

# Order Form - Confidential When Complete

Call-off Contract Details	
Title of Framework Agreement:	Consultancy and Advisory Services for Health
Framework Agreement Reference:	SBS10197
Lot number:	4
Call-off procedure used:	Further Competition
Total Call-off Contract Value:	[REDACTED] £429,862 plus VAT
Order Form Reference No:	C320444
Authority Contact Details:	
Name:	Business Services Team
Category Generic Email Address:	<a href="mailto:nsbs.nhsbusinessservices@nhs.net">nsbs.nhsbusinessservices@nhs.net</a>

## Order Form Details

This Order Form sets out the agreement between the following Parties and in accordance with the Terms and Conditions of the Framework Agreement and the Call-off Terms and Conditions.

Period of the Agreement			
Commencement Date:	19/11/2024	Expiry Date:	31/03/2025
Extension Period(s):	Three months		
Maximum Permissible Term	Eight months		

Unless otherwise agreed by both Parties, this Order Form will remain in force until the expiry date agreed above. If no extension/renewal is agreed and the Approved Organisation continues to access the Supplier's Goods and/or Services, the terms of this Contract shall apply on a rolling basis until the overarching Framework Agreement expiry date.

In circumstances where the Framework Agreement had already expired and the Approved Organisation continues to access the Supplier's Goods and/or Services, then the terms of this Contract shall apply on a rolling basis until the expiry of the Call-off Terms and Conditions' maximum permissible term (as set out above).

Any capitalised terms shall have the meaning given to such terms in the Call-off Terms and Conditions.

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Supplier Order Form Signature Panel

The "Supplier"	
Name of Supplier:	Moorhouse Consulting Ltd
Name of Supplier Authorised Signatory:	[REDACTED]
Job Title of Supplier Authorised Signatory:	[REDACTED]
Contact Details Email Address:	[REDACTED]
Contact Details Phone Number:	[REDACTED]
Address of Supplier:	69 Old Broad Street, London, EC2M 1QS

[REDACTED]	Date of Signature:	21/11/2024
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Approved Organisation Order Form Signature Panel

The "Approved Organisation"	
[REDACTED] Organisation:	NHS England
Date Signed: 21st Nov 2024 Name of Approved Organisation Authorised Signatory:	[REDACTED]
Job Title of Approved Organisation Authorised Signatory:	[REDACTED]
Contact Details Email Address:	[REDACTED]
Contact Details Phone Number:	[REDACTED]
Address of Approved Organisation:	Wellington House, 133-155 Waterloo Road, London SE1 8UG

Signature of Approved:	[REDACTED]	Date of Signature:	21/11/2024
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Full Name: [REDACTED]  
Please Note: Each Party's respective Authorised Signatory above shall also be that Party's authorised representative of Schedule 2 of the Call-off Terms and Conditions in respect of any variations to the Call-off Contract during its Term.  
Job Title/Role: [REDACTED]  
Date Signed: 21/11/2024

Subject to the Parties complying with Clause 28 (Assignment, novation and Sub-contracting) of Schedule 2 of the Call-off Terms and Conditions, this Order Form shall remain in force regardless of any change of organisational structure to the above-named Approved Organisation or Supplier and shall be applicable to any successor organisations as agreed by both Parties.

As per the Framework Agreement, the Supplier shall forward a copy of the jointly signed Order Form to the Authority by no later than 5 (five) Business Days of it being executed.



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Agreement

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## 1. Agreement Overview

This Order Form represents an agreement between the Parties listed above pursuant to the Framework Agreement listed above for the provision of Goods and/or Services as outlined below. This Order Form in conjunction with the Call-off Terms and Conditions outlines the parameters for the provision of Goods and/or Services as they are mutually understood by the Parties.

The Framework Agreement terms and conditions (including the Specification) will apply in all instances, unless specifically agreed otherwise by both Parties within this Order Form.

## 2. Stakeholders

The primary stakeholders from the Supplier and the Approved Organisation will be responsible for the day-to-day management of the Call-off Terms and Conditions, this Order Form and the delivery of the Goods and/or Services. If different from the Authorised Signatory details listed on page 1 of this Order Form, please provide the names of the Contract Managers associated with this Order Form.

Supplier Call-off Contract Manager Details:	
Supplier Call-off Contract Manager:	[Moorhouse to add]
Supplier Call-off Contract Manager contact details:	[Moorhouse to add]
Approved Organisation Contract Manager Details:	
Approved Organisation Call-off Contract Manager:	[REDACTED]
Approved Organisation Call-off Contract Manager contact details:	[REDACTED]

## 3. Periodic Review

In accordance with Clause 15.1 of the Call-off Terms and Conditions, this Order Form is valid from the **Commencement Date** outlined herein and is valid until the **Expiry Date** (as set out above) as agreed. This Order Form should be reviewed as a minimum once per financial year; however, in lieu of a review during any period specified, the current Call-off Terms and Conditions and Order Form will remain in effect.

## 4. Requirements

### A. Services to be Provided

Please detail the Services, where applicable, that will be provided, where and by when, by the Supplier to the Approved Organisation or include an attachment with full details.

The Services required are to undertake research, communication and engagement to identify the gaps in knowledge and skills in the identified “in scope” NHS staff that is not being addressed by existing or “in development” training that will fall under the Centre’s umbrella. Furthermore, it will provide a suite of recommendations and a costed delivery programme plan for the next phase with the ultimate aim of developing and delivering various NHS specific training modules that can be accessed by the right staff at the right time.

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Please refer to Appendix 1 for further details.

## B. Goods to be Provided

Please detail the Goods to be provided or include an attachment with full details.

Not applicable.

## C. Goods Delivery Schedule/Services Implementation Plan

Please provide a delivery schedule/Implementation Plan, where applicable, outlining how and when the Goods and/or Services will be provided by the Supplier to the Approved Organisation or include an attachment with full details.

Please refer to Appendix 2.

## D. Key Personnel

Please set out key personnel required for the supply of Goods and/or the provision of Services.

[REDACTED]

## E. Sub-contracting and Personnel

Where the Approved Organisation permits sub-contracting of the supply of Goods and/or the provision of Services by Suppliers, the following information is required. If the Supplier Sub-contracts any of its obligations under this Order Form and Call-Off Contract, every act or omission of the Sub-contractor shall for the purposes of this this Order Form and Call-Off Contract be deemed to be the act or omission of the Supplier and the Supplier shall be liable to the Approved Organisation as if such act or omission had been committed or omitted by the Supplier itself.

[REDACTED]

## F. Policies

Please list and provide links to/copies of all policies with which the Supplier is required to comply.

Not applicable.

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**G. Leases or Licences**

Where applicable, please detail any leases or licences to be provided by either Party to the other.

Not applicable.

**H. Special Terms**

The Parties hereby acknowledge that Special Terms:

- may only be proposed for inclusion by the Approved Organisation;
- can be applied solely to enhance or augment existing provisions within the Call-off Terms and Conditions; and
- must not substantially alter or vary the Call-off Terms and Conditions, in order for this Order Form and Call-off Contract to remain compliant with the Public Contracts Regulations 2015.

Please insert any applicable Special Terms below.

**Intellectual Property Rights (IPRs)**

Any New IPR created under the Call-Off Contract shall be owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPR and New IPR for the purpose of fulfilling its obligations during the Contract Period.

**Payment method**

The Approved Organisation will pay correctly addressed and undisputed invoices within 30 days in accordance with the requirements of the Contract. The Supplier must ensure comparable payment provisions apply to the payment of their sub-contractors and the sub-contractors of their sub-contractors.

General requirements for an invoice for the Buyer include:

- A description of the good/services supplied is included.
- NHS England's reference number/Purchase Order number is included.

The Supplier will be expected to submit all invoices via NHS England's e-Invoicing Platform in accordance with e-Invoicing Guidance or via an alternative PEPPOL-compliant e-invoicing system. Useful Link at: <https://tradeshift.com/supplier/nhs-sbs/>

**Ending the contract without a reason**

The Approved Organisation has the right to terminate the Call-Off Contract at any time without reason by giving the Supplier at least 30 days' written notice.

**I. Charges**

Standard Supplier pricing and rates (the Contract Price) are included within the Commercial Schedule and represents the maximum that can be charged. Please detail all discounts,

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volume arrangements or variations in relation to the standard rates. The Contract Price of the Goods and/or Services are to be included below or detailed as a separated attachment.

Is the Contract Price agreed to be subject to indexation?

N

Fixed cost for the satisfactory delivery of all services and deliverables: [REDACTED] excluding VAT, including an allowance of [REDACTED] for travel and expenses to be charged at cost only if used.

In the event that additional teams are identified that are not listed in Specification of Requirements but would be beneficial for them to be included in this activity of work, the additional cost shall be as set out under Schedule 6 of the Terms and Conditions of Contract.

#### J. Confidential Information

Please detail all information relevant to this Order Form and the Call-off Terms and Conditions which either Party considers to be treated as Confidential Information.

Team CVs.  
Commercials.  
Methodology including application of data collection methods, in relation to the digital toolkit.  
Details of case studies.

#### K. Complaints/Escalation Procedure

As per the Framework Agreement, the Supplier shall inform the Authority of all complaints. Please detail the Approved Organisation's additional requirements regarding complaints.

All complaints received by the Supplier shall be promptly reported to the Approved Organisation's Contract Manager.

#### L. Limit of Liability

Please populate the limit of liability values

The limits of liability set out in Clause 13.2 of Schedule 2 of the Call-Off Terms and Conditions shall apply.

#### M. Management Information (MI)

In addition to the management information required by the Authority under the Framework Agreement, the Supplier shall provide to the Approved Organisation the following Management Information at the frequency outlined.

As per Appendix 1 and as agreed during project set up.

#### N. Invoicing

Please detail all specific invoicing requirements here.



The Approved Organisation shall provide the Supplier with a Purchase Order (PO) that includes a reference to the Call-Off Contract and the Framework Agreement to which this Order Form relates.

#### Payment method

The Buyer will pay correctly addressed and undisputed invoices within 30 days in accordance with the requirements of the Contract. The Supplier must ensure comparable payment provisions apply to the payment of their sub-contractors and the sub-contractors of their sub-contractors.

General requirements for an invoice for the Buyer include:

- A description of the good/services supplied is included.
- NHS England's reference number/Purchase Order number is included.

The Supplier will be expected to submit all invoices via NHS England's e-Invoicing Platform in accordance with e-Invoicing Guidance or via an alternative PEPPOL-compliant e-invoicing system. Useful Link at: <https://tradeshift.com/supplier/nhs-sbs/>

Approved Organisation's invoice address:

NHS England,  
X24 Payables K005,  
Phoenix House,  
Topcliffe Lane,  
Wakefield,  
WF3 1WE

## O. Exit Requirements

Please include details of any exit requirements with which the Supplier is required to comply.

At the conclusion of the Contract, the Supplier will hand over all reports and material collected through the process to the Approved Organisation.

## P. Termination

Please detail specific termination provisions here.

The Approved Organisation may terminate this Contract by issuing a Termination Notice to the Supplier at any time on one (1) month's written notice.

Should the Approved Organisation terminate this Contract in accordance with this provision, then the Approved Organisation shall pay to the Supplier reasonable costs incurred at the point of termination.

## 6. Other Specific Requirements

### Detailed Requirements

Please list all detailed requirements or include an attachment with full details.

Not applicable.
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### PLEASE NOTE:

In accordance with Clause 3.1 of Schedule 2 of the Framework Agreement, by no later than five (5) Business Days following the execution of an Order Form by the Approved Organisation and the Supplier, the Supplier shall send a copy of the executed version of the Order Form to the Authority's Contract Manager.

All Goods and/or Services provided by the Supplier without an Approved Organisation's jointly signed Order Form is entirely at the Supplier's risk.

