technical training to the Firm Staff on the handling, processing and protection of Relevant Personal Data. Records of this training are to be made and maintained by the Firm in such a form as to enable the relevant Beneficiary to audit these training records if they request to do so;
     4. take reasonable steps to ensure the reliability of all Firm Staff who have access to Relevant Personal Data and ensure that such Firm Staff are made aware of their duty to protect Relevant Personal Data under the Standard Terms of this Framework Agreement;
     5. notify the relevant Beneficiary within two (2) Working Days if the Firm receives:
        1. a request from a data subject to have access to the Relevant Personal Data relating to that person; or
        2. a complaint or request relating to the relevant Beneficiary's obligations under Data Protection Legislation;
     6. provide each Beneficiary with full cooperation and assistance in relation to any complaint or request made to the Beneficiary by any Third Party relating to the use of Relevant Personal Data;
     7. permit or procure permission for the Authority's representative or the relevant Beneficiary representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the data processing activities of the Firm and/or of its agents and Sub-Contractors);
     8. provide, within a timescale requested by the relevant Beneficiary a written description of the technical and organisational methods employed by the Firm for Processing the Relevant Personal Data.
  2. Without prejudice to any other provision of the Agreement, the Firm shall comply with the provisions of the Authority’s statement on information governance set out in Framework Schedule 7, which the Authority may at its discretion update from time to time.
  3. The Firm shall indemnify and keep indemnified the Beneficiary and the Authority in full from and against all claims, proceedings, actions, damages, losses, penalties, fines, levies, costs and expenses and all loss of profits, business revenue or goodwill (whether direct or indirect) and all consequential or indirect loss howsoever arising out of, in respect of or in connection with any breach by the Firm of this clause 9 and any breach by any Expert or Sub-contractor of the Data Protection Legislation.

## RECORDS AND AUDIT ACCESS

* 1. The Firm shall keep and maintain, in accordance with Good Practice, full and accurate records and accounts of the operation of the Agreement (including the Services provided and any case files relating to the Services, and amounts paid under the Framework Agreement) until seven (7) Years after the date of termination or expiry (whichever is the earlier) of the Agreement (or such other longer period as may be agreed between the parties).
  2. The Firm shall afford each Beneficiary, the National Audit Office and/or any other relevant auditor (the **"Auditors"**) and their respective representatives access to the records, case files and accounts referred to in Clause 10.1 at the Firm's premises and/or provide copies of such records and accounts, as may be required and agreed with each Beneficiary or Auditors) from time to time, in order that each Beneficiary or Auditors may carry out an inspection.
  3. Without prejudice to the liability for any breach of contract which may be identified as a result of any audit, the parties shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 10.

## CONFIDENTIALITY

* 1. Except to the extent set out in this Clause 11 or where disclosure is expressly permitted elsewhere in the Agreement, each party shall:
     1. treat all Confidential Information belonging to the other party as confidential and safeguard it accordingly; and
     2. not disclose any Confidential Information belonging to the other party to any other person without the prior written consent of the other party, except to such persons and to such extent as may be necessary for the performance of the Agreement or except where disclosure is otherwise expressly permitted by the provisions of this Framework Agreement or is a requirement of any Applicable Law.
  2. The Firm shall:
     1. only disclose any Beneficiary's Confidential Information to those members of the Firm’s Staff who are directly involved in the provision of the relevant Services and who need to know the information, and shall ensure that such individuals are aware of and shall comply with these obligations as to confidentiality;
     2. only use any Beneficiary's Confidential Information for the purpose of providing the relevant Services;
     3. maintain security arrangements with respect to all Beneficiary's Confidential Information which meet the requirements of Good Practice;
     4. ensure that the Firm Staff are aware of, and shall use its best endeavours to ensure that the Firm Staff comply with, the Firm's confidentiality obligations under the Agreement; and
     5. at the written request of the relevant Beneficiary, procure that specified members of the Firm Staff sign a confidentiality undertaking prior to commencing any work in connection with any Services.
  3. The Firm must promptly notify the relevant Beneficiary and the Authority if they breach any of the provisions of clauses 11.1 and/or 11.2.
  4. The provisions of Clauses 11.1 and 11.2 shall not apply to any Confidential Information received by one party from the other which:
     1. is or becomes public knowledge (otherwise than by breach of this Clause 11);
     2. is provided for the purpose of obtaining professional advice;
     3. was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party;
     4. is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
     5. is information independently developed without access to the Confidential Information; or
     6. must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the party making the disclosure, including any requirements for disclosure under Clause 13 (Transparency) and/or the FOIA, or the Environmental Information Regulations pursuant to Clause 12 (Freedom of Information).
  5. Nothing shall prevent any Beneficiary from disclosing Confidential Information of the Firm:
     1. to any consultant, contractor or other person engaged by that Beneficiary for any purpose relating to or connected with the Agreement (on the basis that the information shall be held by such consultant, contractor or other person in confidence and is not to be disclosed to any third party) or any person conducting any public sector audit, review or any additional assurance programme;
     2. for the purpose of the examination and certification of the Authority's or any relevant Beneficiary's accounts;
     3. for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority or any relevant Beneficiary has used its resources; or
     4. to any government department or any other Beneficiary,
  6. The Firm hereby acknowledges that all government departments or Beneficiaries receiving such Firm Confidential Information may further disclose the Firm Confidential Information to other government departments or Beneficiaries on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Beneficiary (unless disclosure is required by Applicable Law or is permitted under any appointment).
  7. The Firm acknowledges and agrees that information relating to Instructions placed by a Beneficiary, including performance against Service Levels and KPIs, pricing information (which includes information on prices tendered in a further competition, even where an Instruction is not placed) and the terms of any appointment may be shared with any Beneficiary from time to time. The Authority shall use reasonable endeavours to notify the recipient of such information that its contents are confidential.
  8. Within 6 months of the Commencement Date the Firm shall provide to the Authority a plan setting out its procedures for the handover of any Confidential Information and or Relevant Personal Data which comes into the possession or under the control of the Firm or any Approved Sub-Contractors in the course of providing the Services related to the Framework Agreement and/or any appointment (**"Transition Plan"**). The Transition Plan:
     1. shall be subject to the approval of, and shall be amended in accordance with any requirements of, the Authority,
     2. shall be maintained and implemented (as required) in each case by and at the cost of the Firm;
     3. shall include information relating to timelines and the mechanisms for handover of files to the Authority and/or Beneficiary and any run off provisions that may be relevant;
     4. shall not remove the rights of the Authority or that of a Beneficiary to require, at their discretion, the immediate return or destruction of any such information as described in Clause 19.2.1 of this Framework Schedule 4.

## FREEDOM OF INFORMATION

* 1. The Firm acknowledges that each Beneficiary is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and co-operate with the Authority to enable the Authority to comply with its Information disclosure obligations.
  2. The Firm shall and shall procure that Sub-Contractors shall:
     1. transfer Information to any Beneficiary as soon as practicable and in any event within two (2) Working Days of receiving a Relevant Request for such Information;
     2. provide each Beneficiary with a copy of all Information that is relevant to a Relevant Request for Information and in its control, possession or power, in the form that the Beneficiary requests within five (5) Working Days (or such other period as the Authority may specify) of the Beneficiary's request; and
     3. provide all necessary assistance reasonably requested by a Beneficiary to enable the Beneficiary to respond to any Relevant Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations
  3. Each Beneficiary shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Framework Agreement or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.
  4. In no event shall the Firm respond directly to a Relevant Request for Information without prior written approval from the relevant Beneficiary.
  5. The Firm acknowledges that (notwithstanding the provisions of this Clause 12) a Beneficiary may, acting in accordance with the Ministry of Justice Codes, be obliged under the FOIA or the Environmental Information Regulations to disclose information concerning the Firm or the Services:
     1. in certain circumstances without consulting the Firm; or
     2. following consultation with the Firm and having taken the Firm’s views into account,

provided always that where this Clause 12.5 applies the Beneficiary shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Firm advance notice, or failing that, to draw the disclosure to the Firm's attention after any such disclosure.

* 1. The Firm shall ensure that all Information is retained for disclosure in accordance with Clause 10 (Records and Audit Access) and shall permit the Authority to inspect such records as requested from time to time.

## TRANSPARENCY

* 1. The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Framework Agreement and any other Agreement, Instructions or terms of any appointment, are not Confidential Information which the Firm is entitled to protect.
  2. The Authority, or the relevant Beneficiary as the case may be, shall be responsible for determining in its absolute discretion whether any of the content of this Framework Agreement, any other Agreement, Instructions or terms of any appointment as the case may be, is exempt from disclosure in accordance with the provisions of the FOIA.
  3. The Authority, or the relevant Beneficiary as the case may be, may consult with the Firm to help with its decision regarding any exemptions under Clause 13.1 but the Authority, or the relevant Beneficiary as the case may be, shall have the final decision in its absolute discretion.
  4. The Firm shall assist and cooperate with the Authority, or the relevant Beneficiary as the case may be, to enable the Authority or Beneficiary to publish this Framework Agreement and any other agreement, instructions or terms of any appointment.

