

# Primary Care Support Services Call-Off Terms

## Schedule 4.4

### **Financial Reports and Audit Rights**

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## Definitions

Unless defined within this Schedule, or in the Call-Off Order Form applicable to this Call-Off Agreement, the definitions in Schedule 1 of the Framework Agreement shall apply.

## PART A

### Financial Transparency Objectives and Open Book Data

#### 1. Financial Transparency Objectives

The Supplier acknowledges that the provisions of this Schedule 4.4 are designed (inter alia) to facilitate, and the Supplier shall co-operate with the Customer in order to achieve, the following objectives:

##### Understanding the Charges, Costs and Profit

- 1.1 for the Customer to understand any payment sought from it by the Supplier;
- 1.2 for the Customer to understand an analysis of the costs, overhead recoveries (where relevant) and the Earned Expenses, Earned Revenue and Earned Gain; and
- 1.3 for both Parties to be able to understand the Financial Reports and cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;

##### Agreeing the impact of Change

- 1.4 for both Parties to agree the quantitative impact of any Changes to this Call-Off Agreement (or to the Framework Agreement) that affect ongoing costs and to identify how these could be mitigated and/or reflected in the Supplier's Charges;
- 1.5 for both Parties to be able to review, address issues with and re-forecast progress in relation to the provision of the Services;

##### Continuous improvement

- 1.6 for the Parties to challenge each other with ideas for efficiency and improvements; and
- 1.7 to enable the Customer to demonstrate that it is achieving value for money for the tax payer relative to current market prices,

(together the "**Financial Transparency Objectives**").

#### 2. Open Book Data

- 2.1 The Supplier acknowledges the importance to the Customer, the Framework Authority and any Service Recipients of the Financial Transparency Objectives and the Customer's need for complete transparency in the way in which the Charges are calculated. During the Term, and for a period of 7 years following the end of the Term, the Supplier shall:

- 2.1.1 maintain and retain the Open Book Data; and

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2.1.2 disclose and allow the Customer and/or the Audit Agents access to the Open Book Data.

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**PART B**

Financial Reports

**1. Provision Of The Financial Reports**

1.1 The Supplier shall provide

1.1.1 the Initial Financial Model on or before the Call-Off Effective Date (a copy of which is included at Annex 1); and

1.1.2 during the Term the following financial reports to the Customer (who in turn may provide such reports to the Framework Authority), in the frequency specified below:

<b>Financial Report</b>	<b>When to be provided</b>
<b>Contract Amendment Report</b>	Within 1 month of a Material Change being agreed between the Supplier and the Customer
<b>Annual Contract Report</b>	Within 1 month of the end of the Contract Year to which that report relates

1.2 The Supplier shall provide to the Customer the Contract Amendment Report and/or Annual Contract Report (Microsoft Excel or Microsoft Word), in the same layout and format as the blank template reports in Annex 2 (as applicable). The Customer shall be entitled to modify the template for any Financial Report by giving written notice to the Supplier, including a copy of the updated template.

1.3 A copy of each Financial Report shall be held by both the Customer and the Supplier. If there is a Dispute regarding a Financial Report, the Customer's copy of the relevant Financial Report shall be authoritative.

1.4 Each Financial Report shall:

1.4.1 be completed by the Supplier using reasonable skill and care;

1.4.2 incorporate and use the same defined terms as are used in the Framework Agreement and this Call-Off Agreement;

1.4.3 quote all monetary values in pounds sterling;

1.4.4 quote all costs as exclusive of any VAT;

1.4.5 quote all costs and Charges based on current prices;

1.4.6 include an accurate Financial Reporting Model which is true as at the date of the Financial Report; and

1.4.7 include a report in the format of the template appended at Annex 2, that is a true and fair reflection of the information included within the applicable Financial Reporting Model, and provides details and explanation of variations and the reason for such variations with reference to supporting evidence.