## Appendix 1 – Statement of Requirements

### 1. Introduction

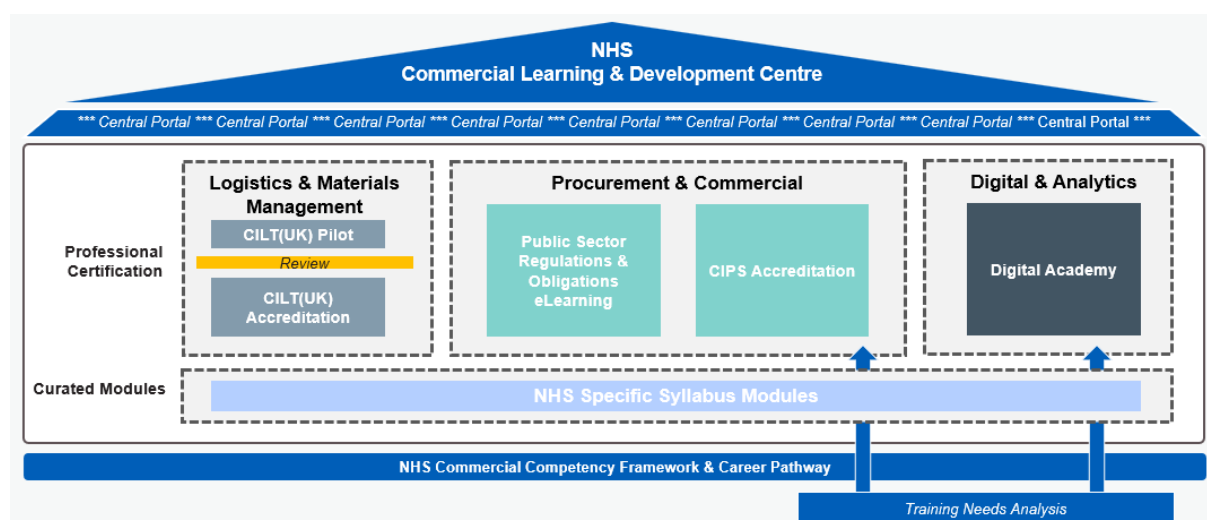
- 1.1. The Central Commercial Function's (CCF) role is to develop and lead the NHS commercial strategy that binds the NHS commercial community, drives collaboration across commercial teams, leverages NHS collective buying power and provides a clear, consistent guideline on how to contract with the NHS. It focusses on identifying and delivering national vehicles to support NHS providers in delivering their role. Training and development of the workforce is seen as one of the areas that will benefit from this centralised approach and forms a key component to the Our People section in the published Strategic framework for NHS Commercial (2023). The ambition is to ensure **we continue to attract the best and most diverse commercial talent to the NHS, and accredit, develop and connect this workforce.**
- 1.2. Funding has been received to deliver a centrally managed learning and development programme by the CCF, specifically the Capability team within it for the NHS. The **NHS Commercial Learning and Development Centre of Excellence** will draw expertise from leading sources, utilise industry best practice and will disseminate knowledge and skills to the right staff at the right time. This will support the development and increase the maturity of NHS commercial and procurement functions and offer our staff opportunities to develop in their chosen career pathway without local or regional disparity in England.
- 1.3. The Best Practice and Capabilities team within NHS England who the Supplier will work with and report to is a small, efficient team who already manages a wide-ranging portfolio of offers for NHS staff (full details can be found in appendix 1), which include offering Government Commercial Function's Assessment Development Centre (ADC); GCF Contract Management Capabilities Programme; Digital and CIPS Apprenticeship schemes; HCSA Graduate scheme.

### Q. 2.About the NHS Commercial Learning & Development Centre

- 1.2 Through the research process to secure the funding, it was clear there is no single source for training that will meet the full range of needs of the NHS Procurement, Commercial, Materials Management and Logistic, Digital and Analytics staff given the diverse market the NHS operates within. As such, the Centre of Excellence will be an umbrella approach where a central point (the CCF capabilities team) will manage and direct learners through their learning journey and career pathway. Curated, module specific content will be refined for NHS specific users from world leading providers, that will support a holistic, inclusive and end to end development package for every staff

member. Each module and learning and development offer will be aligned to the developed Competency Framework (appendix 1).

**Figure 1: NHS Commercial Learning & Development Centre**



1.3 Within the first phase of development and roll out, the Centre will deliver:

- NHS-CILT(UK) Learning and Development Academy: Offering different levels of CILT(UK) accreditation to identified in scope learners over a three-year period.
- MCIPS Accreditation: Offering MCIPS certification to identified in scope learners over a three-year period.
- Training Needs Analysis: To identify gaps in knowledge and skills in the workforce to support prioritisation and the development of curated NHS specific training modules
- L&D Platform: An eLearning platform where all training can be accessed/ booked and used as a reporting tool for the CCF team.
- eLearning Modules: Procurement Act 2023 and Provider Selection Regime 2023 eLearning modules in the first instance plus a portfolio of modules as the result of the TNA output.

### 3. The Training Needs Analysis (TNA)

3.1 The requirement of the TNA is to undertake research, communications and engagement to identify the gaps in knowledge and skills in the identified “in scope” NHS staff that is not being addressed by existing or “in development” training that will fall under the Centre’s umbrella. Furthermore, it will provide a suite of recommendations and a costed delivery programme plan for the next phase with the ultimate aim of developing and delivering various NHS specific training modules that can be accessed by the right staff at the right time.

3.2 As an example, the TNA may identify a gap in skills for staff in the “professional” NHS role category in negotiation techniques which would best be delivered in a face-to-face

workshop setting. The CCF would as a result, develop a specific syllabus ensuring content is aligned to wider NHS requirements, in this case not just offering generic negotiation skills, but include how negotiations can be applied within the new Procurement Act 2023 parameters and how this is recorded to ensure the Procurement Act transparency requirements are also met.

- 3.3 The syllabus designed would be copyright and owned by the CCF and training providers would be appointed to deliver the training across the country. So regardless of the learners' physical location, or who the training provider is, there would be no disparity in the training provided, lifting competency in a consistent manner and eliminating inequality across our NHS community.

#### 4. Scope of the TNA

- 4.1 The structure of the NHS is complex, and the way procurement and commercial activities are conducted within the landscape are additionally complicated. The CCF Capabilities team will support the Supplier in their understanding of the landscape to ensure the TNA stays within scope and the roles of the varying stakeholders involved are understood but there is an expectation that the Supplier already has a good understanding of the current landscape in which NHS procurement operates.

- 4.2 The NHS Procurement and Commercial teams under the Centre (as per figure 1 above) are separated into three distinct skill sets all of which are in scope of the TNA:

- Materials management and logistics staff
- Procurement and commercial staff
- Digital and analytics staff

#### 4.3 A Note on Digital and Analytics Staff

- 4.3.1 At an operational level, NHS organisations structure their teams differently. Some teams separate digital and analytical staff from their procurement specialists, and in some teams, procurement experts also undertake analytical roles alongside their buying activities. Additionally, some NHS staff responsible for scan for safety activity which would be classified as digital are captured in the Logistics and Materials Management staffing group. It is recognised by the CCF that digital and analytical skills are essential for procurement and commercial functions, but there has been little specific focus or investment into these skills to date. It is a specific subsection that should be addressed and given consideration during the TNA.

#### 4.4 A Note on Clinical Procurement Staff

- 4.4.1 Similarly to Digital & Analytical staff, Clinical Procurement staff are not currently captured as a separate group in the numbers. Clinical Nurse Specialists are staff who have a nursing or medical background who now are employed within the procurement function to provide expertise on the clinical products the functions are procuring.
- 4.4.2 The CCF recognise these staff have not been included in the competency framework and intend on developing these competencies in financial year 2025/26. As such, during the TNA, when these staff are identified, the TNA needs to identify if there are specific learning & development needs for this group that are not met within the wider competencies.

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## 4.5 Organisations in/ out of Scope

4.5.1 As mentioned, the NHS is made up of hundreds of separate organisations. The specific organisations that are in scope of this TNA are as per Figure 2 below.

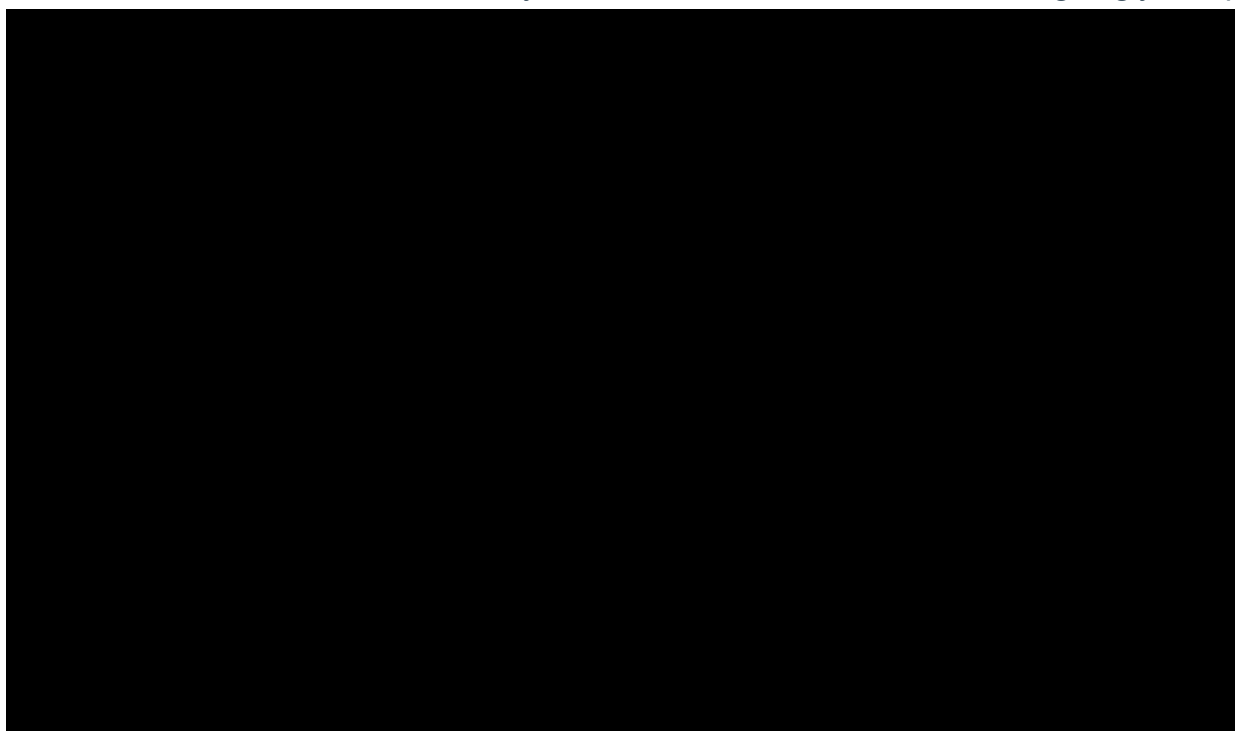
**Figure 2: In/ Out of Scope Organisations**

Ref	Scope	NHS Organisation	Notes
i.	In Scope	NHS providers	i.e. trusts and foundation trusts in England. As laid out in appendix 2
ii.	In Scope	NHS England commercial team	Those delivering procurement/ commercial specific role (project management/ administration/ policy excluded from scope)
iii.	In Scope	NHS Procurement hubs	Specific organisations: North of England Commercial Procurement Collaborative (NOECPC) East of England NHS Collaborative Procurement Hub (EoE) Commercial Solutions London Procurement Partnership (LPP) Peninsula Purchasing and Supply Alliance (PPSA)

## 4.6 In Scope Approximate Staff Numbers

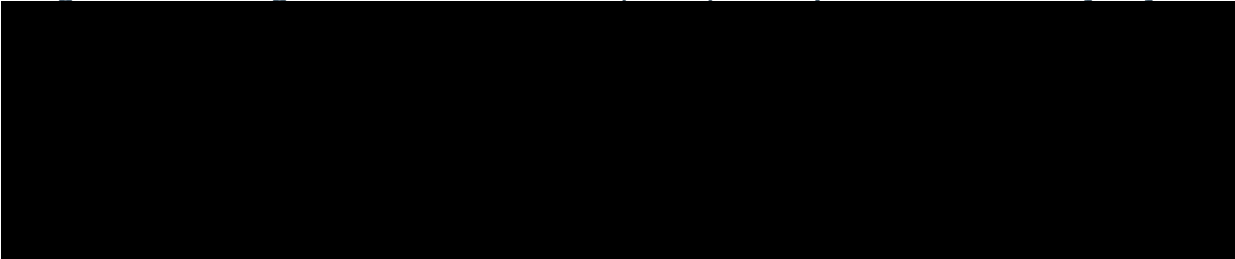
4.6.1 Utilising the latest data from the Corporate Service Returns (CSR) 2022/23 and data collections for other organisation groups; the number of staff in scope of the TNA are as Figure 3; Figure 4 and Figure 5 below. Please note these are not 100% accurate. Further breakdown of this data can be offered at a regional and/or ICS level should the Supplier require this.

4.6.2 It is not expected every “in scope” learner and their line manager to be individually assessed, and cost efficiency needs to be borne in mind when designing your approach.