## PUBLICITY AND BRANDING

* 1. The Authority and each Beneficiary shall be entitled to publicise the Agreement:
     1. in accordance with any legal obligation upon the Authority, including any examination of this Framework Agreement by the National Audit Office pursuant to the National Audit Act 1983 or otherwise; and
     2. otherwise to the extent it reasonably considers appropriate subject, where practicable, to prior consultation with the Firm.
  2. The Firm shall not:
     1. do anything or cause anything to be done which may damage the reputation of the Authority or any Beneficiary or bring the Authority or any Beneficiary into disrepute; or
     2. make any announcement or public reference to its appointment by the Authority or any other relevant Beneficiary, or to any Instructions or its work undertaken pursuant such appointment or Instructions, or produce any publicity material without the prior written consent of the Authority provided that this shall not restrict the Firm in doing anything which:
        1. is necessary for the performance of the Services; or
        2. is required by law provided that the Firm first consults with the Authority or relevant Beneficiary as the case may be,

any breach of this Clause 14.2 may be deemed by the Authority to be a Material Default.

## LIABILITY

* 1. Neither party excludes or limits its liability for:
     1. death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors; or
     2. fraud or fraudulent misrepresentation by it or its employees.
  2. In respect of any and all Services, unless otherwise specifically agreed in the relevant Instructions the liability of the Firm for any individual matter and/or claim shall be capped at £40 million (forty million).
  3. Save in the case of Fraud or any liability for death or personal injury, no individual partner or employee of the Firm shall have any personal liability directly to any Beneficiary for any act or omission of such person in connection with this Agreement or the provision of any Services provided that this shall not limit or prejudice any liability of the Firm in that regard.

## INSURANCE

* 1. Each successful Firm must, throughout the period of its appointment to any of the Framework Panels maintain professional indemnity cover of not less than the amount specified, in respect of each Lot for which it is appointed in the relevant part of Framework Schedule 5 and must maintain all other insurances in providing such cover and to such levels as would be advised to be reasonably appropriate by an insurance broker to the carrying on of the Firm's business. All such insurance policies shall be maintained with a reputable insurance company, on terms that are no less favourable than those generally available to a prudent Firm in respect of risks insured in the international insurance market.
  2. The terms of any insurance or the amount of cover shall not relieve the Firm of any liabilities arising under this Framework Agreement or any appointment.
  3. The Firm shall produce to the Authority and/or Beneficiary, on request, copies of all insurance policies required by the Beneficiaries under any appointment or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
  4. The Firm shall use its reasonable endeavours to ensure that it shall not by its acts or omissions cause any policy of insurance to be invalidated or voided.

## TERMINATION

* 1. For the purposes of the Framework Agreement "Terminate" shall amount to any or all of the following:
     1. the termination of the Framework Agreement as a whole;
     2. the termination of a particular office or Key Personnel of the Firm from participation in the Framework Agreement; or
     3. the termination of any appointment of the Firm whether as a Preferred Supplier or otherwise; or
     4. the termination of any specific Instructions.
  2. Where any right to Terminate arises in favour of the Authority under the Framework Agreement, that right shall be exercisable in respect of the whole or any part of that Agreement.
  3. Without prejudice to any rights arising under any Instructions or appointment, each Beneficiary shall have a right to Terminate any Instructions or appointment to which it is a party in any circumstances (whether or not the Authority exercises any right to Terminate) where:
     1. the circumstances set out in clauses 17.4 or 17.5 apply with respect to those Instructions or that appointment; or
     2. the circumstances set out in clause 17.6 apply,

1. but no Beneficiary other than the Authority will have the right to Terminate any part of the Framework Agreement or the Framework Agreement as a whole.
   1. The Authority may Terminate by serving written notice on the Firm with effect from the date specified in such notice where the Firm commits a Material Default and if:
      1. the Firm does not remedy the Material Default to the satisfaction of the relevant Beneficiary within twenty (20) Working Days, or such other period as may be specified by the relevant Beneficiary, after issue of a written notice specifying the Material Default and requesting it to be remedied; or
      2. the Material Default is not, in the reasonable opinion of the relevant Beneficiary, capable of remedy.
   2. The Authority may Terminate by serving notice on the Firm in writing with effect from the date specified in such notice where a Persistent Failure has occurred.
   3. Subject to the terms of section 233, 233A and 233B of the Insolvency Act 1986, the Authority may Terminate with immediate effect by notice in writing where in respect of the Firm:
      1. it suspends orceases, or threatens to suspend or cease to trade its business (in whole or part);
      2. it suspends or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due within the meaning of section 123 Insolvency Act 1986 or admits an inability to pay its debts;
      3. its financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Agreement is in jeopardy;
      4. it commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors;
      5. it applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;
      6. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up or dissolution of the Firm;
      7. an application is made to court or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the other party;
      8. the holder of a floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver or a person becomes entitled to appoint, in terms of the floating charge and notwithstanding any law to the contrary, a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the Firm;
      9. any distress, execution, diligence or other such process is levied upon the whole or any part of the property or assets of the other party or any of its property is subject to the exercise of commercial rent arrears recovery; or
      10. the other party suffers any events analogous to the events set out in Clause 17.6.1 to 17.6.10 in any jurisdiction.
   4. The Authority may Terminate by giving notice in writing to the Firm with immediate effect within six (6) Months of:
      1. being notified in writing that a Change of Control has occurred; or
      2. where no notification has been made, the date that the Authority becomes aware of the Change of Control, or
      3. the Authority becoming aware that the Firm has become associated in any way with any organisation, firm or individual that would, in the opinion of the Authority, damage the reputation of the Authority and/or Beneficiary,
2. in each case if it considers that the event is likely to have an adverse effect on the provision of the Services or if, in the opinion of the Authority, it will damage the reputation of the Authority and/or any Beneficiary, and provided that the Authority has not first given its express prior written approval to the Change of Control.
   1. The Authority shall have the right to Terminate without cause with effect from a date falling at any time nine (9) Months or more after the Commencement Date by giving at least three (3) Months' written notice to the Firm.

## SUSPENSION AND NON-TERMINATION REMEDIES

* 1. If a relevant Beneficiary reasonably believes that a Material Default, Persistent Failure or Grave Misconduct has occurred with respect to an appointment then, without prejudice to the rights of a Beneficiary to terminate that appointment, that Beneficiary may suspend the Firm's appointment for such period as it determines to be appropriate by giving notice in writing to the Firm.
  2. If a Beneficiary suspends the Firm in accordance with clause 18.1:
     1. the Firm's entitlement to receive further Instructions or participate in any future mini-competitions shall, in relation to that Beneficiary and during the period of such suspension, unless otherwise stated by the Beneficiary, be suspended;
     2. that Beneficiary may notify other Beneficiaries who may take such suspension into account in determining whether to appoint the Firm to provide any other Services or may, if reasonably appropriate, suspend the Firm from the provision of Services under any other appointment; and
     3. any such suspension shall not affect the Firm's obligation to perform any Services save to the extent those obligations are expressly suspended.
  3. If the Firm is suspended by any Beneficiary, the Authority may suspend the Firm's status as Authorised Provider for all purposes under the Framework Agreement.
  4. Without prejudice to any other right or remedy which the Beneficiary may have, if any Services are not supplied in accordance with, or the Firm fails to comply with, any of the terms of the Framework Agreement or any relevant appointment then the Beneficiary may (whether or not any part of the relevant Services have been delivered) do any one or more of the following:
     1. at the Beneficiary’s option, give the Firm the opportunity (at the Firm's expense) to remedy any failure in the performance of the Services together with any damage resulting from such defect or failure (where such defect or failure is capable of remedy) and carry out any other necessary work to ensure that the terms of the Framework Agreement and the relevant appointment are fulfilled, in accordance with the Beneficiary's instructions;
     2. without terminating the appointment, itself supply or procure the supply of all or part of the relevant Services until such time as the Firm shall have demonstrated to the reasonable satisfaction of the Beneficiary that the Firm will once more be able to supply all or such part of the relevant Services in accordance with the Framework Agreement and the appointment;
     3. without terminating the whole of the appointment, terminate the appointment in respect of part of the relevant Services only and thereafter itself supply or procure a third party to supply such part of the relevant Services; and/or
     4. charge the Firm for, whereupon the Firm shall on demand pay, any costs reasonably incurred by the Beneficiary (including any reasonable administration costs) in respect of the supply of any part of the relevant Services by the Beneficiary or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Firm for such part of the relevant Services and provided that the Beneficiary uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement relevant Services.