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- 1.5 Each Annual Contract Report shall be certified by the Supplier's Chief Financial Officer or Director of Finance (or equivalent as agreed in writing by the Customer in advance of issue of the relevant Financial Report), acting with express authority, as:
- 1.5.1 being accurate and not misleading;
  - 1.5.2 having been prepared in conformity with generally accepted accounting principles within the United Kingdom;
  - 1.5.3 being a true and fair reflection of the information included within the Supplier's management and statutory accounts; and
  - 1.5.4 compliant with the requirements of Paragraph 1.6.
- 1.6 The Supplier shall:
- 1.6.1 prepare each Financial Report using the methodology agreed during the 3 months following the Service Commencement Date;
  - 1.6.2 ensure that each Annual Contract Report and each Contract Amendment Report (if any) is a true and fair reflection of the actual and forecast costs and Earned Expenses, Earned Revenue and Earned Gain; and
  - 1.6.3 not have any other internal financial model in relation to the Services inconsistent with the Financial Reports.
- 1.7 During the Term, and for a period of 18 months following the end of the Term, the Supplier shall make available the Financial Representative at reasonable times and on reasonable notice to answer any queries that the Customer may have on any of the Financial Reports and/or Open Book Data.
- 1.8 If the Supplier becomes aware of the occurrence, or the likelihood of the future occurrence, of an event which will or may have a material effect on the following:
- 1.8.1 the costs incurred (or those forecast to be incurred) by the Supplier; and/or
  - 1.8.2 the forecast Charges for the remainder of the Term,
- the Supplier shall, as soon as practicable, notify the Customer in writing of the event in question detailing the actual or anticipated effect. For the avoidance of doubt, notifications provided in accordance with this Paragraph 1.8 shall not have the effect of amending any provisions of this Call-Off Agreement or the Framework Agreement.
- 2. Financial Reports**
- 2.1 Following the delivery by the Supplier of each Annual Contract Report and any Contract Amendment Report:
- 2.1.1 the Parties shall meet to discuss its contents within 10 Working Days of receipt (or such other period as the Parties shall agree). The Financial Representative shall attend the meeting;

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- 2.1.2 the Supplier shall make appropriate Supplier Personnel and advisers available to discuss any variations between the relevant Financial Report and the Initial Financial Model or immediately preceding Annual Contract Report or Contract Amendment Report (as the case may be) and to explain such variations (with reference to supporting evidence) to the satisfaction of the Customer; and
- 2.1.3 the Customer shall either within 10 Working Days of the meeting referred to in Paragraph 2.1.1 notify the Supplier that:
- (a) the relevant Financial Report contains errors or omissions or that further explanations or supporting information is required, in which event the Supplier shall make any necessary modifications to the Financial Report and/or supply the Customer with such supporting evidence as is required to address the Customer's concerns within 10 Working Days of such notification and the Customer shall, following receipt of such amended Financial Report and/or supporting information, approve or reject such Financial Report; or
  - (b) the Customer has approved the relevant Financial Report.
- 2.2 Following approval by the Customer of the relevant Financial Report in accordance with Paragraph 2.1.3, that version shall become, with effect from the date of such approval, the current approved version of the Financial Report for the purposes of this Call-Off Agreement, a version of which shall be held by both the Customer and the Supplier. If there is a Dispute regarding a Financial Report, the Customer's copy of the relevant Financial Report shall be authoritative.
- 2.3 If the Parties are unable to reach agreement on any Financial Report within 30 Working Days of its receipt by the Customer, the matter shall be referred for determination in accordance with Schedule 5.4 (Dispute Resolution Procedure).
- 3. Key Sub-Contractors**
- 3.1 The Supplier shall, if requested by the Customer, provide (or procure the provision of) a report or reports including the level of information set out in the Financial Reporting Model in relation to the costs and expenses to be incurred by any of its Key Sub-contractors.
- 3.2 Without prejudice to Paragraph 1.1 of Part D, the Supplier shall:
- 3.2.1 be responsible for auditing the financial models/reports of its Key Sub-contractors and for any associated costs and expenses incurred or forecast to be incurred; and
  - 3.2.2 on written request by the Customer, provide the Customer or procure that the Customer is provided with:
    - (a) full copies of audit reports for the Key Sub-contractors. The Customer shall be entitled to rely on such audit reports; and
    - (b) further explanation of, and supporting information in relation to, any audit reports provided.