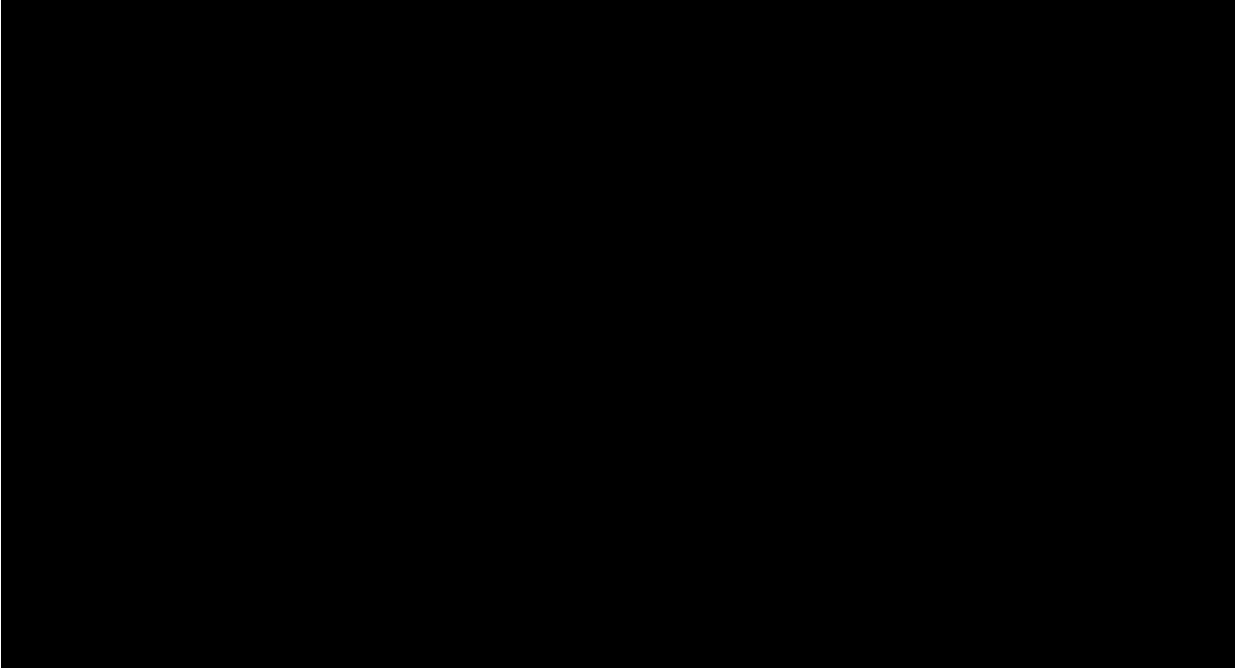




*Figure 4: NHS England Commercial Team (ref: ii.) In Scope Staff Numbers by Pay Grade*



*Figure 5: NHS Procurement Hubs (ref: iii.) In Scope Staff Numbers by Pay Grade*



#### 4.6 NHS Providers – Further Information

- 4.6.1 The provider landscape is split into seven separate regions. In total there are 42x Integrated Care Systems plus ambulance trusts. Every NHS organisation works within an ICS (ambulance trusts work across several ICS) and a region.
- 4.6.2 The CCF engages with and has contacts for every ICS procurement lead and every NHS trust head of procurement (HoP). The CCF does not have direct contact details for any further tiers of staff below heads of procurement but can engage with HoP and ICS procurement leads to disseminate information and ask for participation from the wider community.
- 4.6.2 Additionally, the Health Care Supply Association has confirmed their support for this activity and would be willing to assist in the promotion of engagement within the NHS community.

#### 4.7 A Note on NHS Competencies

- 4.7.1 The NHS Commercial Competencies framework has been recently refreshed and is in the final approval stages with the Learning and Development Centre of Excellence Board. It covers all specialisms in the NHS commercial workforce: procurement & commercial; logistics and materials management; and data and analytics and has been developed using the Government Commercial Function (GCF); Chartered Institute of Procurement and Supply (CIPS); Chartered Institute of Logistics and Transport (CILT)(UK) and NHS Digital professional competencies.
- 4.7.2 Recognising different commercial function constructs in the NHS, the Competency Framework enables flexibility in application and focuses on the capabilities required to perform at each relevant professional level. Supporting both vertical and horizontal movement across all three sub-role specialisms, the framework supports individual career aspirations and creates opportunities for staff to broaden their skills and expertise in NHS commercial.
- 4.7.3 All learning and development products offered by the NHS Commercial Learning & Development Centre of Excellence will be aligned to and underpinned by the NHS Competency Framework. This will ensure that staff receive the right learning at the right time and in a fair and equitable way, improving competencies without disparity across all NHS Providers in England.
- 4.7.4 Split into four distinct pillars, each pillar has separate role components with specific technical competencies. Depending on the specific role deliverables, various competencies from different pillars on the same hierarchal level will form the job description and outputs.



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Pillar:	Business	Procurement	Data Analytics	Logistics
Role Components	Business Acumen and Commercial Judgement	Understanding Needs and Sourcing Options	Procurement Data Analytics	Operations and Supply Chain Management
	Leadership Skills and Capability	Procurement Process	Procurement Data Analytics 2	Logistics and Freight Movement
	Sustainability	Contract and Supplier Management		Planning in Transport
	Strategy and Policy Development	Complex Deals 1: Foundation		Patient Mobility
		Complex Deals 2: Advanced		Efficiency, Quality and Risk

4.7.5 The full Competency Framework can be found in Appendix 1 of this document.

5. Key Stakeholders Requiring Engagement

5.1 To understand national priorities and activities, the Supplier will be connected to the following CCF workstreams to understand the requirements that NHS procurement staff need to adhere to and whether formal training to improve knowledge and skills to deliver upon these requirements may be required to support delivery. The workstreams, in no particular order include:

- Sustainability (*includes national sustainability policies NHS organisations must meet such as net carbon zero and modern slavery*)
- Data & technology (*includes Atamis; Spend Comparison Service and wider needs*)
- Governance and assurance (*Procurement Act 2023 and Provider Selection Regime training is already being provided, but other activities include Cabinet Office Spend Controls and Model Contract terms and conditions*)
- Supply Resilience
- Supplier Relationship Management
- Framework Standardisation
- Best Practice

5.2 Appendix 3 provides further detail on the CCF and each workstream for information purposes.

5.3 Additionally, other key stakeholders within the system who have specific insight relevant to the TNA that should be engaged with include:

- HCSA – Health Care Supplies Association

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- Department of Health and Social Care policy team (*responsible for both health procurement policy but also responsible for L&D for their procurement teams*)
- Central Commercial Function Director
- CCF Learning and Development Centre of E Governance Board

## 6. HCSA

- 6.1 The Health Care Supply Association (HCSA) is a registered charity in the UK and is self-financed through a combination of income from conferences, seminars, other training events and advertising. Their work focuses on promoting the work of procurement and supply chain staff at all levels in healthcare and members are likely to be included in the scope of this training needs analysis.
- 6.2 HCSA is currently reviewing their Learning & Development portfolio and have agreed to align with the Centre of Excellence to ensure there is no duplication of modules. As a result, the Training Needs Analysis needs to identify any HCSA modules that may be duplication of the module proposal for the Centre of Excellence.
- 6.3 Appendix 5 provides the HCSA current training catalogue.

## 7. Existing Learning & Development Portfolio

- 7.1 As confirmed earlier, the Centre will be the umbrella for all the different learning and development offers for our community. The existing training, or training that is in the process of being developed and offered is as per Appendix 4. When undertaking the TNA, if gaps are identified, but existing training in the Centre is available and delivers upon specific competencies it addresses, this should be noted but not included in the recommendations and prioritisation.

## 8. Timelines

- 8.1 The CCF team is focussed on ensuring the TNA is undertaken in a planned and considered manner. Ensuring the right people are involved and input into the TNA is important, and working to their diary constraints will be something that needs to be borne in mind when planning timelines.
- 8.2 As other activities under the umbrella of the Centre are also being undertaken at the same time, managing engagement in a coordinated manner is something the CCF Capabilities team will be responsible for, and the Supplier will need to work with the team recognising the helicopter view of activities.

## 9. The Final Output

- 9.1 The output of this contract will be a completed training needs analysis with a detailed report of its findings and recommendations to include the below detail as a minimum.

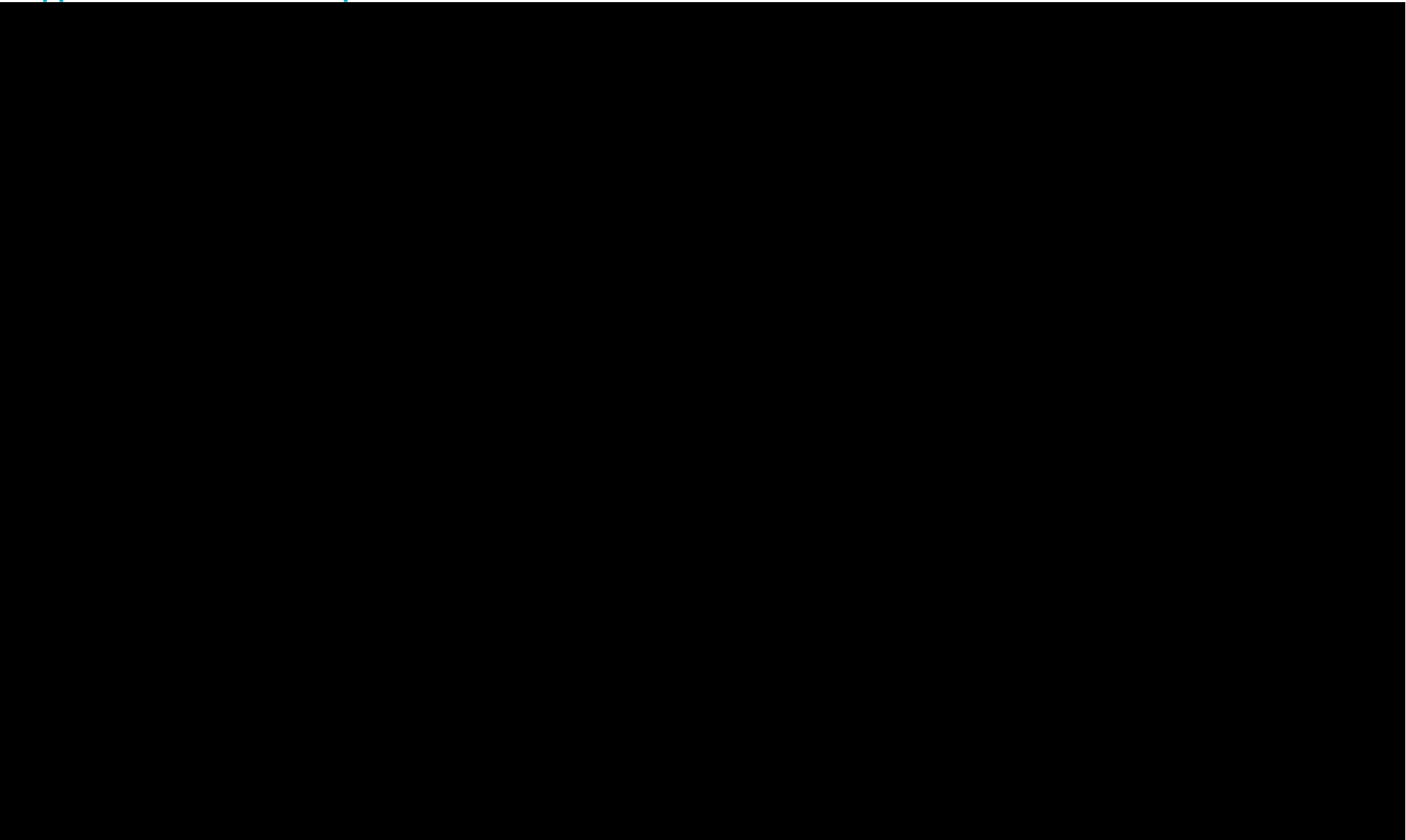
Classification: Official

- 9.2 Furthermore, a detailed and costed delivery plan for phase two of the programme should be provided which will produce the training content identified from the TNA recommendations.
- 9.3 The outputs will also need to include a usable presentation for the CCF team (NHS England branded) to update the system on the outputs of the TNA and next steps as a key communication tool that providers will use.
- 9.4 Key areas of mapping should include:
- a) The skills or knowledge gap.
  - b) Details of the specific requirements/ learning outcomes for the recommended module. *For instance, it may be suggested that leadership and influencing skills are required for our most senior leaders. The details of which may be skills to influence boards to raise the procurement profile and gain a seat at the table.*
  - c) Which role component in the NHS Competency Framework this applies to (using the Competency Framework in annex 1).
  - d) Which specific competencies within the framework the training would address (if applicable).
  - e) What CCF workstream it relates to (if any). *For instance, modern slavery training would relate specifically to activity being undertaken by the CCF Sustainability team.*
  - f) What national policy or regulatory requirement it has interlinkage with (if any). *For instance, negotiation skills directly relate to the Procurement Act 2023.*
  - g) What method of training would be the most appropriate considering the need of learners and long-term affordability of delivery (e.g. eLearning; face to face workshop; hybrid face to face and virtual).
  - h) A ranking of priority of the training gaps, recognising that budget and resource constraints will not be able to deliver everything the TNA may identify, so the CCF team will want to start with the highest priorities first.