## CONSEQUENCES OF EXPIRY OR TERMINATION

* 1. Where the Authority Terminates pursuant to Clause 17 (Termination) or where a Beneficiary Terminates an appointment and then makes alternative arrangements for the supply of the relevant Services:
     1. the Authority or the relevant Beneficiary may recover from the Firm the cost reasonably incurred in making those other arrangements and any additional expenditure incurred by the Authority or the relevant Beneficiary in securing those alternative arrangements provided that the Authority or the relevant Beneficiary shall take all reasonable steps to mitigate such additional expenditure; and
     2. no further payments shall be payable by the Authority or the relevant Beneficiary to the Firm until the Authority or the relevant Beneficiary has established the final cost of making those alternative arrangements, whereupon the Authority or the relevant Beneficiary may deduct an amount equal to the final cost of such other arrangements from any further payments then due to the Firm.
  2. On the expiry or termination of the Framework Agreement and/or any appointment for any reason, the Firm shall, at the request of the relevant Beneficiary and at the Firm’s cost:
     1. notwithstanding the existence of any Transition Plan as described in Clause 11.7 of this Framework Schedule 4, with respect to any Confidential Information and or Relevant Personal Data which came into the possession or under the control of the Firm or any Approved Sub-Contractors in the course of providing the Services related to that agreement or in connection with that agreement:
        1. immediately return it to the Beneficiary; and
        2. except where it is required to retain them by Applicable Law, promptly destroy all copies of such information or data and provide written confirmation to the Beneficiary that the data has been destroyed,

such actions shall only be required where specifically requested by the Authority or a Beneficiary. In the absence of such a request the mechanisms of the pre-agreed Transition Plan shall operate;

* + 1. immediately deliver to the Beneficiary in good working order (but subject to allowance for reasonable wear and tear) all the property (including materials, documents, information and access keys but excluding real property and IPR) issued or made available to the Firm by the Beneficiary in connection with the Agreement;
    2. vacate, and procure that all partners or employees of it or any of its Approved Sub-Contractors vacate, any premises of the Beneficiary occupied for the purposes of providing the relevant Services;
    3. return to the Beneficiary any sums prepaid in respect of any of the relevant Services the provision of which has not been completed by the date of expiry or termination; and
    4. promptly provide all information concerning the provision of the relevant Services which may reasonably be requested by the Beneficiary for the purposes of adequately understanding the manner in which the relevant Services have been provided or for the purpose of allowing the Beneficiary or any replacement provider to conduct due diligence.
  1. Notwithstanding the service of a notice to terminate this Framework Agreement, the Firm shall continue to fulfil its obligations under this Framework Agreement until the date of expiry or termination of this Framework Agreement or such other date as required under this Clause 19.3.
  2. Termination or expiry of this Framework Agreement shall not cause any appointment to terminate automatically. For the avoidance of doubt, unless the relevant Beneficiary otherwise elects, all appointments shall remain in force unless and until they are terminated or expire in accordance with the terms of the appointment, notwithstanding the termination or expiry of this Framework Agreement.
  3. Within ten (10) Working Days of the date of termination or expiry of this Framework Agreement, or such other period as may be agreed with the Authority, the Firm shall implement the mutually agreed Transition Plan.
  4. Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either party accrued under this Framework Agreement prior to termination or expiry.
  5. The provisions of Clauses 8 (Intellectual Property Rights), 9 (Data Protection), 11 (Confidentiality), 15 (Liability), 19 (Consequences of Termination), 29 (Notices), 31 (Dispute Resolution), 33 (Law and Jurisdiction) and Framework Schedule 8 (Interpretation) and, without limitation to the foregoing, any other provision of this Agreement which, expressly or by implication, is to be performed or observed notwithstanding termination or expiry shall survive the termination or expiry of this Framework Agreement.
  6. If, as a result of the termination of part or all of this Framework Agreement, or of the provision of the Services, by operation of the Transfer Regulations the contract of employment of any of the Firm's Staff has effect or is alleged to have effect as if originally made between the Authority and any such of the Firm's Staff then:
     1. The Authority may, within one month of becoming aware of the application of the Transfer Regulations to any such contract of employment, give notice to terminate such contract (being the minimum notice to which such the Firm's Staff are entitled by law); and
     2. The Firm shall indemnify and keep the Authority fully and effectively indemnified on demand from and against all losses incurred or suffered by the Authority arising out of or in connection with:
        1. such termination and against any sums payable to or in relation to the Firm's Staff in respect of their employment after the date of the relevant transfer of such Firm Staff to the date of such termination of their contract of employment; and
        2. any act or omission by the Firm or any other event, matter or circumstance occurring before termination of this Framework Agreement in relation to the Firm Staff.
  7. The Firm shall indemnify and shall keep the Authority indemnified on demand against any and all losses arising as a result of any failure or alleged failure by the Firm to comply with the Firm's obligations under Regulations 11, 13 and 14 of the Transfer Regulations.

## TRANSFER AND SUB-CONTRACTING

* 1. All Agreements are personal to the Firm and the Firm shall not sub-contract, assign, novate or otherwise dispose of or create any trust in relation to any or all rights and obligations under any Agreement or any part thereof without prior written approval of the relevant Beneficiary.
  2. Notwithstanding any Approved Sub-Contract, the Firm at all times shall remain responsible for all acts and omissions of its sub-contractors and the acts and omissions of those employed or engaged by such sub-contractors as if they were its own. An obligation on the Firm to do, or refrain from doing, any act or thing shall include an obligation upon the Firm to procure that its partners, employees and agents also do, or refrain from doing, such act or thing.
  3. A Beneficiary shall be entitled to:
     1. assign, novate or otherwise dispose of its rights and obligations under the Agreement or any part thereof to any other Beneficiary; or
     2. novate this Framework Agreement to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the relevant Beneficiary,

provided that such assignment, novation or disposal shall not increase the burden of the Firm's obligations under the Agreement in question.

* 1. The Firm shall enter into such agreement and/or deed as a Beneficiary shall reasonably require so as to give effect to any assignment, novation or disposal made pursuant to Clause 20.3.
  2. Any change in the legal status of the Beneficiary such that it ceases to be a Beneficiary or public body shall not affect the validity of the Agreement. In such circumstances, the Agreement shall bind and inure to the benefit of any successor body to the Beneficiary.

## VARIATIONS

* 1. Save as specifically provided in the Framework Agreement or otherwise agreed in writing, the Framework Agreement may not be varied except where:
     1. the Authority notifies the Firm in writing that it wishes to vary the Standard Terms of this Framework Agreement and provides the Firm with full written details of any such proposed change; and
     2. the Authority Representative and the Firm Representative, acting reasonably, agree in writing to the variation and a written variation agreement is signed by the Authority Representative and the Firm Representative.
  2. If, by the date thirty (30) Working Days after notification was given under Clause 21.1.1 no agreement is reached between the Authority and the Firm acting reasonably in relation to any variation requested, the Authority may, by giving written notice to the Firm, either:
     1. agree that the parties shall continue to perform their obligations under this Framework Agreement without the variation; or
     2. terminate the Framework Agreement with immediate effect.
  3. The Firm shall neither be relieved of its obligations under any Agreement nor be entitled to increase the Agreed Fees and/or the charges under any Instructions as the result of any change in law.
  4. A Beneficiary may at any time by giving written notice with immediate effect to the Firm suspend, terminate or vary any Instructions provided that in each such case the charges to be paid for the instructed Services shall be varied in accordance with the Agreed Fees, any principles of the charges agreed specifically with respect to those Instructions and, otherwise in an equitable manner.

## NON-DISCRIMINATION

* 1. The Firm shall not, and shall take reasonable steps to procure that its Sub-Contractors do not, unlawfully discriminate either directly or indirectly within the meaning and scope of any Applicable Law, enactment, order or regulation relating to discrimination on grounds of race, gender, religion or religious belief, colour, ethnic or national origin, disability, sexual orientation, age or otherwise when performing their obligations under the Agreement.

## RIGHTS OF THIRD PARTIES

* 1. Save as specifically provided in any Agreement a person who is not party to that Agreement (a **"Third Party"**) has no right to enforce any term of the Agreement under the Agreements (Rights of Third Parties) Act 1999. This does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
  2. Each Beneficiary may, with the written approval of the Authority, enforce any term of this Framework Agreement which is for the benefit of the Beneficiary as a third party beneficiary in accordance with the Contracts (Rights of Third Parties) Act 1999.
  3. The Authority may, with the written approval of a Beneficiary, enforce any term of any appointment which is for the benefit of the Authority as a third party beneficiary in accordance with the Contracts (Rights of Third Parties) Act 1999.
  4. The Authority may act as agent and trustee for each Beneficiary and enforce on behalf of that Beneficiary any clause or term that is referred to in clause 23.2 and/or recover any loss, damage or liability suffered by that Beneficiary in connection with a breach of any such clause or term.
  5. No consent of any Beneficiary other than the Authority, or of any Third Party, is necessary for any rescission, variation (including any release or compromise in whole or in part of liability) or termination of the Framework Agreement or any one or more Clauses of it.
  6. No consent of any Beneficiary other than the relevant Beneficiary, or of any Third Party, is necessary for any rescission, variation (including any release or compromise in whole or in part of liability) or termination of an appointment or any one or more parts of it.

## BUSINESS CONTINUITY

* 1. The Firm shall have robust contingency plans in place to ensure that the services to all Beneficiaries will be maintained in the event of disruption (including, but not limited to, disruption to information technology systems) to the Firm’s operations, and those of Approved Sub-Contractors to the Firm, however caused. Such contingency plans shall be available for the Authority to inspect and to practically test at any reasonable time, and shall be subject to regular updating and revision throughout the Framework Agreement and all appointments.

## SEVERABILITY

* 1. If any provision of the Framework Agreement is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force.
  2. If any provision of the Framework Agreement that is fundamental to the accomplishment of the purpose of the Framework Agreement is held to any extent to be invalid, the Authority and the Firm shall immediately commence good faith negotiations to remedy such invalidity.

## WAIVER AND CUMULATIVE REMEDIES

* 1. The rights and remedies provided by the Framework Agreement may be waived only by the relevant Beneficiary or the Firm (as the case may be) in writing and in a manner that expressly states that a waiver is intended, and such waiver shall only be operative with regard to the specific circumstances referred to.
  2. No enquiry, inspection, approval, sanction, comment, consent, decision or instruction at any time made or given by or on behalf of any Beneficiary to any document or information provided by the Firm in its provision of any Services, and no failure of any Beneficiary to discern any defect in or omission from any such document or information shall operate to exclude or limit the obligation of the Firm to exercise all the obligations of a professional solicitor employed in a client/solicitor relationship.
  3. Unless a right or remedy of any Beneficiary is expressed to be an exclusive right or remedy, the exercise of it by the Beneficiary is without prejudice to the Beneficiary's other rights and remedies provided at Applicable Law or in equity.