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**PART C**

Open Book Accounting

**1. Financial visibility**

- 1.1 In order to maintain financial visibility and support the Gain Share mechanism set out in Schedule 4.5 (Value for Money Provisions), the Supplier shall maintain comprehensive accounts in respect of its provision of the Services.
- 1.2 On an annual basis the Supplier shall provide to the Customer a detailed Financial Reporting Model, in the format of a workbook in Microsoft Excel that calculates outputs based on inputs, which:
  - 1.2.1 details the associated costs and revenue arising from and/or associated with the provision by the Supplier of the Services;
  - 1.2.2 is to be prepared in accordance with UK generally accepted accounting principles; and
  - 1.2.3 shall be made available for review by the Customer upon reasonable request from time to time with provision of supporting source documentation.

**2. Financial Reporting Model**

- 2.1 The Supplier shall submit a draft of the Financial Reports (i.e. the Financial Reporting Model, the Annual Contract Report and Contract Amendment Report) to the Customer for approval within the first three (3) months after the Service Commencement Date, which shall be used by the Supplier for the remainder of the Term. The form and template for this Annual Contract Report and Contract Amendment Report shall be included within Annex 2 once agreed, and the form and template of the Financial Reporting Model will be included within Annex 3 once agreed.
- 2.2 It is acknowledged that the Financial Reporting Model will need to contain sufficient information and visibility to give effect to the Financial Transparency Objectives and to enable the Customer to see and understand the Open Book Data.
- 2.3 Following receipt of the draft Financial Reporting Model the Customer shall:
  - 2.3.1 review and comment on the draft Financial Reporting Model as soon as reasonably practicable; and
  - 2.3.2 notify the Supplier in writing that it approves or rejects the draft Financial Reporting Model no later than ten (10) Working Days after the date on which the draft Financial Reporting Model is first delivered to the Customer.
- 2.4 If the Customer rejects the draft Financial Reporting Model:
  - 2.4.1 the Customer shall inform the Supplier in writing of its reasons for its rejection;
  - 2.4.2 the Supplier shall then revise the draft Financial Reporting Model (taking reasonable account of the Customer's comments) and shall re-submit a revised draft Financial Reporting Model to the Customer for the Customer's approval within ten (10) Working Days of the date of the Customer's notice of rejection or such other period as the parties may agree.

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- 2.5 The provisions above in Paragraph 2.2 – 2.4 shall apply again to any resubmitted draft Financial Reporting Model, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

**3. Form and content of Financial Reporting Model**

- 3.1 The Financial Reporting Model shall contain the Open Book Data in the format as described below in respect of each previous Contract Year and the entirety of the current Contract Year.

- 3.2 The Financial Reporting Model and all Open Book Data therein shall be provided to the Customer by the Supplier on a quarterly basis throughout the Term of this Call-Off Agreement or at any other frequency required by the Customer from time to time.

- 3.3 The Financial Reporting Model shall set out the cumulative actual results for the Contract Year to date with a comparative to the Initial Financial Model for the equivalent period and an annual budget for the current Contract Year expressed monthly, including the data in the level of detail as described below in Paragraphs 3.4.2 and 3.4.3. Any further sub-analysis required (and the regularity of the provision of that sub-analysis) will be agreed by both parties within the first three (3) months after the Service Commencement Date.

- 3.4 The Financial Reporting Model will:

- 3.4.1 report on Open Book Data by category of Service (on an annual basis), including an estimated breakdown of costs and key activity drivers (including FTEs and volumes, such as the numbers of letters, records and calls) for:

- (a) Payments, Registration and Pensions Services;
- (b) Medical Records and Administration and Movement Services;
- (c) Screening Programme Administration Services;
- (d) Probity Administration Services;
- (e) Performers List Administration Services;
- (f) Market Entry Administration Services;
- (g) Additional Services, including separate reporting on the Service Desk; and
- (h) IT Platform and Solution Services.

- 3.4.2 In relation to revenue provide sufficient detail for the Customer to have visibility of all of the Charges:

- (a) Banded Charges, including a breakdown of volumes for each of the Services;
- (b) Fixed Investment Charges;
- (c) Fixed Overhead Charges;
- (d) Milestone payments;
- (e) Charges for Initial Medical Records Destruction and Miscellaneous records movement and storage;



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- (f) any other Charges agreed between the Customer and the Supplier from time to time; and
- (g) Income from fees that the Supplier receives from other parties under this Call-Off Agreement.