Shared Business Services

Appendix 2 – Services Implementation Plan



Classification: Official

## Appendix 3 – Data Protection Protocol

**Table A – Processing, Personal Data and Data Subjects**

Description	Details
Subject matter of the Processing	The Supplier will have access to the names, job titles, and corporate contact information for the staff who are within scope of the TNA. The Supplier shall adhere, at all times, to General Data Protection Regulations (GDPR) and strict data security standards to protect payroll and commercially sensitive information.
Duration of the Processing	The personal data described in the above section will only be available to the Supplier for the duration of the programme, as per the Contract.
Nature and purposes of the Processing	The nature of the Processing may extend to (but not be limited to) any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use of data (whether or not by automated means) etc
Type of Personal Data	Names, job titles, professional accreditation, corporate contact information, ethnicity, gender and neurodiversity data for the staff who are within scope of the TNA.
Categories of Data Subject	NHS Staff within scope of the TNA.
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under union or member state law to preserve that type of data data	All personal data will be stored electronically for the duration of the programme and will be deleted on completion of the programme of work.

### Definitions

The definitions and interpretative provisions at Schedule 4 (Definitions and Interpretations) of the Contract shall also apply to this Protocol. Additionally, in this Protocol the following words shall have the following meanings unless the context requires otherwise:

<b>“Data Loss Event”</b>	means any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
<b>“Data Protection Impact Assessment”</b>	means an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
<b>“Data Protection Officer” and “Data Subject”</b>	shall have the same meanings as set out in the GDPR;
<b>“Data Subject Access Request”</b>	means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
<b>“Personal Data Breach”</b>	shall have the same meaning as set out in the GDPR;
<b>“Protective Measures”</b>	means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it;
<b>“Protocol” or “Data Protection Protocol”</b>	means this Data Protection Protocol;

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<b>“Sub-processor”</b>	means any third party appointed to Process Personal Data on behalf of the Supplier related to this Contract.
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**DATA PROTECTION**

The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Supplier is the Processor. The only Processing that the Supplier is authorised to do is listed in Table A of this Protocol by the Authority and may not be determined by the Supplier.

The Supplier shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.

The Supplier shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Authority, 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 Supplier shall, in relation to any Personal Data Processed in connection with its obligations under this Contract:

- process that Personal Data only in accordance with Table A of this Protocol, unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Authority before Processing the Personal Data unless prohibited by Law;
- ensure that it has in place Protective Measures, which have been reviewed and approved by the Authority as appropriate to protect against a Data Loss Event 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 :

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the Supplier Personnel do not Process Personal Data except in accordance with this Contract (and in particular Table A of this Protocol);

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

are aware of and comply with the Supplier's duties under this Protocol;

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 Authority or as otherwise permitted by this Contract; and

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

not transfer Personal Data outside of the UK unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:

the Authority or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or Article 37 of the Law Enforcement Directive (Directive (EU) 2016/680)) as determined by the Authority;

the Data Subject has enforceable rights and effective legal remedies;

the Supplier 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 Authority in meeting its obligations); and

the Supplier complies with any reasonable instructions notified to it in advance by the Authority with respect to the Processing of the Personal Data;

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

Subject to Clause 1.6 of this Protocol, the Supplier shall notify the Authority immediately if it:

receives a Data Subject Access Request (or purported Data Subject Access 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;

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



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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 Supplier's obligation to notify under Clause 1.5 of this Protocol shall include the provision of further information to the Authority in phases, as details become available.

Taking into account the nature of the Processing, the Supplier shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 1.5 of this Protocol (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

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

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

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

assistance as requested by the Authority following any Data Loss Event;

assistance as requested by the Authority with respect to any request from the Information Commissioner's Office (or any other supervisory authority or regulator in connection with Personal Data Processed under this Contract), or any consultation by the Authority with the Information Commissioner's Office (or any other supervisory authority or regulator in connection with Personal Data Processed under this Contract).

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

the Authority determines that the Processing is not occasional;

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

the Authority determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.

The Supplier shall allow for audits of its Processing activity by the Authority or the Authority's designated auditor.

The Supplier shall designate a 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 Supplier must:

notify the Authority in writing of the intended Sub-processor and Processing;

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obtain the written consent of the Authority;

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

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

The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.

The Authority may, at any time on not less than 30 Business Days' notice, revise this Protocol 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 (or any other supervisory authority or regulator in connection with Personal Data Processed under this Contract). The Authority may on not less than 30 Business Days' notice to the Supplier amend this Protocol to ensure that it complies with any guidance issued by the Information Commissioner's Office (or any other supervisory authority or regulator in connection with Personal Data Processed under this Contract).

The Supplier shall comply with any further instructions with respect to Processing issued by the Authority by written notice. Any such further written instructions shall be deemed to be incorporated into Table A above from the date at which such notice is treated as having been received by the Supplier in accordance with Clause 27.2 of Schedule 2 of the Contract.

Subject to Clauses 1.13, 1.14, and 1.15 of this Protocol, any change or other variation to this Protocol shall only be binding once it has been agreed in writing and signed by an authorised representative of both Parties.

## Call-off Terms and Conditions for the Supply of Goods and/or the Provision of Services

Where an Order Form is issued by the Approved Organisation that refers to the Framework Agreement, the Contract is made between the Approved Organisation and the Supplier on the date of that Order Form. The Contract is subject to the terms set out in the schedules of these Call-off Terms and Conditions listed below ("**Schedules**").

The Approved Organisation and the Supplier undertake to comply with the provisions of the Schedules and the Order Form in the performance of the Contract.

The Supplier shall supply to the Approved Organisation, and the Approved Organisation shall receive and pay for, the Goods and/or Services on the terms of the Contract.

For the avoidance of doubt, any actions or work undertaken by the Supplier prior to the receipt of an Order Form covering the relevant Goods and/or Services shall be undertaken at the Supplier's risk and expense and the Supplier shall only be entitled to invoice for Goods or Services covered by a valid Order Form.

The Definitions in Schedule 4 of these Call-off Terms and Conditions apply to the use of all capitalised terms in the Contract.

### Schedules

Schedule 1 of these Call-off Terms and Conditions	Key Sector Provisions
Schedule 2 of these Call-off Terms and Conditions	General Terms and Conditions
Schedule 3 of these Call-off Terms and Conditions	Information and Data Provisions
Schedule 4 of these Call-Off Terms and Conditions	Definitions and Interpretations
Schedule 5 of these Call-off Terms and Conditions	Specification and Bid
Schedule 6 of these Call-off Terms and Conditions	Commercial Schedule
Schedule 7 of these Call-off Terms and Conditions	Corporate Social Responsibility
Schedule 8 of these Call-Off Terms and Conditions	Contract Change Notice

## **Schedule 1**

### **Key Sector Provisions**

#### **Intellectual Property Rights (IPRs)**

Any New IPR created under the Call-Off Contract shall be owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs and New IPRs for the purpose of fulfilling its obligations during the Contract Period.

#### **Payment method**

The Approved Organisation will pay correctly addressed and undisputed invoices within 30 days in accordance with the requirements of the Contract. The Supplier must ensure comparable payment provisions apply to the payment of their sub-contractors and the sub-contractors of their sub-contractors.

General requirements for an invoice for the Buyer include:

- A description of the good/services supplied is included.
- NHS England's reference number/Purchase Order number is included.

The Supplier will be expected to submit all invoices via NHS England's e-Invoicing Platform in accordance with e-Invoicing Guidance or via an alternative PEPPOL-compliant e-invoicing system. Useful Link at: <https://tradeshift.com/supplier/nhs-sbs/>

#### **Ending the contract without a reason**

The Approved Organisation has the right to terminate the Call-Off Contract at any time without reason by giving the Supplier at least 30 days' written notice.

**Schedule 2****General Terms and Conditions****Contents**

1. Order of Precedence
2. Supply of Goods and/or the provision of Services
3. Delivery of the Goods and passing of risk in and ownership of the Goods
4. Inspection, rejection, return and recall of the Goods
5. Operation of the Services
6. Staff and Lifescience Industry Accredited Credentialing Register
7. Business continuity
8. The Approved Organisation's obligations
9. Contract management
10. Price and payment
11. Warranties
12. Intellectual property
13. Indemnity
14. Limitation of liability
15. Insurance
16. Term and termination
17. Consequences of expiry or early termination of this Contract
18. Application of TUPE at the commencement of the provision of the Services
19. Staff information and the application of TUPE at the end of the Contract
20. Packaging, identification, end of use and coding requirements
21. Sustainable development
22. Electronic product and services information
23. Change management
24. Dispute resolution
25. Force majeure
26. Records retention and right of audit
27. Conflicts of interest and the prevention of Fraud
28. Equality and human rights
29. Notice
30. Assignment, novation and Sub-contracting
31. Supply Chain Protection
32. Prohibited Acts
33. General

## **1 Order of precedence**

1.1 Where there is a conflict between the Supplier's responses to the requirements set out in the Specification and Bid and any other part of this Contract, such other part of this Contract shall prevail.

1.2 Subject always to Clause 1.1 of this Schedule 2 of these Call-off Terms and Conditions, should there be a conflict between any other parts of this Contract the order of priority for construction purposes shall be:

1.2.1 the Order Form;

1.2.2 the applicable provisions of the Framework Agreement other than the Specification and Bid;

1.2.3 Schedule 1 of these Call-off Terms and Conditions: Key Sector Provisions; 1.2.4 the Specification and Bid (but only in respect of the requirements);

1.2.5 Schedule 2 of these Call-off Terms and Conditions: General Terms and Conditions;

1.2.6 Schedule 3 of these Call-off Terms and Conditions: Information Governance Provisions;

1.2.7 Schedule 4 of these Call-off Terms and Conditions: Definitions and Interpretations;

1.2.8 the order in which all subsequent schedules, if any, appear; and

1.2.9 any other documentation forming part of the Contract in the date order in which such documentation was created with the more recent documentation taking precedence over older documentation to the extent only of any conflict.

## **2 Supply of Goods and/or the provision of Services**

2.1 The Supplier shall supply the Goods ordered by the Approved Organisation and provide the Services under this Contract:

2.1.1 promptly and in any event within any time limits as may be set out in this Contract;

2.1.2 in accordance with all other provisions of this Contract;

2.1.3 with reasonable skill and care and in accordance with the provisions of the Framework Agreement as applicable and/or the provisions of the Order Form;

2.1.4 in accordance with the Law and with Guidance;

2.1.5 in accordance with Good Industry Practice;

2.1.6 in accordance with the Policies

2.1.7 in accordance with NHS Standards and Codes of Practice; and

2.1.8 in a professional and courteous manner.

In complying with its obligations under this Contract, the Supplier shall, and shall procure that all Staff shall, act in accordance with the NHS values and NHS Constitution as set out from time to time.

2.2 The Supplier shall comply with the Implementation Requirements (if any) in accordance with any timescales as may be set out in the Specification and Bid. Without limitation to the foregoing provisions of this Clause 2.2 of this Schedule 2 of these Calloff Terms and Conditions, the Supplier shall, if specified in the Order Form, carry out all implementation activities fully in accordance with the Implementation Plan. If the Implementation Plan is an outline plan, the Supplier shall, as part of implementation, develop the outline plan into a full plan and agree this with the Approved Organisation. Once this is agreed, the Supplier shall comply with the full Implementation Plan.

2.3 Where the Supplier is providing services, the Supplier shall commence delivery of the Services on the Services Commencement Date.

2.4 The Supplier shall comply fully with its obligations set out in the Specification and Bid and/or the Order Form, including, without limitation, the KPIs and all obligations in relation to the quality, performance characteristics, supply, delivery, installation and training in relation to the Goods and their use.

2.5 Unless otherwise agreed by the Parties in writing, the Goods shall be new, consistent with any sample, and shall comply with any applicable specification set out in this Contract (to include, without limitation, the provisions of the Approved Organisation's requirements set out in the Specification and Bid and the Supplier's response to such requirements) and any applicable manufacturers' specifications.

2.6 The Supplier shall ensure that all relevant consents, authorisations, licences and accreditations:

2.6.1 required to supply the Goods are in place prior to the delivery of any Goods to the Approved Organisation; and

2.6.2 required to provide the Services are in place at the Services Commencement Date and are maintained throughout the Term.

2.7 If the requirement for the Supplier to have in place valid ISO 9001 and ISO 14001 certificates or an equivalent certification or any other certificate or licence is referenced in the Specification and Bid then the Supplier shall have at all times:

2.7.1 a valid ISO 9001 and ISO 14001 certificates or equivalent certification;

2.7.2 any certificate or licence that the Approved Organisation has set out in the Specification and Bid as being required for the purposes of this Contract,

and shall provide such certifications or licences to the Approved Organisation following the Approved Organisation's written request.