## RELATIONSHIP OF THE PARTIES

* 1. Save to the extent the Firm operates specifically within a Level of Authority, nothing in the Framework Agreement is intended to create a partnership, or legal relationship of any kind that would impose liability upon one party for the act or failure to act of any other party, or to authorise a party to act as agent for any other party. No party shall have authority to make representations, act in the name of, or on behalf of, or otherwise to bind the other party.
  2. Where there is more than one firm acting as a consortium, each firm that is a member of the consortium shall be jointly and severally liable for performance of the firm’s obligations under the Framework Agreement.
  3. Save as otherwise expressly provided, the obligations of a Beneficiary under the Framework Agreement are obligations of that Beneficiary in its capacity as a contracting counterparty and nothing in the Framework Agreement shall operate as an obligation upon, or in any other way fetter or constrain that Beneficiary in any other capacity, nor shall the exercise by that Beneficiary of its duties and powers in any other capacity lead to any liability under the Framework Agreement (howsoever arising) on the part of that Beneficiary or the Firm.

## NON-EXCLUSIVITY

* 1. Except to the extent the Framework Agreement specifies the purchase of particular services from the Firm, the Agreement confers no form of exclusivity, or volume guarantee, in favour of the Firm and all Beneficiaries will all times be entitled to enter into other contracts and agreements with other firms for the provision of any Services.

## NOTICES

* 1. Any notices given under or in relation to the Framework Agreement shall be in writing by letter, (signed by or on behalf of the party giving it) sent by hand, post, or recorded signed for delivery service, by facsimile transmission or by electronic mail (confirmed by letter) to the address or facsimile number and for the attention of the relevant party at the address specified in the Framework Agreement or to such other address or facsimile number as that party may have stipulated in accordance with this Clause 29.1.
  2. A notice shall be deemed to have been received:
     1. if delivered personally, at the time of delivery;
     2. in the case of pre-paid first class post, special or other recorded delivery two (2) Working Days from the date of posting;
     3. in the case of electronic communication, two (2) Working Days after posting of a confirmation letter; and
     4. in the case of fax, on the day of transmission if sent before 16:00 hours on any Working Day and otherwise at 09:00 hours on the next Working Day and provided that, at the time of transmission of a fax, an error-free transmission report has been received by the sender.
  3. In proving service, it shall be sufficient to prove that personal delivery was made, or (including for the purposes of electronic mail confirmation letter) that the envelope containing the notice was addressed to the relevant party as referred to in clause 29.1 above (or as otherwise notified by that party) and delivered either to that address or into the custody of the postal authorities as pre-paid first class post, recorded signed-for delivery or pre-paid airmail letter and in the case of facsimile, that a transmission report generated from a facsimile machine evidences that the facsimile was transmitted to the relevant facsimile number.
  4. For the purposes of Clause 29.1, the postal address and email address of each party shall be:
     1. for the Authority : [generalenquiries@Resolution.nhs.uk](mailto:generalenquiries@NHSResolution.com) and office address: 8th Floor, 10 South Colonnade, Canary Wharf, London, E14 4PU
     2. the Firm, the address set out in the Confirmation of Appointment; and
     3. for a Beneficiary, the address set out in the relevant Instructions
  5. A party may change its address for service by serving a notice in accordance with this Clause 29.
  6. For the avoidance of doubt, any notice given under this Framework Agreement shall not be validly served if sent by electronic mail (email) and not confirmed by a letter.

## COMPLAINTS HANDLING AND RESOLUTION

* 1. The Firm shall notify the Authority of any Complaints made by the Beneficiaries, which are not resolved by operation of the Firm's usual complaints handling procedure within five (5) Working Days of becoming aware of that Complaint and such notice shall contain full details of the Firm's plans to resolve such Complaint.
  2. Without prejudice to any rights and remedies that a complainant may have at Applicable Law, including under this Framework Agreement, and without prejudice to any obligation of the Firm to take remedial action under the provisions of this Framework Agreement or any appointment, the Firm shall use its best endeavours to resolve the Complaint within ten (10) Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.
  3. Within two (2) Working Days of a request by the Authority, the Firm shall provide full details of a Complaint to the Authority, including details of steps taken to achieve its resolution.
  4. Where the Authority believes, at its own discretion, that a Complaint is of a sufficiently serious nature, or where there have been multiple Complaints made by the Beneficiaries regarding the same Firm the Authority shall have the right to suspend a Firm or Terminate in accordance with the provisions of these Standard Terms. Such Complaint may be deemed by the Authority a Material Default.

## DISPUTE RESOLUTION

* 1. The parties shall attempt in good faith to negotiate a settlement of any dispute between them arising out of or in connection with the Framework Agreement within twenty (20) Working Days of either party notifying the other of the matter which is subject to the potential dispute and such efforts shall involve the escalation of the matter to the Beneficiary representative and the Firm representative. Such an escalation process shall involve the escalation of the matter first to the Director of Claims or Technical Claims Director of the Authority and if still unresolved to the Chief Executive of the Authority.
  2. Nothing in this dispute resolution procedure shall prevent the parties from seeking from any court of competent jurisdiction an interim order restraining the other party from doing any act or compelling the other party to do any act.
  3. The obligations of the parties under this Framework Agreement shall not be suspended, cease or be delayed by the reference of a dispute to mediation or arbitration pursuant to this Clause 31 and the Firm and Firm Staff, personnel and associates shall comply fully with the requirements of this Framework Agreement at all times.
  4. Unless as set forth in clause 31.5, if the dispute cannot be resolved by the parties pursuant to Clause 31.5 the parties shall submit to the exclusive jurisdiction of the courts of England.
  5. If, for any reason and at the sole discretion of the Authority, the Authority chooses that a dispute should be settled by mediation in place of the courts of England the parties shall refer it to mediation pursuant to the procedure set out in Clause 31.6.
  6. If a dispute is referred to mediation the parties shall comply with the following provisions:
     1. a neutral adviser or mediator (the **“Mediator"**) shall be chosen by agreement between the parties or, if they are unable to agree upon a Mediator within ten (10) Working Days after a request by one party to the other or if the Mediator agreed upon is unable or unwilling to act, either party shall within ten (10) Working Days from the date of the proposal to appoint a Mediator or within ten (10) Working Days of notice to either party that the Mediator is unable or unwilling to act, apply to the CEDR to appoint a Mediator;
     2. the parties shall within ten (10) Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the parties may at any stage seek assistance from the CEDR to provide guidance on a suitable procedure;
     3. unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings;
     4. if the parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the parties with effect from its signature by their duly authorised representatives;
     5. if the parties fail to reach an agreement on the resolution of the dispute, either of the parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to this Framework Agreement without the prior written consent of both parties; and
     6. if the parties fail to reach agreement in the structured negotiations within sixty (60) Working Days of the Mediator being appointed, or such longer period as may be agreed by the parties, then any dispute or difference between them may be referred to arbitration pursuant to Clause 31.8.
  7. If a dispute cannot be resolved by the parties pursuant to Clause 31.6 the Authority may require that, as an alternative to being referred to the courts of England and Wales, it shall be referred to arbitration pursuant to the procedure set out in Clause 31.8.
  8. If a dispute is referred to arbitration the parties shall comply with the following provisions:
     1. the arbitration shall be governed by the provisions of the Arbitration Act 1996 and the LCIA procedural rules shall be applied and are deemed to be incorporated into this Framework Agreement (save that in the event of any conflict between those rules and this Framework Agreement, this Framework Agreement shall prevail);
     2. the decision of the arbitrator shall be binding on the parties (in the absence of any material failure by the arbitrator to comply with the LCIA procedural rules);
     3. the tribunal shall consist of a sole arbitrator to be agreed by the parties and in the event that the parties fail to agree the appointment of the arbitrator within ten (10) Working Days or, if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
     4. the arbitration proceedings shall take place in London; and
     5. if the parties fail to reach agreement in the structured negotiations within sixty (60) Working Days of the arbitrator being appointed, or such longer period as may be agreed by the parties, then any dispute or difference between them may be referred to the courts.

## ENTIRE AGREEMENT

* 1. The entire agreement and understanding between the parties in respect to:
     1. the subject matter of any appointment shall be set out in that appointment, any other directly connected appointment, any relevant Tender and the Framework Agreement; and
     2. the subject matter of the Framework Agreement shall be set out in that Agreement and any relevant Tender,

which in each case shall supersede, cancel or nullify any previous agreement between the relevant parties in relation to such matters.

* 1. Nothing in this Clause 32 shall operate to exclude liability for Fraud or fraudulent misrepresentation.

## LAW AND JURISDICTION

* 1. All Agreements and/or any non-contractual obligations or matters arising out of or in connection with it/them, shall be governed by and construed in accordance with the laws of England and Wales and without prejudice to the dispute resolution procedure set out in Clause 31 (Dispute Resolution) each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

# Schedule 5 Lot Specific Terms and Conditions

## PART A LOT 1 Specific Terms and Conditions

**INSURANCE**

Each Firm shall maintain insurance to a level of at least £45 million for each and every claim and/or matter.

**HELPLINE**

The Firm shall at all times during its appointment make available a Helpline on the following basis:

1. the Helpline number shall be as specified in the Firm's Confirmation of Appointment;
2. the Helpline shall be available and answered by a qualified lawyer capable of providing substantive assistance 24 hours a day, 7 days per week, 52 weeks of the year (including public holidays);
3. the Helpline shall provide substantive initial advice on all matters within the scope of Lot 1; and
4. the Helpline shall be available to be contacted by any Beneficiary or organisation represented by the Authority.