3.4.3 In relation to costs provide detail of the costs incurred for providing the Services throughout the Term, including but not limited to:

- (a) staff costs;
- (b) travel costs;
- (c) training and recruitment costs;
- (d) property costs;
- (e) IT costs;
- (f) [REDACTED]
- (g) costs associated with the Estates and ICT Transitional Services Agreement;
- (h) costs associated with the General Transitional Services Agreement;
- (i) costs associated with Anglian Community Enterprises (ACE);
- (j) printing costs;
- (k) postage costs;
- (l) courier costs;
- (m) storage costs;
- (n) scanning costs;
- (o) call (telephony) charges;
- (p) other operating costs;
- (q) [REDACTED]
- (r) payment for transferring Assets;
- (s) Transition & Transformation costs;
- (t) IT investment costs;
- (u) redundancy costs;
- (v) interest costs of finance; and
- (w) costs associated with any Service Credits.

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- 3.5 On request by the Customer, the Supplier will provide the Customer with further detail in relation to the cost categories set out Paragraph 3.4.3 (including, without limitation, redundancy costs by FTE by location).
- 3.6 Any of the costs set out above should exclude any costs for corporate tax or any recoverable input VAT.
- 3.7 In relation to volumes provide detail of the volumes in relation to providing the Services throughout the Term, including but not limited to Volume of Services by Service.
- 3.8 In relation to profit margin provide detail in relation to profit margin providing the Services throughout the Term, including but not limited to the Supplier's annual and cumulative Earned Gain.

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**PART D**

Audit Rights

**1. Audit Rights**

- 1.1 The Customer, acting by itself or through its Audit Agents (providing that such Audit Agents are subject to substantially similar confidentiality obligations as set out in this Call-Off Agreement), shall have the right during the Term and for a period of 18 months thereafter, to assess compliance by the Supplier and/or its Key Sub-contractors of the Supplier's obligations under this Call-Off Agreement, including for the following purposes:
- 1.1.1 to verify the integrity and content of any Financial Report;
  - 1.1.2 to verify the accuracy of the Charges and any other amounts payable by any Customer under this Call-Off Agreement (and proposed or actual variations to such Charges and payments);
  - 1.1.3 to verify the costs (including the amounts paid to all Sub-contractors and any third party suppliers);
  - 1.1.4 to verify the Open Book Data;
  - 1.1.5 to verify the Supplier's and each Key Sub-contractor's compliance with this Call-Off Agreement and applicable Law;
  - 1.1.6 to identify or investigate actual or suspected fraud, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Customer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
  - 1.1.7 to identify or investigate any circumstances which may impact upon the financial stability of the Supplier, the Guarantor and/or any Key Sub-contractors or their ability to perform the Services;
  - 1.1.8 to obtain such information as is necessary to fulfil the Customer's (and, in turn, the Framework Authority's) obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
  - 1.1.9 to review any books of account and the internal contract management accounts kept by the Supplier in connection with this Call-Off Agreement;
  - 1.1.10 to carry out the Customer's internal and statutory audits and to prepare, examine and/or certify the Customer's annual and interim reports and accounts;
  - 1.1.11 to enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer has used its resources;
  - 1.1.12 to verify the accuracy and completeness of any Management Information delivered or required by this Call-Off Agreement;

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- 1.1.13 to review any Performance Monitoring Reports and/or other records relating to the Supplier's performance of the Services and to verify that these reflect the Supplier's own internal reports and records;
  - 1.1.14 to inspect the IT Environment (or any part of it) and the wider service delivery environment (or any part of it);
  - 1.1.15 to review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
  - 1.1.16 to review the Supplier's quality management systems (including all relevant Quality Plans and any quality manuals and procedures);
  - 1.1.17 to review the Supplier's compliance with the Standards; and/or
  - 1.1.18 to review the integrity, confidentiality and security of the Customer Data.
- 1.2 Except where:
- 1.2.1 an audit is imposed on the Customer, the Framework Authority or a Service Recipient by a regulatory body;
  - 1.2.2 where an audit is required by Public Health England (in relation to Screening Programme Administration Services); or
  - 1.2.3 where the Customer has reasonable grounds for believing that the Supplier has not complied with its obligations under this Call-Off Agreement,
- the Customer may not conduct an audit pursuant to Paragraph 1.1 of the Supplier or of the same Key Sub-contractor more than twice in any Contract Year (for clarity, an audit may involve one or more elements of the Services and/or one or more Sites). The Customer shall use reasonable endeavours to support the Supplier in its intent to engage with Public Health England to ensure that audits of the Screening Programme Administration Services are scheduled and managed on a national basis in order to prevent unnecessary duplication of audit activity once screening services are centralised. This paragraph shall not serve to limit any audit rights set out elsewhere in this Call-Off Agreement.
- 1.3 Nothing in this Call-Off Agreement shall prevent or restrict the rights of the Comptroller and Auditor General and/or their representatives from carrying out an audit, examination or investigation of the Supplier and/or any of the Key Sub-contractors for the purposes of and pursuant to applicable Law.
- 1.4 Standard compliance checks relating to information governance specified in the Information Governance Operational Protocol shall not be deemed to be audits for the purposes of paragraph 1.2 above.
- 2. Conduct Of Audits**
- 2.1 The Customer shall during each audit comply with those security, sites, systems and facilities operating procedures of the Supplier that the Customer deems reasonable and use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services.