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- 2.8 If the Supplier provides an equivalent certification or licence in accordance with Clause 2.7 of this Schedule 2 then the Supplier shall provide evidence to the Approved Organisation that such a certification or licence is equivalent to the relevant standard to the Approved Organisation's satisfaction.
- 2.9 If there are any incidents that in any way relate to or involve the use of the Goods by the Approved Organisation, the Supplier shall cooperate fully with the Approved Organisation in relation to the Approved Organisation's application of the Policies on reporting and responding to all incidents, including serious incidents requiring investigation, and shall respond promptly to any reasonable and proportionate queries, questions and/or requests for information that the Approved Organisation may have in this context in relation to the Goods.
- 2.10 If there are any quality, performance and/or safety related reports, notices, alerts or other communications issued by the Supplier or any regulatory or other body in relation to the Goods, the Supplier shall promptly provide the Approved Organisation with a copy of any such reports, notices, alerts or other communications.
- 2.11 Upon receipt of any such reports, notices, alerts or other communications pursuant to Clause 2.10 of this Schedule 2 of these Call-off Terms and Conditions, the Approved Organisation shall be entitled to request further information from the Supplier and/or a meeting with the Supplier, and the Supplier shall cooperate fully with any such request.

### **3 Delivery of the Goods and passing of risk and ownership in the Goods**

- 3.1 The Supplier shall deliver the Goods in accordance with any delivery timescales, delivery dates and delivery instructions (to include, without limitation, as to delivery location and delivery times) set out in the Specification and Bid, the Order Form or as otherwise agreed with the Approved Organisation in writing.
- 3.2 Delivery shall be completed when the Goods have been unloaded at the location specified by the Approved Organisation and such delivery has been received by a duly authorised agent, employee or location representative of the Approved Organisation. The Approved Organisation shall procure that such duly authorised agent, employee or location representative of the Approved Organisation is at the delivery location at the agreed delivery date and times in order to accept such delivery. Any arrangement by which the Goods are collected by the Approved Organisation in return for a discount on the Contract Price shall be agreed by the Parties in writing (where due to an emergency such arrangements cannot be committed to writing prior to collection, the Parties shall confirm such arrangements in writing as soon as possible following collection). Where the Approved Organisation collects the Goods, collection is deemed delivery for the purposes of the Contract.
- 3.3 The Supplier shall ensure that a delivery note shall accompany each delivery of the Goods. Such delivery note shall contain the information specified in the Specification and Bid or as otherwise agreed with the Approved Organisation in writing. Where such information requirements as to the content of delivery notes are not specified or separately agreed, such delivery notes shall, as a minimum, contain the Approved Organisation's order number, the name and address of the Approved Organisation, a description and quantity of the Goods, and shall show separately any extra agreed charges for containers and/or any other item not included in the Contract Price or, where no charge is made, whether the containers are required to be returned.



- 3.4 Part deliveries and/or deliveries outside of the agreed delivery times/dates may be refused unless the Approved Organisation has previously agreed in writing to accept such deliveries. Where delivery of the Goods is refused by the Approved Organisation in accordance with this Clause 3.4 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall be responsible for all risks, costs and expenses associated with the re-delivery of the Goods in accordance with the agreed delivery times/dates. Where the Approved Organisation accepts delivery more than five (5) Business Days before the agreed delivery date, the Approved Organisation shall be entitled to charge the Supplier for the costs of insurance and storage of the Goods until the agreed date for delivery.
- 3.5 Unless otherwise set out in the Specification and Bid or agreed with the Approved Organisation in writing, the Supplier shall be responsible for carriage, insurance, transport, all relevant licences, all related costs, and all other costs associated with the delivery of the Goods to the delivery location and unloading of the Goods at that location. Without limitation to the foregoing provision of this Clause 3.5 of this Schedule 2 of these Call-off Terms and Conditions, unless otherwise stated in the Specification and Bid or agreed with the Approved Organisation in writing, the Supplier shall be responsible for obtaining all export and import licences for the Goods and shall be responsible for any delays to the delivery time due to such licences not being available when required. In the case of any Goods supplied from outside the United Kingdom, the Supplier shall ensure that accurate information is provided to the Approved Organisation as to the country of origin of the Goods and shall be liable to the Approved Organisation for any extra duties or taxes for which the Approved Organisation may be accountable should the country of origin prove to be different from that set out in the Specification and Bid.
- 3.6 All third party carriers engaged to deliver the Goods shall at no time be an agent of the Approved Organisation and accordingly the Supplier shall be liable to the Approved Organisation for the acts and omissions of all third party carriers engaged to deliver the Goods to the Approved Organisation.
- 3.7 Risk in the Goods shall pass to the Approved Organisation when the Goods are delivered as specified in this Contract or, in the case of Goods which require installation by the Supplier, when that installation process is complete.
- 3.8 Ownership of the Goods shall pass to the Approved Organisation on the earlier of:
- 3.8.1 full payment for such Goods; or
  - 3.8.2 where the goods are consumables or are non-recoverable (e.g. used in clinical procedures), at the point such Goods are taken into use. For the avoidance of doubt, where ownership passes in accordance with this Clause 3.8.2 of this Schedule 2 of these Call-off Terms and Conditions, then the full Contract Price for such Goods shall be recoverable by the Supplier from the Approved Organisation as a debt if there is non-payment of a valid undisputed invoice issued by the Supplier to the Approved Organisation in relation to such Goods.
- 3.9 All tools, equipment and materials of the Supplier required in the performance of the Supplier's obligations under this Contract shall be and remain at the sole risk of the Supplier, whether or not they are situated at a delivery location.

#### **4 Inspection, rejection, return and recall of the Goods**

4.1 As relevant and proportionate to the Goods in question and subject to reasonable written notice, the Supplier shall permit any person authorised by the Approved Organisation, to inspect work being undertaken in relation to the Goods and/or the storage facilities used in the storage of the Goods at all reasonable times at the Supplier's premises or at the premises of any Sub-contractor or agent of the Supplier in order to confirm that the Goods are being manufactured and/or stored in accordance with Good Industry Practice and in compliance the requirements of this Contract and/or that stock holding and quality assurance processes are in accordance with the requirements of this Contract.

4.2 Without prejudice to the provisions of Clause 4.7 of this Schedule 2 of these Call-off Terms and Conditions and subject to Clause 4.8 of this Schedule 2 of these Call-off Terms and Conditions, the Approved Organisation shall visually inspect the Goods within a reasonable time following delivery (or such other period as may be set out as part of the Approved Organisation's requirements in the Specification and Bid, if any) and may by written notice reject any Goods found to be damaged or otherwise not in accordance with the requirements of this Contract ("**Rejected Goods**"). The whole of any delivery may be rejected if a reasonable sample of the Goods taken indiscriminately from that delivery is found not to conform in all material respects to the requirements of the Contract.

4.3 Without prejudice to the provisions of Clause 4.6 of this Schedule 2 of these Call-off Terms and Conditions, upon the rejection of any Goods in accordance with Clauses 4.2 and/or 4.7 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall at the Approved Organisation's written request:

4.3.1 collect the Rejected Goods at the Supplier's risk and expense within ten (10) Business Days of issue of written notice from the Approved Organisation rejecting the Goods; and

4.3.2 without extra charge, promptly (and in any event within twenty (20) Business Days or such other time agreed by the Parties in writing acting reasonably) supply replacements for the Rejected Goods to the Approved Organisation subject to the Approved Organisation not cancelling its purchase obligations

in accordance with Clause 4.6 of this Schedule 2 of these Call-off Terms and Conditions.

4.4 If the Supplier requests and the Approved Organisation accepts that the Rejected Goods should be disposed of by the Approved Organisation rather than returned to the Supplier, the Approved Organisation reserves the right to charge the Supplier for the costs associated with the disposal of the Rejected Goods and the Supplier shall promptly pay any such costs.

4.5 Risk and title in respect of any Rejected Goods shall pass to the Supplier on the earlier of:  
(a) collection by the Supplier in accordance with Clause 4.3 of this Schedule 2; or (b) immediately following the expiry of ten (10) Business Days from the Approved Organisation issuing written notification rejecting the Goods. If Rejected Goods are not collected within ten (10) Business Days of the Approved Organisation issuing written notification rejecting the Goods, the Approved Organisation may return the Rejected

Goods at the Supplier's risk and expense and charge the Supplier for the cost of storage from the expiry of ten (10) Business Days from the date of notification of rejection.

- 4.6 Where the Approved Organisation rejects any Goods in accordance with Clauses 4.2 and/or 4.7 of this Schedule 2 of these Call-off Terms and Conditions and the Approved Organisation no longer requires replacement Goods, the Approved Organisation may by written notice cancel its purchase obligations in relation to such quantity of Rejected Goods. Should the Approved Organisation have paid for such Rejected Goods the Supplier shall refund such payment to the Approved Organisation within thirty (30) Business Days of the Approved Organisation cancelling such purchase obligations and informing the Supplier that the Approved Organisation does not require replacements for such Rejected Goods.
- 4.7 Without prejudice to any other provisions of this Contract or any other warranties or guarantees applicable to the Goods supplied and subject to Clause 4.8 of this Schedule 2 of these Call-off Terms and Conditions, if at any time following the date of the delivery of any Goods, all or any part of such Goods are found to be defective or otherwise not in accordance with the requirements of this Contract ("**Defective Goods**"), the Supplier shall, at the Approved Organisation's discretion:
- 4.7.1 upon written request and without charge, promptly (and in any event within twenty (20) Business Days or such other time agreed by the Parties in writing acting reasonably) remedy the deficiency by repairing such Defective Goods; or
  - 4.7.2 upon written notice of rejection from the Approved Organisation, treat such Defective Goods as Rejected Goods in accordance with Clauses 4.2 to 4.6 of this Schedule 2 of these Call-off Terms and Conditions.
- 4.8 The Supplier shall be relieved of its liabilities under Clauses 4.2 to 4.6 (inclusive) and/or Clause 4.7 of this Schedule 2 of these Call-off Terms and Conditions to the extent only that the Goods are damaged, there are defects in the Goods and/or the Goods fail to comply with the requirements of this Contract due, in each case, to any acts or omissions of the Approved Organisation.
- 4.9 The Approved Organisation's rights and remedies under Clause 4.7 of this Schedule 2 of these Call-off Terms and Conditions shall cease within a reasonable period of time from the date on which the Approved Organisation discovers or might reasonably be expected to discover that the Goods are Defective Goods or within such other period as may be set out as part of the requirements in the Specification and Bid, if any. For the avoidance of doubt, Goods not used before their expiry date shall in no event be considered Defective Goods following the date of expiry provided that at the point such Goods were delivered to the Approved Organisation they met any shelf life requirements set out in the Specification and Bid.
- 4.10 Where the Supplier is required by Law, Guidance, and/or Good Industry Practice to order a product recall ("**Requirement to Recall**") in respect of the Goods, the Supplier shall:
- 4.10.1 promptly (taking into consideration the potential impact of the continued use of the Goods on patients, service users and the Approved Organisation as well as compliance by the Supplier with any regulatory requirements) notify the Approved Organisation in writing of the recall together with the circumstances giving rise to the recall;

4.10.2 from the date of the Requirement to Recall treat the Goods the subject of such recall as Defective Goods in accordance with Clause 4.7 of this Schedule 2 of these Call-off Terms and Conditions;

4.10.3 consult with the Approved Organisation as to the most efficient method of executing the recall of the Goods and use its reasonable endeavors to minimise the impact on the Approved Organisation of the recall; and

4.10.4 indemnify and keep the Approved Organisation indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings suffered or incurred by the Approved Organisation as a result of such Requirement to Recall.

## **5 Operation of the Services**

5.1 The Services shall be provided at such Approved Organisation premises and at such locations within those premises, as may be set out in the Order Form or as otherwise agreed by the Parties in writing ("**Premises and Locations**").

5.2 Subject to the Supplier and its Staff complying with all relevant Policies applicable to such Premises and Locations, the Approved Organisation shall grant reasonable access to the Supplier and its Staff to such Premises and Locations to enable the Supplier to provide the Services.

5.3 Subject to Clause 5.4 of this Schedule 2 of these Call-off Terms and Conditions, any access granted to the Supplier and its Staff under Clause 5.2 of this Schedule 2 of these Call-off Terms and Conditions shall be non-exclusive and revocable. Such access shall not be deemed to create any greater rights or interest than so granted (to include, without limitation, any relationship of landlord and tenant) in the Premises and Locations. The Supplier warrants that it shall carry out all such reasonable further acts to give effect to this Clause 5.3 of this Schedule 2 of these Call-off Terms and Conditions.

5.4 Where, in order to provide the Services, the Supplier requires any greater rights to use or occupy any specific Premises and Locations over and above such reasonable access rights granted in accordance with Clause 5.2 and Clause 5.3 of this Schedule 2 of these Call-off Terms and Conditions, such further rights shall be limited to any rights granted to the Supplier by the Approved Organisation in accordance with any licence and/or lease entered into by the Supplier as referred to in any Order Form.