## PART B – Lot 2 Specific Terms and Conditions

**INSURANCE**

The minimum insurance to be maintained by each Firm is £45 million for each and every claim and/or matter, or as stipulated by the Beneficiary in the letter of instruction. This figure may not be varied downwards by the Firm without the written agreement of the Beneficiary.

**HELPLINE**

The Firm shall at all times during its appointment make available a Helpline on the following basis:

1. the Helpline number shall be as specified in the Firm's Confirmation of Appointment;
2. the Helpline shall be available and answered by a qualified lawyer capable of providing substantive assistance 24 hours a day, 7 days per week, 52 weeks of the year (including public holidays);
3. the Helpline shall provide substantive initial advice on all matters within the scope of Lot 2; and
4. the Helpline shall be available to be contacted by any Beneficiary or organisation represented by the Authority.

# Schedule 6 Framework Agreement Management

**PART A Management Procedures**

1. The Authority will appoint a Nominated Manager for the Firm for Lots 1 and 2. Performance Review Meetings shall be held with the Nominated Manager as provided in Framework Schedule 3 Part B. In the event of failure to agree, any dispute will be escalated in accordance with the Disputes Procedure.
2. Beneficiaries will manage their own relationships with firms performing work for them, as they consider appropriate. Any material issues shall be escalated in accordance with the Disputes Procedure.

**PART B Management Information**

The following information must be supplied by the Firm to the finance team at the Authority on a 3 monthly basis for each invoice billed (this list of information may be amended by notice from the Authority):

* Name of Beneficiary billed;
* Lot number;
* Date of bill;
* Period billed;
* Hours Billed;
* Scheme;
* Fixed fee arrangement/direct instruction
* Costs;
* Disbursements;
* VAT;
* Total Gross; and
* Total Net.

# Schedule 7 Information Governance

NHS Resolution is subject to information governance requirements from the Department of Health and Social Care (DHSC), NHS and Cabinet Office, as well as those in statutory and common law. This statement sets out minimum requirements of third parties with access to NHS Resolution data and information.

NHS Resolution requires the organisations it works with to maintain confidentiality, security and effective governance of all data (which includes all information and in particular, personal sensitive information relating to NHS patients and staff, appellants and claimants).

All those with access to the NHS Resolution’s data are required to have and comply with appropriate and robust policies, procedures and processes on information governance, including but not limited to:

* policies that ensure that the organisation complies with the DPA;
* policies that support the NHS Resolution meeting FOI requirements;
* policies that ensure that the organisation complies with DHSC, NHS and Cabinet Office guidance and good practice for ensuring information governance, including secure data storage, retention and disposal;
* policies to support staff in completing risk assessments and in reporting and investigating any near misses or incidents that do occur
* robust information management systems enabling the organisation to securely store, maintain and, where appropriate, delete electronic and destroy paper versions of NHS Resolution data;
* effective and regular training for all staff with access to NHS Resolution data on information governance.

**Roles**

# Protection of Personal Data

## Status of the Controller

## The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under this Contract will determine the status of each Party under the Data Protection Legislation. A Party may act as:

## “Controller” (where the other Party acts as the “Processor”);

## “Processor” (where the other Party acts as the “Controller”);

## “Joint Controller” (where both Parties are considered to jointly control the same Personal Data);

## “Independent Controller” of the Personal Data where the other Party is also “Controller” of the same Personal Data in its own right (but there is no element of joint control);

## and the Parties shall set out in the Schedule of Processing, Personal Data and Data Subjects which scenario or scenarios are intended to apply under this Contract.

**Where One Party is Controller and the other Party its Processor**

## Where a Party is a Processor, the only processing that the Supplier is authorised to do is listed in the Schedule of Processing, Personal Data and Data Subjects by the Controller.

## The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.

## 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 systematic description of the envisaged processing operations and the purpose of the Processing;

### an assessment of the necessity and proportionality of the Processing operations in relation to the Services;

### an assessment of the risks to the rights and freedoms of Data Subjects; and

### the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

## The Processor shall, in relation to any Personal Data Processed in connection with its obligations under this Contract:

### Process that Personal Data only in accordance with the Schedule of Processing, Personal Data and Data Subjects, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before Processing the Personal Data unless prohibited by Law;

### ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 26 (Buyer Data and Security Requirements) 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:

#### nature of the data to be protected;

#### harm that might result from a Data Loss Event;

#### state of technological development; and

#### cost of implementing any measures;

### ensure that:

#### the Processor Personnel do not Process Personal Data except in accordance with this Contract (and in particular the Schedule of Processing, Personal Data and Data Subjects);

#### it takes all reasonable steps to ensure the reliability and integrity of any of the Processor Personnel who have access to the Personal Data and ensure that they:

##### are aware of and comply with the Supplier’s duties under this Clause, Clauses 39 (Confidentiality) and in the case of the Supplier, 26 (Buyer Data and Security Requirements);

##### are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;

##### 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 Buyer or as otherwise permitted by this Contract; and

##### have undergone adequate training in the use, care, protection and handling of Personal Data; and

### not transfer Personal Data to a Restricted Country unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

#### the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37 as relevant) as determined by the Buyer;

#### the Data Subject has enforceable rights and effective legal remedies;

#### 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);

#### 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

#### in respect of any Processing in, or transfer of Personal Data to, any Restricted Country permitted in accordance with this Clause 34.5.4, the Processor shall, when requested by the Controller, promptly enter into an agreement with the Controller including or on such provisions as the Standard Contractual Clauses and/or such variation as a regulator or the Controller might require which terms shall, in the event of any conflict, take precedence over those in this Clause 34, and the Processor shall comply with any reasonable instructions notified to it in advance by the Controller with respect to the transfer of the Personal Data; and

### at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of this Contract unless the Processor is required by Law to retain the Personal Data.

## Subject to Clause 34.7, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with this Contract it:

### receives a Data Subject Request (or purported Data Subject Request);

### receives a request to rectify, block or erase any Personal Data;

### receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation; or

### receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;

### 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

### becomes aware of a Data Loss Event.

## The Processor’s obligation to notify under Clause 34.6 shall include the provision of further information to the Controller in phases, as details become available.

## Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 34.6 (and insofar as possible within the timescales reasonably required by the Buyer) including by promptly providing:

### the Controller with full details and copies of the complaint, communication or request;

### such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;

### the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;

### assistance as requested by the Controller following any Data Loss Event; and

### 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.

## The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 34. This requirement does not apply where the Processor employs fewer than 250 staff, unless:

### the Controller determines that the processing is not occasional;

### the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or

### the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

## The Processor shall allow for audits of its Processing activity by the Controller or the Controller’s designated auditor or representative.

## Each Party shall designate its own data protection officer if required by the Data Protection Legislation.

## Before allowing any Sub-processor to Process any Personal Data related to this Contract, the Processor must:

### notify the Controller in writing of the intended Sub-processor and processing;

### obtain the written consent of the Controller;

### enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 34 such that they apply to the Sub-processor; and

### provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

## The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.

## The Buyer may, at any time on not less than thirty (30) Working Days’ notice, revise this Clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).

## The Parties agree to take account of any guidance issued by the Information Commissioner’s Office. The Buyer may on not less than thirty (30) Working Days’ notice to the Supplier amend this Contract to ensure that it complies with any guidance, codes of practice, codes of conduct, regulatory guidance, standard clauses or any other related laws arising from the GDPR.

**Where the Parties are Joint Controllers of Personal Data**

## In the event that the Parties are Joint Controllers in respect of Personal Data under this Contract, the Parties shall implement Clauses that are necessary to comply with GDPR Article 26 based on the terms set out in the alternative Joint Controller clauses as indicated in Section C, Part C (Alternative Clauses) of the Order Form.

**Where the Parties are Independent Controllers of Personal Data**

## 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.

## 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.

## Where a Party has provided Personal Data to the other Party in accordance with Clause 34.17, 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.

## The Parties shall be responsible for their own compliance with Articles 13 and 14 GDPR in respect of the processing of Personal Data for the purposes of this Contract.

## The Parties shall only provide Personal Data to each other:

### to the extent necessary to perform the respective obligations under this Contract;

### in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects); and

### where it has recorded it in the Schedule of Processing, Personal Data and Data Subjects.

## Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the GDPR.

## A Party Processing Personal Data for the purposes of this Contract shall maintain a record of its Processing activities in accordance with Article 30 GDPR and shall make the record available to the other Party upon reasonable request.

## Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to this Contract (“the Request Recipient”):

### 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

### where the request or correspondence is directed to the other party and/or relates to the other Party's Processing of the Personal Data, the Request Recipient will:

### 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

### 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.

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

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

### implement any measures necessary to restore the security of any compromised Personal Data;

### 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

### 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.

## Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under this Contract as specified in the Schedule of Processing, Personal Data and Data Subjects.

## Personal Data shall not be retained or Processed for longer than is necessary to perform each Party’s obligations under this Contract which is specified in the Schedule of Processing, Personal Data and Data Subjects.

## Notwithstanding the general application of Clauses 34.2 to 34.15 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 Clause 34.16 to 34.27.