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- 2.2 Subject to the Customer's obligations of confidentiality, the Supplier shall on demand provide the Customer and the Audit Agents with all reasonable co-operation and assistance (and shall procure such co-operation and assistance from its Sub-contractors) in relation to each audit, including:
- 2.2.1 all information requested by the Customer within the permitted scope of the audit;
  - 2.2.2 reasonable access to any sites and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
  - 2.2.3 access to the Supplier System; and
  - 2.2.4 access to Supplier Personnel.
- 2.3 The Supplier shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Supplier's performance of the Services against the applicable Service Levels and Key Performance Indicators at a level of detail sufficient to verify compliance with the Service Levels and Key Performance Indicators.
- 2.4 Except where an audit is imposed on the Customer, the Framework Authority or a Service Recipient by a regulatory body, where an audit is required by Public Health England (in relation to Screening Programme Administration Services) or where the Customer has reasonable grounds for believing that the Supplier has not complied with its obligations under this Call-Off Agreement, the Customer shall use reasonable endeavours to provide at least 15 Working Days' notice of its intention to conduct an audit.
- 2.5 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Paragraph 2, unless the audit identifies a material Default by the Supplier in which case the Supplier shall reimburse the Customer for all the Customer's reasonable costs incurred in connection with the audit.
- 3. Use Of Supplier's Internal Audit Team**
- 3.1 As an alternative to the Customer's right pursuant to Paragraph 1.1 to exercise an audit either itself or through its Audit Agents, the Customer may, provided that it reimburses the Supplier's reasonable costs (subject to Paragraph 3.3), require in writing that an audit is undertaken by the Supplier's own internal audit function for any of the purposes set out in Paragraph 1.1.
- 3.2 Following the receipt of a request from the Customer under Paragraph 3.1 above, the Supplier shall procure that the relevant audit is undertaken as soon as reasonably practicable and that the Customer has unfettered access to:
- 3.2.1 the resultant audit reports; and
  - 3.2.2 all relevant members of the Supplier's internal audit team for the purpose of understanding such audit reports.
- 3.3 The Customer shall not be liable to reimburse the Supplier's costs in accordance with Paragraph 3.1 if the audit carried out pursuant to Paragraph 3.1 identifies a material Default by the Supplier.
- 4. Response To Audits**
- 4.1 If an audit undertaken pursuant to Paragraphs 1 or 3 identifies that:
- 4.1.1 there is an error in a Financial Report, the Supplier shall promptly rectify the error;

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- 4.1.2 the Customer has overpaid any Charges, the Supplier shall pay to the Customer:
- (a) the amount overpaid;
  - (b) interest on the amount overpaid at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the date of overpayment by the Customer up to the date of repayment by the Supplier; and
  - (c) the reasonable costs incurred by the Customer in undertaking the audit, or
- the Customer may exercise its right to deduct such amount from the Charges if it prefers; and/or
- 4.1.3 the Customer has underpaid any Charges, the Customer shall not automatically pay to the Supplier such sums as the audit identifies as underpaid. Any underpayment shall be discussed at the next scheduled Service Management Board.

**ANNEX 1**

**Initial Financial Model**

***Set out in the attached CD-Rom.***

**ANNEX 2**

**Template Financial Reports**

Contract Amendment Report  
Annual Contract Report



**ANNEX 3**

**Financial Reporting Model - To be annexed when agreed**