5.5 Unless otherwise set out in the Specification and Bid or otherwise agreed by the Parties in writing, any equipment or other items provided by the Approved Organisation for use by the Supplier:

5.5.1 shall be provided at the Approved Organisation's sole discretion;

5.5.2 shall be inspected by the Supplier in order that the Supplier can confirm to its reasonable satisfaction that such equipment and/or item is fit for its intended use and shall not be used by the Supplier until it has satisfied itself of this;

5.5.3 must be returned to the Approved Organisation within any agreed timescales for such return or otherwise upon the request of the Approved Organisation; and

5.5.4 shall be used by the Supplier at the Supplier's risk and the Supplier shall upon written request by the Approved Organisation reimburse the Approved Organisation for any loss or damage relating to such equipment or other items caused by the Supplier (fair wear and tear exempted).

5.6 If the Services, or any part of them, are regulated by any regulatory body, the Supplier shall ensure that at the Services Commencement Date it has in place all relevant registrations and shall maintain such registrations during the Term. The Supplier shall notify the Approved Organisation forthwith in writing of any changes to such registration or any other matter relating to its registration that would affect the delivery or the quality of Services.

5.7 The Supplier shall notify the Approved Organisation forthwith in writing:

5.7.1 of any pending inspection of the Services, or any part of them, by a regulatory body immediately upon the Supplier becoming aware of such inspection; and

5.7.2 of any failure of the Services, or any part of them, to meet the quality standards required by a regulatory body, promptly and in any event within two (2) Business Days of the Supplier becoming aware of any such failure. This shall include without limitation any informal feedback received during or following an inspection raising concerns of any nature regarding the provision of the Services.

5.8 Following any inspection of the Services, or any part of them, by a regulatory body, the Supplier shall provide the Approved Organisation with a copy of any report or other communication published or provided by the relevant regulatory body in relation to the provision of the Services.

5.9 Upon receipt of notice pursuant to Clause 5.7 of this Schedule 2 of these Call-off Terms and Conditions or any report or communication pursuant to Clause 5.8 of this Schedule 2 of these Call-off Terms and Conditions, the Approved Organisation shall be entitled to request further information from the Supplier and/or a meeting with the Supplier, and the Supplier shall cooperate fully with any such request.

5.10 Where applicable, the Supplier shall implement and comply with the Policies on reporting and responding to all incidents and accidents, including serious incidents requiring investigation, shall complete the Approved Organisation's incident and accident forms in accordance with the Policies and provide reasonable support and information as requested by the Approved Organisation to help the Approved Organisation deal with any incident or accident relevant to the Services. The Supplier shall ensure that its Call-Off Contract Manager informs the Approved Organisation's Call-Off Contract Manager in writing forthwith upon (a) becoming aware that any serious incidents requiring investigation and/or notifiable accidents have occurred; or (b) the Supplier's Call-Off Contract Manager having reasonable cause to believe any serious incidents and/or notifiable accidents requiring investigation have occurred. The Supplier shall ensure that its Call-Off Contract Manager informs the Approved Organisation's Call-Off Contract Manager in writing within forty eight (48) hours of all other incidents and/or accidents that have or may have an impact on the Services.



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- 5.11 The Supplier shall, as reasonably required by the Approved Organisation, cooperate with any other service providers to the Approved Organisation and/or any other third parties as may be relevant in the provision of the Services.
- 5.12 To the extent relevant to the Services, the Supplier shall have in place and operate a complaints procedure which complies with the requirements of the Local Approved Organisation Social Services and National Health Service Complaints (England) Regulations 2009.
- 5.13 Each Party shall inform the other of all complaints from or on behalf of patients or other service users arising out of or in connection with the provision of the Services within twenty four (24) hours of receipt of each complaint and shall keep the other Party updated on the manner of resolution of any such complaints.
- 5.14 The Supplier shall be relieved from its obligations under this Contract to provide the Services to the extent that it is prevented from complying with any such obligations due to any acts, omissions or defaults of the Approved Organisation. To qualify for such relief, the Supplier must notify the Approved Organisation promptly (and in any event within five (5) Business Days) in writing of the occurrence of such act, omission, or default of the Approved Organisation together with the potential impact on the Supplier's obligations.

## **6 Staff and Lifescience Industry Accredited Credentialing Register**

- 6.1 Subject to the requirements of this Contract and any Law, the Supplier shall be entirely responsible for the employment and conditions of service of Staff. The Supplier shall ensure that such conditions of employment are consistent with its obligations under this Contract.
- 6.2 The Supplier will employ sufficient Staff to ensure that it complies with its obligations under this Contract. This will include, but not be limited to, the Supplier providing a sufficient reserve of trained and competent Staff to supply the Goods and/or provide the Services during Staff holidays or absence.
- 6.3 The Supplier shall use reasonable endeavours to ensure the continuity of all Staff in the provision of the Services and, where any member of Staff is designated as key to the provision of the Services as set out in the Specification and Bid, the Order Form or as otherwise agreed between the Parties in writing, any redeployment and/or replacement of such member of Staff by the Supplier shall be subject to the prior written approval of the Approved Organisation, such approval not to be unreasonably withheld or delayed.
- 6.4 The Supplier shall ensure that all Staff are aware of, and at all times comply with, the Policies.
- 6.5 The Supplier shall:
- 6.5.1 employ only those Staff who are careful, skilled and experienced in the duties required of them;
  - 6.5.2 ensure that every member of Staff is properly and sufficiently trained and instructed;
  - 6.5.3 ensure all Staff have the qualifications to carry out their duties;

- 6.5.4 maintain throughout the Term all appropriate licences and registrations with any relevant bodies (at the Supplier's expense) in respect of the Staff; and
  - 6.5.5 ensure all Staff comply with such registration, continuing professional development and training requirements or recommendations appropriate to their role including those from time to time issued by the Department of Health or any relevant regulatory body or any industry body in relation to such Staff; and
  - 6.5.6 comply with the Approved Organisation's staff vetting procedures and other staff protocols, as may be relevant to this Contract and which are notified to the Supplier by the Approved Organisation in writing.
- 6.6 The Supplier shall not deploy in the provision of the Services any person who has suffered from, has signs of, is under treatment for, or who is suffering from any medical condition which is known to, or does potentially, place the health and safety of the Approved Organisation's staff, patients, service users or visitors at risk unless otherwise agreed in writing with the Approved Organisation.
- 6.7 The Supplier shall ensure that all potential Staff or persons performing any of the Services during the Term who may reasonably be expected in the course of performing any of the Services under this Contract to have access to or come into contact with children or other vulnerable persons and/or have access to or come into contact with persons receiving health care services:
- 6.7.1 are questioned concerning their Convictions; and
  - 6.7.2 obtain appropriate disclosures from the Disclosure and Barring Service (or other appropriate body) as required by Law and/or the Policies before the Supplier engages the potential staff or persons in the provision of the Services.
- 6.8 The Supplier shall take all necessary steps to ensure that such potential staff or persons obtain standard and enhanced disclosures from the Disclosure and Barring Service (or other appropriate body) and shall ensure all such disclosures are kept up to date. The obtaining of such disclosures shall be at the Supplier's cost and expense.
- 6.9 The Supplier shall ensure that no person is employed or otherwise engaged in the provision of the Services without the Approved Organisation's prior written consent if:
- 6.9.1 the person has disclosed any Convictions upon being questioned about their Convictions in accordance with Clause 6.7.1 of this Schedule 2 of these Call-off Terms and Conditions;
  - 6.9.2 the person is found to have any Convictions following receipt of standard and/or enhanced disclosures from the Disclosure and Barring Service (or other appropriate body) in accordance with Clause 6.7.2 of this Schedule 2 of these Call-off Terms and Conditions; or
  - 6.9.3 the person fails to obtain standard and/or enhanced disclosures from the Disclosure and Barring Service (or other appropriate body) upon request by the Supplier in accordance with Clause 6.7.2 of this Schedule 2 of these Call-off Terms and Conditions.

6.10 In addition to the requirements of Clause 6.7 to Clause 6.9 of this Schedule 2 of these Call-off Terms and Conditions, where the Services are or include regulated activities as defined by the Safeguarding Vulnerable Groups Act 2006 the Supplier:

6.10.1 warrants that it shall comply with all requirements placed on it by the Safeguarding Vulnerable Groups Act 2006;

6.10.2 warrants that at all times it has and will have no reason to believe that any member of Staff is barred in accordance with the Safeguarding Vulnerable Groups Act 2006; and

6.10.3 shall ensure that no person is employed or otherwise engaged in the provision of the Services if that person is barred from carrying out, or whose previous conduct or records indicate that they would not be suitable to carry out, any regulated activities as defined by the Safeguarding Vulnerable

Groups Act 2006 or may present a risk to patients, service users or any other person.

6.11 The Supplier shall ensure that the Approved Organisation is kept advised at all times of any member of Staff who, subsequent to their commencement of employment as a member of Staff receives a Conviction or whose previous Convictions become known to the Supplier or whose conduct or records indicate that they are not suitable to carry out any regulated activities as defined by the Safeguarding Vulnerable Groups Act 2006 or may present a risk to patients, service users or any other person. The Supplier shall only be entitled to continue to engage or employ such member of Staff with the Approved Organisation's written consent and with such safeguards being put in place as the Approved Organisation may reasonably request. Should the Approved Organisation withhold consent the Supplier shall remove such member of Staff from the provision of the Services forthwith.

6.12 The Supplier shall immediately provide to the Approved Organisation any information that the Approved Organisation reasonably requests to enable the Approved Organisation to satisfy itself that the obligations set out in Clause 6.7 to Clause 6.11 of this Schedule 2 of these Call-off Terms and Conditions have been met.

6.13 The Approved Organisation may at any time request that the Supplier remove and replace any member of Staff from the provision of the Services, provided always that the Approved Organisation will act reasonably in making such a request. Prior to making any such request the Approved Organisation shall raise with the Supplier the Approved Organisation's concerns regarding the member of Staff in question with the aim of seeking a mutually agreeable resolution. The Approved Organisation shall be under no obligation to have such prior discussion should the Approved Organisation have concerns regarding patient or service user safety.

6.14 Unless otherwise confirmed by the Approved Organisation in writing, the Supplier shall ensure full compliance (to include with any implementation timelines) with any Guidance issued by the Department of Health and Social Care and/or any requirements and/or Policies issued by the Approved Organisation (to include as may be set out as part of any procurement documents leading to the award of this Contract) in relation to the adoption of, and compliance with, any scheme or schemes to verify the credentials of Supplier representatives that visit NHS premises (to include use of the Lifescience



Industry Accredited Credentialing Register). Once compliance with any notified implementation timelines has been achieved by the Supplier, the Supplier shall, during the Term, maintain the required level of compliance in accordance with any such Guidance, requirements and Policies.

## **7 Business continuity**

7.1 Throughout the Term, the Supplier will ensure its Business Continuity Plan provides for continuity during a Business Continuity Event. The Supplier confirms and agrees such Business Continuity Plan details and will continue to detail robust arrangements that are reasonable and proportionate to:

7.1.1 the criticality of this Contract to the Approved Organisation; and

7.1.2 the size and scope of the Supplier's business operations,

regarding continuity of the supply of the Goods and the provision of the Services during and following a Business Continuity Event.

7.2 The Supplier shall test its Business Continuity Plan at reasonable intervals, and in any event no less than once every twelve (12) months or such other period as may be agreed between the Parties taking into account the criticality of this Contract to the Approved Organisation and the size and scope of the Supplier's business operations. The Supplier shall promptly provide to the Approved Organisation, at the Approved Organisation's written request, copies of its Business Continuity Plan, reasonable and proportionate documentary evidence that the Supplier tests its Business Continuity Plan in accordance with the requirements of this Clause 7.2 of this Schedule 2 of these Call-off Terms and Conditions and reasonable and proportionate information regarding the outcome of such tests. The Supplier shall provide to the Approved Organisation a copy of any updated or revised Business Continuity Plan within ten (10) Business Days of any material update or revision to the Business Continuity Plan.

7.3 Should a Business Continuity Event occur at any time, the Supplier shall implement and comply with its Business Continuity Plan and provide regular written reports to the Approved Organisation on such implementation.

7.4 During and following a Business Continuity Event, the Supplier shall use reasonable endeavours to continue to supply the Goods and provide the Services in accordance with this Contract.

## **8 The Approved Organisation's obligations**

8.1 Subject to the Supplier supplying the Goods and providing the Services in accordance with this Contract, the Approved Organisation will pay the Supplier for the Goods and/or Services in accordance with Clause 8 of this Schedule 2 of these Call-off Terms and Conditions.

8.2 The Approved Organisation shall, as appropriate, provide copies of or give the Supplier access to such of the Policies that are relevant to the supply of the Goods and the provision of the Services.

8.3 The Approved Organisation shall comply with the Approved Organisation's Obligations.

8.4 The Approved Organisation shall provide the Supplier with any reasonable and proportionate cooperation necessary to enable the Supplier to comply with its obligations under this Contract. The Supplier shall at all times provide reasonable advance written notification to Approved Organisation of any such cooperation necessary in circumstances where such cooperation will require the Approved Organisation to plan for and/or allocate specific resources in order to provide such cooperation.