**Storage, transportation and disposal**

* Data must be stored in secure premises and systems.
* Where records are to be taken or sent off site, risk assessments must be undertaken to determine whether to use electronic media or paper for transporting and transferring data and the most appropriate type of electronic media or method of sending paper to be used.
* Physically transported electronic data should wherever possible be encrypted and/or transported on a device that can be immediately wiped remotely in the event of loss, and/or password protected.
* Transporting paper files should be avoided unless absolutely necessary. Where paper files are to be transported, all reasonable steps must be taken to safeguard the contents. For example, paper files sent via recorded delivery should be double enveloped and marked Strictly Private and Confidential, with a return address and contact details in the event of loss.
* The physical transport of papers should wherever possible be avoided, but if unavoidable all sensitive and confidential paper copy data must be sent by Royal Mail special delivery, secure courier or secure DX.
* Avoid using faxes – but where this is necessary, ensure they are sent from and received at a secure point.
* Arrangements for the secure destruction of all electronic records and paper documents must be in place and implemented.

**Data loss**

* Any loss of data must be reported to the NHS Resolution immediately, and investigated.
* In the event of a data loss which involves NHS Resolution data, the Firm must follow ICO guidance in reporting any incidents as data controller. At the same time as reporting to the ICO the Firm must notify to NHS Resolution by email to [incident.reporting@resolution.nhs.uk](mailto:incident.reporting@resolution.nhs.uk) so that it can also assess the severity of the incident. In addition NHS Resolution expects in accordance with the Framework Agreement a report of any investigations undertaken and any outcomes from ICO investigations.
* NHS Resolution must be fully advised of the outcome of the Firm’s own investigation and action taken to prevent a recurrence.
* NHS Resolution will expect at each Panel liaison meeting to review any incidents.
* If the NHS Resolution is not satisfied with the robustness of the investigation and/or the actions taken, it may suspend working with the contractor until it is satisfied that necessary action has been taken to safeguard all NHS Resolution data.
* If the loss involves a sub-contractor, the NHS Resolution will hold the principal contractor responsible for the loss.

**Assurance**

* Third parties with access to NHS Resolution data must be able immediately to provide evidence that they are meeting the NHS Resolution’s requirements.
* Contractors must assure themselves that sub-contractors meet the NHS Resolution requirements as outlined in this statement.
* Evidence of current ISO 27001 and Cyber Essentials Plus and/or compliance audit against the Information Commissioner’s Office codes of practice will be sufficient to provide the NHS Resolution with assurance.
* The NHS Resolution reserves the right to inspect specific evidence such as quarterly reports evidencing compliance, and to audit compliance with information governance practices (which shall include staff training records).

Email queries about this statement to [incident.reporting@resolution.nhs.uk](mailto:incident.reporting@resolution.nhs.uk)

SECURITY AND PROTECTION OF INFORMATION

**Malicious Software**

The Firm shall, as an enduring obligation throughout the Call Off Contract Period use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor (unless otherwise agreed in writing between the Parties) to check for, contain the spread of, and minimise the impact of Malicious Software (or as otherwise agreed between the Parties). If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Authority or Beneficiary Data, assist each other to mitigate any losses and to restore the provision of the Services to its desired operating efficiency. Any cost arising out of the actions of the Parties taken in compliance with the provisions of this Clause shall be borne by the Parties as follows: by the Firm, where the Malicious Software originates from the Firm Software, the Third Party Software supplied by the Firm or the Authority or Beneficiary Data (whilst the Authority or Beneficiary Data was under the control of the Firm) unless the Firm can demonstrate that such Malicious Software was present and not quarantined or otherwise identified by the Authority or Beneficiary when provided to the Firm; and by the Authority or Beneficiary if the Malicious Software originates from the Authority or Beneficiary Software or the Authority or Beneficiary Data (whilst the Authority or Beneficiary Data was under the control of the Authority or Beneficiary).

**Protection of Customer Data**

The Firm shall not delete or remove any proprietary notices contained within or relating to the Authority or Beneficiary Data. The Firm shall not store, copy, disclose, or use the Authority or Beneficiary Data except as necessary for the performance by the Firm of its obligations under this Call Off Contract or as otherwise Approved by the Authority or Beneficiary. To the extent that the Authority or Beneficiary Data is held and/or Processed by the Firm, the Firm shall supply that Authority or Beneficiary Data to the Authority or Beneficiary as requested by the Authority or Beneficiary and in the format (if any) specified in this Call Off Contract and in any event as specified by the Authority or Beneficiary from time to time in writing. The Firm shall take responsibility for preserving the integrity of Authority or Beneficiary Data and preventing the corruption or loss of Authority or Beneficiary Data. To the extent that any Authority or Beneficiary Data is held and/or Processed by the Firm, the Firm shall perform and maintain secure back-ups of all Authority or Beneficiary Data held and/or Processed in order to comply with its obligations under the Data Protection Legislation. The Firm shall ensure that such back-ups are available to the Authority or Beneficiary (or to such other person as the Authority or Beneficiary may direct) at all times upon request and are delivered to the Authority or Beneficiary at no less than six (6) Monthly intervals (or such other intervals as may be agreed in

writing between the Parties). The Firm shall ensure that any system on which the Firm holds any Authority or Beneficiary Data, including back-up data, is a secure system that complies with the Security Policy and the Security Management Plan (if any). If at any time the Firm suspects or has reason to believe that the Authority or Beneficiary Data is corrupted, lost or sufficiently degraded in any way for any reason, then the Firm shall notify the Authority or Beneficiary immediately and inform the Authority or Beneficiary of the remedial action the Firm proposes to take. If the Authority or Beneficiary Data is corrupted, lost or sufficiently degraded as a result of a Default so as to be unusable, the Authority or Beneficiary may: require the Firm (at the Firm's expense) to restore or procure the restoration of Authority or Beneficiary Data to the extent and in accordance with the requirements specified in Call Off Schedule B1 (Business Continuity and Disaster Recovery) where used, or as otherwise required by the Authority or Beneficiary, and the Firm shall do so as soon as practicable but not later than five (5) Working Days from the date of receipt of the Authority or Beneficiary’s notice; and/or itself restore or procure the restoration of Authority or Beneficiary Data, and shall be repaid by the Firm any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in Call Off Schedule B1 (Business Continuity and Disaster Recovery) where used, or as otherwise required by the Authority or Beneficiary.

# Schedule 8 Interpretation

## DEFINED TERMS

In the Framework Agreement and each appointment, words and phrases will have any meaning given to them in the Confirmation of Appointment and in addition:

1. "**Additional Services**" means the services and other benefits specified in Part B of Framework Schedule 2;
2. "**Agreed Fees**" means fees calculated in accordance with Part A of Framework Schedule 2;
3. "**Agreement**"means, as the context requires:
4. the Framework Agreement; or
5. a legally binding agreement created by the issue of Instructions by a Beneficiary and the acceptance of those Instructions by the Firm;
6. any other agreement created by an appointment;
7. "**Anti-Corruption Laws**" means all Applicable Laws, statutes and regulations relating to anti-bribery and anti-corruption;
8. "**Applicable Laws**" means all regional, national and international laws, rules, regulations and standards including those imposed by any governmental or regulatory authority and all applicable industry standards and standards determined by any self-regulatory body which apply from time to time to the person or activity in the circumstances in question;
9. "**Appointment**" means, save where the context requires otherwise, an appointment of the Firm duly made under this Agreement by a Beneficiary by way of any Instructions, as a Preferred Supplier or otherwise;
10. "**Appointment Letter**" means a letter of appointment in the form set out as Part C of Framework Schedule 2 amended as the relevant Beneficiary may consider appropriate;
11. "**Approved Office**" means an office, department, division or region of the Firm or of any Approved Sub-Contractor which the Authority concludes has the capabilities from time to time to provide the Services;
12. "**Approved Sub-Contractor**" means a sub-contractor approved by the relevant Beneficiary in the Framework Agreement, any appointment, or any Instructions;
13. "**Associated Person**" will be determined in accordance with section 8 of the Bribery Act and will include without limitation any partner, director, any employee and any agent of the Firm;
14. "**Auditors**" shall have the meaning given in clause 10.2 of Framework Schedule 4;

"**Authority**" means the National Health Service Litigation Authority;

"**Authorised Provider**" means a person appointed by the Authority;

**"Beneficiaries"** means the Authority and each of the bodies listed in Framework Schedule 1 provided that, in relation to any Instructions, "**Beneficiary"** shallmean the Beneficiary issuing those Instructions in order to procure specific Services;

"**Bribery Act**" means the Bribery Act 2010 under the laws of England;

1. **"CEDR"** means the Centre for Effective Dispute Resolution;
2. **"Change of Control"** shall have the meaning given to it within Sections 1124 and 450 of the Corporation Tax Act 2010;

**"Commencement Date"** shall be the date given in the Confirmation of Appointment;

**"Commercially Sensitive Information"** means any Confidential Information which the Firm regards as commercially sensitive regarding its affairs and which is listed as Commercially Sensitive Information in the Framework Agreement, any appointment, or any Instructions;

**"Complaint"** means any formal written complaint raised by any Beneficiary in relation to the performance of this Framework Agreement or any appointment in accordance with Clause 30 of Framework Schedule 4 (Complaints Handling and Resolution);

1. "**Confirmation of Appointment**" means the document confirming the appointment of the Firm signed on behalf of the Authority and the Firm;
2. "**Conflict**" means any conflict of any nature whatsoever between the interests of the Firm or of one of its clients and the interests of a Beneficiary;
3. **"Confidential Information"** means the information provided by the Authority or any Beneficiary to the Firm or by the Firm to the Authority or any Beneficiary and which is not in the public domain;
4. **"Control"** means control as defined in sections 1124 and 450 of the Corporation Tax Act 2010;
5. **"Crown"** means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
6. **"Data Controller",** **"Data Processor"** and **"Data Subject"** shall have the same meaning as set out in the Data Protection Act 2018;
7. **"Data Protection Legislation"** means the European Data Protection Laws, UK Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;
8. "**Disputes Procedure**" means the procedure set out in Clause 31 of Framework Schedule 4;
9. **"Environmental Information Regulations"** or **"EIR"** means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;
10. **“European Data Protection Laws”** means the EU General Data Protection Regulation 2016/679 of the European Parliament and of the Council (**"GDPR"**);and laws implementing or supplementing the GDPR;
11. **"Established Relationship"** shall have the meaning given to it in Clause 4.1 of the Framework Agreement;
12. **"Expert"** meansany entity or individual appointed by the Firm, whether on its own behalf or as agent for the Beneficiary, to provide an opinion with regard to a professional and/or technical matter arising in a case ( whether that case be litigated or pre-litigated) on account of their particular skills and/or knowledge of the subject matter.

**"Firm**"means the firm specified in theConfirmation of Appointment;

"**Firm Related Fraud**" means any Fraud by the Firm or any Firm Staff or any Authorised Sub-Contractor or any partner, director, office or employee of any Authorised Sub-Contractor;

"**Firm Staff**" means any partner, employee, staff or other workers, agents and consultants of the Firm engaged in any way in the provision of the Services or of any ancillary or support activity carried on by the Firm in order to enable the provision of the Services;

**"FOIA"** means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation;

1. **"Framework"** means the framework arrangements established by the Authority for the provision of the Services to Beneficiaries by firms;
2. **"Framework Agreement"** means the clauses of this Framework Agreement together with the Framework Schedules and annexes to them;
3. **"Framework Panel Lot 1"** means the panel consisting of all firms which have entered into a framework agreement relating to the provision of the Services in respect of Lot 1;
4. **"Framework Panel Lot 2"** means the panel consisting of all firms which have entered into a framework agreement relating to the provision of the Services in respect of Lot 2;
5. **"Framework Panels"** means any one of, or all of, Framework Panel Lot 1, and/or Framework Panel Lot 2;
6. **"Fraud"** means any offence under Applicable Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts in relation to this Framework Agreement or defrauding or attempting to defraud or conspiring to defraud the Crown;
7. **"Good Practice"** means standards, practices, methods and procedures conforming to the Applicable Laws and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person regulated by the Solicitors Regulation Authority;
   1. **"Grave Misconduct"** means grave professional misconduct within regulation 57(8)(c) of the Regulations and/or includes:
   2. poor performance or serious or persistent breaches which have led to the early termination of a contract between the Crown or any Beneficiary and the Firm; or
   3. poor performance or a serious breach or breaches which are the subject of proceedings concerning a contract between the Crown or any Beneficiary and the Firm; or
   4. serious financial irregularities on the part of the Firm (within any legal jurisdiction); or
   5. misconduct which would be regarded as serious by any Regulatory Body.
   6. and for the purposes of the foregoing “proceedings” includes arbitration proceedings which have been commenced or court proceedings where a letter before action or a notice of claim has been issued);

**"Helpline"** means the 24 hours a day helpline facility provided by the Firm as described in Framework Schedule 5;

1. **"Information"** has the meaning given under section 84 of the Freedom of Information Act 2000;
2. **"Indemnify"** means to indemnify on a continuing basis;
3. **"In-Scope**" means:
4. with respect to Services, Services within; and
5. with respect to Instructions, Instructions to provide Services within

the scope of the Lot or Lots specified in the Confirmation of Appointment;

1. **"Instructions**" means an order placed by way of an instruction to provide specific Services and "**Instruct**" means the placing of such an order;
2. **"Instructed Services**" means any Services which are the subject of any Instructions;
3. **"Intellectual Property Rights"** or **"IPR"** means:
4. copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, service marks, logos, database rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, design rights (whether registerable or otherwise), know-how, trade secrets and moral rights and other similar rights or obligations;
5. applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
6. all other rights whether registerable or not having equivalent or similar effect in any country or jurisdiction (including but not limited to the United Kingdom) and the right to sue for passing off;
7. **"Invitation to Tender"** meanstheInvitation to Tender dated [ ] issued by the Authority**;**
8. **"Key Performance Indicators"** or **"KPIs"** means the performance measurements and targets:
9. in the case of Lot 1 , as set out in Framework Schedule 3 Part B;
10. in the case of Lot 2, as may be determined by the relevant Beneficiary at the time of the relevant appointment ;
11. **"Key Personnel"** means any individuals identified as such in the Confirmation of Appointment or in any subsequent appointment and any replacements for such individuals that may be agreed between the relevant parties from time to time.
12. **"KPI Target"** means, in relation to a KPI, the target performance level for that KPI (being, in the case of the KPIs set out in Framework Schedule 3 Part B the "Target" level and, in the case of any other KPI, the level determined at the time that KPI is set);

**"KPI Threshold"** means, in relation to a KPI, the least acceptable performance level for that KPI (being, in the case of the KPIs set out in Framework Schedule 3 Part B the "Tolerance" level and, in the case of any other KPI, the level determined at the time that KPI is set);

**"LCIA"** means the London Court of International Arbitration;

**"Level of Authority"** means the scope of and limits on the authority of the Firm to act in carrying out their Instructions in relation to the Services as determined by the Beneficiary;

**"Lot(s)"** shall have the same meaning as described in the Invitation to Tender;

1. **"Management Information"** or **"MI"** means the management information specified in Framework Schedule 6 Part B (Management Information);
2. **"Material Default"** means a material breach by the Firm of the Framework Agreement including any breach by the Firm of any of the following Clauses of the Standard Terms and Conditions: Clause 1 (Performance of Services), Clause 4 (Conflicts), Clause 5 (Warranties and Representations), Clause 6 (Fraud), Clause 7 (Bribery and Corruption), Clause 9 (Data Protection), Clause 10 (Records and Audit Access), Clause 12 (Freedom of Information), Clause 14 (Publicity and Branding), Clause 20 (Transfer and Sub-Contracting), Clause 22 (Non-Discrimination), and Clause 30 (Complaints Handling and Resolution) and, in addition shall be deemed to occur if any information which is, or has been, provided by the Firm to the Authority or any Beneficiary (whether incorporated in any Tender or otherwise) is untrue or misleading or any other information is available, or event occurs, in relation to the Firm which the Authority considers would be reasonably likely to damage the reputation of the Authority or any Beneficiary;
3. **"Mediator"** shall have the meaning given to it in clause 31.6 of Framework Schedule 4;

**"Month"** means an entire calendar month and "Monthly" shall be interpreted accordingly;

**"NHS Member"** means English NHS Trusts and other providers of NHS care for whom the Authority operates schemes, on behalf of the Secretary of State for Health, primarily for the handling of liability claims;

**"Nominated Manager"** means a manager designated by the Authority to be responsible for monitoring the performance of a Firm;

**"Performance Review Meeting"** shall have the meaning as described in Clause 11 of the Framework Agreement;

**"Persistent Failure"** means any of:

1. two (2) or more failures by the Firm to accept an Instruction within two (2) Working Days of receipt in any rolling period of twelve (12) Months (other than when the Firm’s failure to accept an Instruction is due to a conflict of interest);
2. two (2) or more failures by the Firm to provide the Management Information by the reporting date in any rolling period of twelve (12) Months; or
3. any two (2) or more failures by the Firm to meet a KPI Threshold (whether the failures relate to the same or a different KPI Threshold) in relation to the Framework Agreement or one or more other appointments in any rolling period of twelve (12) Months; or
4. any failure by the Firm to meet the KPI Targets in relation to the Framework Agreement or one or more other appointments in any rolling period of three (3) Months where such failure relates to a majority in number of the relevant KPI's;
5. any failure by the Firm to meet the KPI Targets in relation to the Framework Agreement or one or more other appointments in any rolling period of three (3) Months where such failure relates to not less than 25% in number of the relevant KPI's and is not rectified during the immediately following period of three (3) Months;

**"Personal Data"** has the meaning given to it in Data Protection Legislation;

**"Preferred Supplier"** shall have the meaning given to it in clause 4.2 of the Framework Agreement;

**"Proper Standard"** means a standard of the Services:

1. which would be expected if they were provided by a skilled, experienced and professional solicitor providing those services using appropriate facilities, resources and current and accurate legal know how with Good Practice; and
2. appropriate for the purpose for which the Beneficiary requires the Services in all respects;
3. **"Process"** has the meaning given to it in Data Protection Legislation;
4. **“UK Data Protection Laws”** means the GDPR as transposed into United Kingdom national law by operation of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 (**"UK GDPR"**), together with the Data Protection Act 2018 (**“DPA 2018”**), the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 and other data protection or privacy legislation in force from time to time in the United Kingdom;
5. **"Regulations"** means the Public Contracts Regulations 2015;
6. **"Regulatory Bodies"** means the Solicitors Regulation Authority and other government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Framework Agreement and "**Regulatory Body"** shall be construed accordingly;
7. **"Relevant Personal Data"** means personal data whichis either provided to the Firm by a Beneficiary or is otherwise receivedby the Beneficiary in the course of providing the Services and relates to the subject matter of the Services;
8. **"Relevant Request for Information"** means, in the case of any Beneficiary, a request for information relating to the provision of services to that Beneficiary or, in the case of the Authority, to this Framework Agreement, or, in the case of any other Beneficiary, any appointment or an apparent request for such information under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations;
9. **"Services"** means the provisions of legal and ancillary services in respect of any of the Lots specified in the Framework Agreement as set out in Schedule 9 (Services);
10. **"Service Levels"** means the service levels detailed in Framework Schedule 3 Part A and within any specific appointments;
11. **"Standard Terms"** means the provisions of Framework Schedule 4 and, in respect of each Lot, the relevant part of Framework Schedule 5;
12. **"Sub-Contract"** means the Firm's contract with an Approved Sub-Contractor whereby the Approved Sub-Contractor agrees to provide to the Firm certain services (or any part thereof or facilities), as may be necessary for the Firm to provide Services to any Beneficiary under any Agreement;
13. **"Tender"** means any document or information provided by the Firm in response to the Invitation to Tender or which otherwise represents the capabilities of the Firm or its suitability to provide any Services or the basis or terms upon which it would provide those Services and includes, in all cases, the tender documentation provided to the Authority by the Firm and, in the case of each appointment, also includes any documentation provided to any Beneficiary in connection with such appointment;
14. **"Terminate"** shall have the meaning given to it in Clause 17 of Framework Schedule 4;