## **9 Contract management**

9.1 The Call-Off Contract Managers at the Commencement Date shall be as set out in the Order Form or as otherwise agreed between the Parties in writing.

9.2 Each Party shall appoint and retain a Call-Off Contract Manager who shall be the primary point of contact for the other Party in relation to matters arising from this Contract. Should the Call-Off Contract Manager be replaced, the Party replacing the Call-Off Contract Manager shall promptly inform the other Party in writing of the name and contact details for the new Call-Off Contract Manager. Any Call-Off Contract Manager appointed shall be of sufficient seniority and experience to be able to make decisions on the day to day operation of the Contract. The Supplier confirms and agrees that it will be expected to work closely and cooperate fully with the Approved Organisation's Call-Off Contract Manager.

9.3 Each Party shall ensure that its representatives (to include, without limitation, its Call-Off Contract Manager) shall attend review meetings on a regular basis to review the performance of the Supplier under this Contract and to discuss matters arising generally under this Contract. Each Party shall ensure that those attending such meetings have the Approved Organisation to make decisions regarding the day to day operation of the Contract. Review meetings shall take place at the frequency specified in the Specification and Bid. Should the Specification and Bid not state the frequency, then the first such meeting shall take place on a date to be agreed on or around the end of the first month after the Commencement Date. Subsequent meetings shall take place at monthly intervals or as may otherwise be agreed in writing between the Parties.

9.4 Two weeks prior to each review meeting (or at such time and frequency as may be specified in the Specification and Bid) the Supplier shall provide a written contract management report to the Approved Organisation regarding the supply of the Goods, the provision of the Services and the operation of this Contract. Unless otherwise agreed by the Parties in writing, such contract management report shall contain:

9.4.1 details of the performance of the Supplier when assessed in accordance with the KPIs since the last such performance report;

9.4.2 details of any complaints by the Approved Organisation regarding the supply of Goods or provision of Services and any complaints from or on behalf of patients or other service users, their nature and the way in which the Supplier has responded to such complaints since the last review meeting written report;

9.4.3 the information specified in the Specification and Bid;

9.4.4 a status report in relation to the implementation of any current Remedial Proposals by either Party; and

9.4.5 such other information as reasonably required by the Approved Organisation.

9.5 Unless specified otherwise in the Specification and Bid, the Approved Organisation shall take notes of key decisions and actions of each review meeting and shall circulate the notes of the key decisions and actions to the Supplier within a reasonable time following such review meeting. The Supplier shall inform the Approved Organisation in writing of any suggested amendments to the notes of the key decisions and actions within five (5) Business Days of receipt of the draft minutes. If the Supplier does not respond to the Approved Organisation within such five (5) Business Days the notes of the key decisions and actions will be deemed to be approved. Where there are any differences in interpretation of the notes of the key decisions and actions, the Parties will use their reasonable endeavours to reach agreement. If agreement cannot be reached the matter shall be referred to, and resolved in accordance with, the dispute resolution process set out in Clause 24 of this Schedule 2 of these Call-off Terms and Conditions.

9.6 The Supplier shall provide at no charge, provide timely, full, accurate and complete Management Information to the Approved Organisation, in the format and frequency set out in the Order Form.

9.7 The Supplier shall provide such information as the Approved Organisation may request from time to time within seven (7) Business Days of the date of the request (the “**CallOff Management Information**”). The Supplier shall supply the Management Information and/or the Call-Off Management Information to the Approved Organisation in such form as may be specified by the Approved Organisation and, where requested to do so, the Supplier shall also provide such Management Information and/or Call-Off Management Information to another Contracting Authority, whose role it is to: (a) analyse such Management Information and/or Call-Off Management Information in accordance with UK government policy (to include, without limitation, for the purposes of analysing public sector expenditure and planning future procurement activities); or (b) manage the Contract with the Supplier (“**Third Party Body**”). The Supplier confirms and agrees that the Approved Organisation may itself provide the Third Party Body with Management Information and/or Call-Off Management Information relating to the Goods and Services purchased, any payments made under this Contract, and any other information relevant to the operation of this Contract.

9.8 Upon receipt of Management Information and/or Call-Off Management Information supplied by the Supplier to the Approved Organisation and/or the Third Party Body, or by the Approved Organisation to the Third Party Body, the Parties hereby consent to the Third Party Body and the Approved Organisation:

9.8.1 storing and analysing the Management Information and/or the Call-Off Management Information and producing statistics; and

9.8.2 sharing the Management Information and/or the Call-Off Management Information or any statistics produced using the Management Information and/or the Call-Off Management Information with any other Contracting Authority.

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- 9.9 If the Third Party Body and/or the Approved Organisation shares the Management Information and/or Call-Off Management Information or any other information provided under Clause 9.7 of this Schedule 2 of these Call-off Terms and Conditions, any Contracting Authority receiving the Management Information and/or Call-Off Management Information shall, where such Management Information and/or Call-Off Management Information is subject to obligations of confidence under this Contract and such Management Information and/or Call-Off Management Information is provided direct by the Approved Organisation to such Contracting Authority, be informed of the confidential nature of that information by the Approved Organisation and shall be requested by the Approved Organisation not to disclose it to any body that is not a Contracting Authority (unless required to do so by Law).
- 9.10 Notwithstanding Clause 23 (Change Management) of this Schedule 2, the Approved Organisation may make changes to the type of Management Information and/or Call-Off Management Information which the Supplier is required to supply and shall give the Supplier at least one (1) month's written notice of any changes.
- 9.11 By no later than the anniversary of the Commencement Date each and every year during the Term, the Parties shall meet to review the appropriateness of the KPIs (the "**KPI Meeting**").
- 9.12 By no later than ten (10) Business Days weeks prior to the KPI Meeting, the Supplier shall provide the Approved Organisation with proposals for new or revised KPIs to facilitate and promote continuous improvement.
- 9.13 The Parties shall consider and discuss the Supplier's proposals (as set out in clause 9.12 of this Schedule 2) at the KPI Meeting and seek to agree (both Parties to act reasonably) the KPIs for the subsequent year.
- 9.14 If the Parties fail to agree the KPIs at the KPI Meeting then the matter shall be a Dispute and be resolved in accordance with Clause 24 of this Schedule 2 (Dispute Resolution).

## **10 Price and payment**

- 10.1 The Contract Price shall be calculated in accordance with the provisions of the Framework Agreement, as confirmed in the Order Form.
- 10.2 Unless otherwise stated in the Framework Agreement and/or the Order Form, the Contract Price:
- 10.2.1 shall remain fixed during the Term; and
  - 10.2.2 in respect of the Goods, is the entire price payable by the Approved Organisation to the Supplier in respect of the provision of the Goods and includes, without limitation:
    - (i) packaging, packing materials, addressing, labelling, loading, delivery to and unloading at the delivery location, the cost of any import or export licences, all appropriate taxes (excluding VAT), duties and tariffs, any expenses arising from import and export administration, any installation costs and associated works, the costs of all associated

documentation and information supplied or made accessible to the Approved Organisation in any media, and

any training in relation to the use, storage, handling or operation of the Goods;

- (ii) any royalties, licence fees or similar expenses in respect of the making, use or exercise by the Supplier of any Intellectual Property Rights for the purposes of performing this Contract, and any licence rights granted to the Approved Organisation in accordance with Clause 12 of this Schedule 2 of these Call-off Terms and Conditions; and
- (iii) costs and expenses in relation to supplies and materials used by the Supplier or any third party in the manufacture of the Goods, and any other costs incurred by the Supplier in association with the manufacture, supply or installation of the Goods; and

10.2.3 in respect of the Services:

- (i) shall be payable from the Services Commencement Date; and
- (ii) is the entire price payable by the Approved Organisation to the Supplier in respect of the Services and includes, without limitation, any royalties, licence fees, supplies and all consumables used by the Supplier, travel costs, accommodation expenses, the cost of Staff and all appropriate taxes (excluding VAT), duties and tariffs and any expenses arising from import and export administration.

10.3 Unless stated otherwise in the Framework Agreement and/or the Order Form:

- 10.3.1 where the Framework Agreement and/or the Order Form confirms that the payment profile for this Contract is monthly in arrears, the Supplier shall invoice the Approved Organisation, within ten (10) Business Days of the end of each calendar month, the Contract Price in respect of the Goods supplied or the Services provided in compliance with this Contract in the preceding calendar month; or
- 10.3.2 where Clause 10.3.1 of this Schedule 2 of these Call-off Terms and Conditions does not apply, the Supplier shall invoice the Approved Organisation for the Goods or Services at any time following completion of the supply of the Goods or the provision of the Services in compliance with this Contract.

Each invoice shall contain such information and be addressed to such individual as the Approved Organisation may inform the Supplier from time to time.

- 10.4 The Contract Price is exclusive of VAT, which, if properly chargeable, the Approved Organisation shall pay at the prevailing rate subject to receipt from the Supplier of a valid and accurate VAT invoice. Such VAT invoices shall show the VAT calculations as a separate line item.

- 10.5 Where the Contract Price is or may become subject to any pricing requirements of any voluntary and/or statutory pricing regulation schemes, the Parties shall comply with

such pricing requirements as required by Law from time to time and specifically as required by the statutory pricing regulation scheme (and any future regulation) or to the extent applicable to the Supplier from time to time as an industry member of a voluntary scheme, including any reductions in price by reason of the application of such schemes.

- 10.6 The Approved Organisation shall verify and pay each valid and undisputed invoice received in accordance with Clause 10.3 of this Schedule 2 of these Call-off Terms and Conditions within thirty (30) days of receipt of such invoice at the latest. However, the Approved Organisation shall use its reasonable endeavours to pay such undisputed invoices sooner in accordance with any applicable government prompt payment targets. If there is undue delay in verifying the invoice in accordance with this Clause 10.6 of this Schedule 2, the invoice shall be regarded as valid and undisputed for the purposes this Clause 10.6 after a reasonable time has passed.

- 10.7 Where the Approved Organisation raises a query with respect to an invoice the Parties shall liaise with each other and agree a resolution to such query within thirty (30) Business Days of the query being raised. If the Parties are unable to agree a resolution within thirty (30) Business Days the query shall be referred to dispute resolution in accordance with Clause 24 of this Schedule 2 of these Call-off Terms and Conditions. For the avoidance of doubt, the Approved Organisation shall not be in breach of any of any of its payment obligations under this Contract in relation to any queried or disputed invoice sums unless the process referred to in this Clause 10.7 of this Schedule 2 has been followed and it has been determined that the queried or disputed invoice amount is properly due to the Supplier and the Approved Organisation has then failed to pay such sum within a reasonable period following such determination.

- 10.8 The Supplier shall pay to the Approved Organisation any service credits and/or other sums and/or deductions (to include, without limitation, deductions relating to a reduction in the Contract Price) that may become due in accordance with the provisions of the Specification and Bid and/or the Order Form. For the avoidance of doubt, the Approved Organisation may invoice the Supplier for such sums or deductions at any time in the event that they have not automatically been credited to the Approved Organisation in accordance with the provisions of the Specification and Bid and/or Order Form. Such invoice shall be paid by the Supplier within 30 days of the date of such invoice.

- 10.9 The Approved Organisation reserves the right to set-off:

- 10.9.1 any monies due to the Supplier from the Approved Organisation as against any monies due to the Approved Organisation from the Supplier under this Contract; and
- 10.9.2 any monies due to the Approved Organisation from the Supplier as against any monies due to the Supplier from the Approved Organisation under this Contract.



- 10.10 Where the Approved Organisation is entitled to receive any sums (including, without limitation, any costs, charges or expenses) from the Supplier under this Contract, the Approved Organisation may invoice the Supplier for such sums. Such invoices shall be paid by the Supplier within 30 days of the date of such invoice.
- 10.11 If a Party fails to pay any undisputed sum properly due to the other Party under this Contract, the Party due such sum shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.
- 10.12 Unless set out in the Contract as a chargeable item and subject to Clause 33.6 of Schedule 2 of these Call-off Terms and Conditions, the Supplier shall bear the cost of complying with its obligations under this Contract.