**"Third Party"** shall have the meaning set out in Clause 23.1 of Framework Schedule 4;

1. **"Third Party IP Claim"** means any claim that the performance by the Firm of any Services infringes or allegedly infringes a Third Party's Intellectual Property Rights;
2. **"Transfer Regulations"** means the Transfer of Undertakings (Protection of Employment) Regulations 2006;
3. **"Transition Plan"** means the mutually agreed plan outlining the handover of Confidential Information and Relevant Personal Data upon the expiry or termination of this Framework Agreement as described in Clause 11.7 of Framework Schedule 4;
4. **"Working Day"** means any day other than a Saturday, Sunday or public holiday in England and Wales; and
5. **"Year"** means a period of 12 months.

## RULES OF CONSTRUCTION

* 1. This Agreement will, except as specifically provided otherwise, be interpreted and construed as follows:

1. words importing the singular meaning include where the context so admits the plural meaning and vice versa and words importing the masculine include the feminine and the neuter and vice versa;
2. "include", "for example", "in particular" and words of similar effect shall be construed as if they were immediately followed by the words "without limitation";
3. references to any person shall include any natural or legal person of any kind including any partnership or limited liability partnership and their successors and permitted assigns or transferees;
4. references to any statute, enactment, order, regulation, code, official guidance or similar instrument shall be construed as a reference to the statute, enactment, order, regulation, code, official guidance or instrument as amended or replaced from time to time (whether such amendment or replacement occurs before or after the date of this Framework Agreement);
5. headings do not affect the interpretation or construction of this Framework Agreement;
6. references to any Clause, sub-Clause or Framework Schedule shall be construed as a reference to a clause or sub-clause of, or schedule to, this Framework Agreement;
7. references in a Framework Schedule to any paragraph or further designation shall be construed as a reference to the paragraph of the relevant Framework Schedule so numbered;
8. in the event and to the extent only of any conflict between the Clauses and the Framework Schedules, the Clauses shall prevail over the Framework Schedules;
9. the fact that any provision is expressed as a warranty shall not preclude any right of termination the Authority may have in respect of breach of that provision by the Firm; and
10. where the Firm is more than one firm acting as a consortium, each firm that is a member of the consortium shall be jointly and severally liable for performance of the Firm’s obligations under this Framework Agreement.

# Schedule 9 Services

**Lot 1 - Clinical Liabilities**

Legal advice and assistance arising out of potential, actual or alleged clinical liabilities of Members, Beneficiaries or others who are indemnified under a scheme or arrangement, including but not limited to:

1. any claim arising out of a breach or alleged breach of a duty of care by any Member;
2. the investigation of incidents which may result in a subsequent claim;
3. advice in relation to, and representation at, inquests;
4. advice on all applicable legislation, regulations and rules etc. pertaining to operation of the NHSLA schemes and related issues; and
5. Claims regarding blood transfusions, human tissue, transplants, clinical products and similar matters.

Assistance required will include handling pre-litigation and/or litigation and/or other forms of investigation, dispute resolution and advocacy work connected with any of the above.

**Lot 1 – Non-Clinical Liabilities**

Legal advice and assistance arising out of actual or alleged non-clinical liabilities of Members and/or practitioners, employees and workers of such bodies, Beneficiaries or others who are indemnified under a scheme or arrangement including but not limited to:

1. employers' liability, public/products liability and professional indemnity (including defamation);
2. claims for breach of statutory duty including under EU and UK human rights law;
3. claims involving property damage/loss and similar matters;
4. claims involving D&O or fidelity guarantee;
5. advice in relation to, and representation at, inquests;
6. advice in relation to health and safety, environmental, consumer protection and data protection cases (whether or not criminal in nature) and other criminal prosecutions;
7. Advice on all applicable legislation, regulations and rules etc. pertaining to the operation of the NHSLA schemes and related issues.

Assistance required will include handling pre-litigation and/or litigation and/or other forms of investigation, dispute resolution and advocacy work connected with any of the above.

**Lot 2 – Regulatory, Health and Disciplinary Law**

Legal advice and assistance in relation to:

* all aspects of medical and healthcare legislation (as amended from time to time) and corresponding statutory responsibilities and powers of Beneficiaries and their carrying out thereof, including under the NHS legislation for England, Wales and Northern Ireland and law on devolution and oversight (and including in relation to mental health, public health, pharmaceutical, biotech and human tissue matters), some of which are more specifically described below:

1. all aspects (including specifically Part One) of the Health and Social Care Act 2008 and its supplementary regulations, the National Health Service Act 2006 and the Health and Social Care Act 2012;
2. all aspects of the powers, duties and functions of NHS England ((including, specifically, under Parts One and Two and Schedule A1 of the National Health Service Act 2006; Part One and Schedule 1 of the Health and Social Care Act 2012; the NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules Regulations 2012); and all other relevant legislation));
3. all aspects of the powers, duties and functions of NHS Improvement ((including, specifically, Part Two and Schedule 6 of the National Health Service Act 2006; Part Three and Schedules 8-11 of the Health and Social Care Act 2012; the National Health Service Trust Development Authority (Establishment and Constitution) Order 2012; the National Health Service Trust Development Authority Regulations 2012; the National Health Service Trust Development Authority Directions and Revocations and the Revocation of the Imperial College Healthcare National Health Service Trust Directions 2016); and all other relevant legislation));
4. mental health issues (including relating to the Mental Health Act 1983 and the Mental Capacity Act 2005) and issues relating to patent safety;
5. advice on the Performers List Regulations and on process and procedure for the assessment of practitioners;
6. other regulatory law in the medical, healthcare, pharmaceutical and related fields, including on legal framework, policy and procedural guidance in relation to other public and professional bodies;
7. aspects of social care law as they relate to healthcare law;
8. EU and international health law, current and developing, and the implications of EU Exit as they relate to healthcare law;
9. functions under procurement law, including by way of Beneficiaries acting as contracting authorities and/or central purchasing bodies under the Public Contracts Regulations 2015;
10. the Government of Wales Act and Northern Ireland Act on issues connected with any of the above.

* interplay between the regulatory and legal framework of Beneficiaries and their own corporate governance and internal policy frameworks including advice around decision making;
* responses to public or other regulatory scrutiny of the organisations including by way of public or other inquiry or the National Audit Office;
* fitness to practice and related issues;
* handling performance concerns about practitioners, including in relation to "maintaining high professional standards in the modern NHS" ("MHPS");
* primary care commissioning, contracts, funding arrangements, regulation and policy covering:

1. Medical services (including but not limited to General Medical Services, Personal Medical Services, Alternative Provider Medical Services);
2. Dental services (including but not limited to General Dental Services, Personal Dental Services, Personal Dental Services Plus);
3. Ophthalmic services; and/or
4. Pharmaceutical and local pharmaceutical services; the Drugs Tariff arrangements;

* medicines and specialist care commissioning contracts, funding arrangements and relevant regulation and policy;
* other health related commissioning contracts, funding arrangements and relevant regulation and policy;
* specialised regulation and policy (e.g. relating to the acute sector, public health, health & justice, veterans, integrated commissioning);
* compliance with public sector equalities duties and claims against healthcare and related bodies arising from equalities legislation;
* employment and pension issues connected with any of the above, where specialist healthcare knowledge is integral to the employment law matter;
* Information Governance and technology issues connected with any of the above, where specialist healthcare knowledge is integral to the information law matter;
* memoranda of understanding and other co-operation agreements between Beneficiaries and other bodies on issues connected with any of the above;
* Specific healthcare property matters such as s.256 NHS Act 2006 grants, Premises Costs Directions and other areas where specialist healthcare knowledge is integral to the property law matter; inquests and coronial proceedings in relation to healthcare matters;
* the following general areas of law as they may pertain to a healthcare related matter (list non exhaustive):

1. defamation;
2. insolvency;
3. freedom of information, data protection, data sharing, confidentiality, retention of records and similar issues;
4. information technology and intellectual property;
5. state aid and competition law;
6. Tax law

* Assistance required will principally be advisory (non-contentious) but may include handling pre-litigation, litigation and other forms of dispute resolution and advocacy work connected with any of the above, where relevant, including:

1. appeals against decisions of healthcare and like bodies;
2. contracting disputes and like matters in the healthcare and related fields;
3. judicial reviews in the healthcare and related fields;
4. Public procurement challenges.

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