## **11 Warranties**

### **11.1 The Supplier warrants and undertakes that:**

- 11.1.1 it shall comply with the Framework Agreement;
- 11.1.2 the Goods shall be suitable for the purposes and/or treatments as referred to in the Specification and Bid, be of satisfactory quality, fit for their intended purpose and shall comply with the standards and requirements set out in this Contract;
- 11.1.3 unless otherwise confirmed by the Approved Organisation in writing (to include, without limitation, as part of the Specification and Bid), it will ensure that the Goods and any products purchased by the Supplier partially or wholly for the purpose of providing the services comply with requirements five (5) to eight (8), as set out in Annex 1 of the Cabinet Office Procurement Policy Note – Implementing Article 6 of the Energy Efficiency Directive (Action Note 07/14 3rd June 2014), to the extent such requirements apply to the relevant Goods;
- 11.1.4 it shall ensure that prior to actual delivery to the Approved Organisation the Goods are manufactured, stored and/or distributed using reasonable skill and care and in accordance with Good Industry Practice;
- 11.1.5 without prejudice to the generality of the warranty at 11.1.4 of this Schedule 2 of these Call-off Terms and Conditions, it shall ensure that, the Goods are manufactured, stored and/or distributed in accordance with good manufacturing practice and/or good warehousing practice and/or good distribution practice, as may be defined under any Law, Guidance and/or Good Industry Practice relevant to the Goods, and in accordance with any specific instructions of the manufacturer of the Goods;
- 11.1.6 it shall ensure that all facilities used in the manufacture, storage and distribution of the Goods are kept in a state and condition necessary to enable the Supplier to comply with its obligations in accordance with this Contract;
- 11.1.7 it has, or the manufacturer of the Goods has, manufacturing and warehousing capacity sufficient to comply with its obligations under this Contract;

- 11.1.8 it will ensure sufficient stock levels to comply with its obligations under this Contract;
- 11.1.9 it shall ensure that the transport and delivery of the Goods mean that they are delivered in good and useable condition;
- 11.1.10 where the Goods are required to be stored at a certain temperature, it shall provide, or shall procure the provision of, complete and accurate temperature records for each delivery of the Goods during the period of transport and/or storage of the Goods from the point of manufacture to the point of delivery to the Approved Organisation;
- 11.1.11 where there is any instruction information, including without limitation patient information leaflets, that accompany the Goods, it shall provide a sufficient number of copies to the Approved Organisation and provide updated copies should the instruction information change at any time during the Term;
- 11.1.12 all Goods delivered to the Approved Organisation shall comply with any shelf life requirements set out in the Specification and Bid;
- 11.1.13 it shall not make any significant changes to the Goods without the prior written consent of the Approved Organisation, such consent not to be unreasonably withheld or delayed;
- 11.1.14 any equipment it uses in the manufacture, delivery, or installation of the Goods shall comply with all relevant Law and Guidance, be fit for its intended purpose and maintained fully in accordance with the manufacturer's specification;
- 11.1.15 it has and shall as relevant maintain all rights, consents, authorisations, licences and accreditations required to supply the Goods;
- 11.1.16 it has, and shall ensure its Staff shall have, and shall maintain throughout the Term, all appropriate licences and registrations with the relevant bodies to fulfil its obligations under this Contract;
- 11.1.17 it has all rights, consents, authorisations, licences and accreditations required to provide the Services and shall maintain such consents, authorisations, licences and accreditations throughout the Term;
- 11.1.18 it has and shall maintain a properly documented system of quality controls and processes covering all aspects of its obligations under this Contract and/or under Law and/or Guidance and shall at all times comply with such quality controls and processes;
- 11.1.19 it shall not make any significant changes to its system of quality controls and processes in relation to the Goods and/or Services without notifying the Approved Organisation in writing at least fifteen (15) Business Days in advance of such change (such notice to include the details of the consequences which follow such change being implemented);
- 11.1.20 where any act of the Supplier requires the notification to and/or approval by any regulatory or other competent body in accordance with any Law and



Guidance, the Supplier shall comply fully with such notification and/or approval requirements;

- 11.1.21 receipt of the Goods and/or Services by or on behalf of the Approved Organisation and use of the Goods and/or deliverables or of any other item or information supplied or made available to the Approved Organisation will not infringe any third party rights, to include without limitation any Intellectual Property Rights;
- 11.1.22 it will comply with all Law, Guidance, Policies and the Supplier Code of Conduct in so far as is relevant to the supply of the Goods and/or the provision of the Services;
- 11.1.23 it will provide the Services using reasonable skill and care and in accordance with Good Industry Practice and shall fulfil all requirements of this Contract using appropriately skilled, trained and experienced staff;
- 11.1.24 unless otherwise set out in the Specification and Bid and/or as otherwise agreed in writing by the Parties, it has and/or shall procure all resources, equipment, consumables and other items and facilities required to provide the Services;
- 11.1.25 without limitation to the generality of Clause 11.1.22 of this Schedule 2 of these Call-off Terms and Conditions, it shall comply with all health and safety processes, requirements safeguards, controls, and training obligations in accordance with its own operational procedures, Law, Guidance, Policies, Good Industry Practice, the requirements of the Specification and Bid and any notices or instructions given to the Supplier by the Approved Organisation and/or any competent body, as relevant to the supply of the Goods, the provision of the Services and the Supplier's access to the Premises and Locations in accordance with this Contract;
- 11.1.26 without prejudice to any specific notification requirements set out in this Contract, it will promptly notify the Approved Organisation of any health and safety hazard which has arisen, or the Supplier is aware may arise, in connection with the Goods and/or the performance of the Services and take such steps as are reasonably necessary to ensure the health and safety of persons likely to be affected by such hazards;
- 11.1.27 any equipment it uses in the provision of the Services shall comply with all relevant Law and Guidance, be fit for its intended purpose and maintained fully in accordance with the manufacturer's specification and shall remain the Supplier's risk and responsibility at all times;
- 11.1.28 it shall use Good Industry Practice to ensure that any information and communications technology systems and/or related hardware and/or software it uses are free from corrupt data, viruses, worms and any other computer programs or code which might cause harm or disruption to the Approved Organisation's information and communications technology systems;

- 11.1.29 it shall: (i) comply with all relevant Law and Guidance and shall use Good Industry Practice to ensure that there is no slavery or human trafficking in its supply chains; and (ii) notify the Approved Organisation immediately if it becomes aware of any actual or suspected incidents of slavery or human trafficking in its supply chains;
- 11.1.30 it shall at all times conduct its business in a manner that is consistent with any anti-slavery Policy of the Approved Organisation and shall provide to the Approved Organisation any reports or other information that the Approved Organisation may request as evidence of the Supplier's compliance with this Clause 11.1.30 and/or as may be requested or otherwise required by the Approved Organisation in accordance with its anti-slavery Policy;
- 11.1.31 it will fully and promptly respond to all requests for information and/or requests for answers to questions regarding this Contract, the Goods, the provision of the Services, any complaints and any Disputes at the frequency, in the timeframes and in the format as requested by the Approved Organisation from time to time (acting reasonably);
- 11.1.32 all information included within the Supplier's responses to any documents issued by the Approved Organisation as part of the procurement relating to the award of this Contract (to include, without limitation, as referred to in the Specification and Bid and/or Order Form) and all accompanying materials is accurate and that such information remains accurate at the Commencement Date;
- 11.1.33 it has the right and Approved Organisation to enter into this Contract and that it has the capability and capacity to fulfil its obligations under this Contract;
- 11.1.34 it is a properly constituted entity and it is fully empowered by the terms of its constitutional documents to enter into and to carry out its obligations under this Contract and the documents referred to in this Contract;
- 11.1.35 all necessary actions to authorise the execution of and performance of its obligations under this Contract have been taken before such execution;
- 11.1.36 there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition, business or operations of the Supplier;
- 11.1.37 there are no material agreements existing to which the Supplier is a party which prevent the Supplier from entering into or complying with this Contract;
- 11.1.38 it has and will continue to have the capacity, funding and cash flow to meet all its obligations under this Contract; and
- 11.1.39 it has satisfied itself as to the nature and extent of the risks assumed by it under this Contract and has gathered all information necessary to perform its obligations under this Contract and all other obligations assumed by it.
- 11.2 Where the sale, manufacture, assembly, importation, storage, distribution, supply, delivery, or installation of the Goods under this Contract relates to medical devices

and/or medicinal products (both as defined under any relevant Law and Guidance), the Supplier warrants and undertakes that it will comply with any such Law and Guidance relating to such activities in relation to such medical devices and/or medicinal products. In particular, but without limitation, the Supplier warrants that:

11.2.1 at the point such Goods are supplied to the Approved Organisation, all such Goods which are medical devices shall have valid CE marking as required by Law and Guidance and that all relevant marking, authorisation, registration, approval and documentation requirements as required under Law and Guidance relating to the sale, manufacture, assembly, importation, storage, distribution, supply, delivery, or installation of such Goods shall have been complied with. Without limitation to the foregoing provisions of this Clause 11.2 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall, upon written request from the Approved Organisation, make available to the Approved Organisation evidence of the grant of such valid CE marking, and evidence of any other authorisations, registrations, approvals or documentation required;

11.2.2 at the point such Goods are supplied to the Approved Organisation, all such Goods which are medicinal products shall have a valid marketing authorisation as required by Law and Guidance in order to supply the Goods to the Approved Organisation and that all relevant authorisation, labelling, registration, approval and documentation requirements as required under Law and Guidance relating to the sale, manufacture, assembly, importation, storage, distribution, supply or delivery of such Goods shall have been complied with. Without limitation to the foregoing provisions of this Clause 11.2 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall, upon written request from the Approved Organisation, make available to the Approved Organisation evidence of the grant of any required valid marketing authorisation, and evidence of any other authorisations, labelling, registrations, approvals or documentation required; and

11.2.3 it shall maintain, and no later than any due date when it would otherwise expire, obtain a renewal of, any authorisation, registration or approval (including without limitation CE marking and/or marketing authorisation) required in relation to the Goods in accordance with Law and Guidance until such time as the Goods expire or the Approved Organisation notifies the Supplier in writing that it has used or disposed of all units of the Goods supplied under this Contract.

11.3 If the Supplier is in breach of Clause 11.2 of this Schedule 2 of these Call-off Terms and Conditions, then, without prejudice to any other right or remedy of the Approved Organisation, the Approved Organisation shall be entitled to reject and/or return the Goods and the Supplier shall, subject to Clause 14.2 of this Schedule 2 of these Call-off Terms and Conditions, indemnify and keep the Approved Organisation indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings suffered or incurred by the Approved Organisation as a result of such breach.

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- 11.4 The Supplier agrees to use reasonable endeavours to assign to the Approved Organisation upon request the benefit of any warranty, guarantee or similar right which it has against any third party manufacturer or supplier of the Goods in full or part.
- 11.5 The Supplier warrants that all information, data and other records and documents required by the Approved Organisation as set out in the Specification and Bid shall be submitted to the Approved Organisation in the format and in accordance with any timescales set out in the Specification and Bid.
- 11.6 Without prejudice to the generality of Clause 11.5 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier acknowledges that a failure by the Supplier to submit accurate invoices and other information on time to the Approved Organisation may result in the commissioner of health services, or other entity responsible for reimbursing costs to the Approved Organisation, delaying or failing to make relevant payments to the Approved Organisation. Accordingly, the Supplier warrants that it shall submit accurate invoices and other information on time to the Approved Organisation.
- 11.7 The Supplier warrants and undertakes to the Approved Organisation that it shall comply with any eProcurement Guidance as it may apply to the Supplier and shall carry out all reasonable acts required of the Supplier to enable the Approved Organisation to comply with such eProcurement Guidance.
- 11.8 The Supplier warrants and undertakes to the Approved Organisation that, as at the Commencement Date, it has notified the Approved Organisation in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance. If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:
- 10.8.1 notify the Approved Organisation in writing of such fact within five (5) Business Days of its occurrence; and
  - 10.8.2 promptly provide to the Approved Organisation:
    - (i) details of the steps which the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
    - (ii) such other information in relation to the Occasion of Tax Non-Compliance as the Approved Organisation may reasonably require.
- 11.9 The Supplier further warrants and undertakes to the Approved Organisation that it will inform the Approved Organisation in writing immediately upon becoming aware that any of the warranties set out in Clause 11 of this Schedule 2 of these Call-off Terms and Conditions have been breached or there is a risk that any warranties may be breached.
- 11.10 Any warranties provided under this Contract are both independent and cumulative and may be enforced independently or collectively at the sole discretion of the enforcing Party.

## **12 Intellectual property**

- 12.1 Unless specified otherwise in the Specification and Bid, the Supplier hereby grants to the Approved Organisation, for the life of the use of Goods by the Approved Organisation, an irrevocable, perpetual, royalty-free, non-exclusive licence of any Intellectual Property Rights required for the purposes of receiving and using, and to the extent necessary to receive and use, the Goods (to include any associated technical or other documentation and information supplied or made accessible to the Approved Organisation in any media) in accordance with this Contract.
- 12.2 Unless specified otherwise in the Specification and Bid, the Supplier hereby grants to the Approved Organisation, for the life of the use by the Approved Organisation of any deliverables, material or any other output supplied to the Approved Organisation in any format as part of the Services, an irrevocable, perpetual, royalty-free, non-exclusive licence to use, modify, adapt or enhance such items in the course of the Approved Organisation's normal business operations. For the avoidance of doubt, unless specified otherwise in any Key Sector Provisions and/or the Specification and Bid, the Approved Organisation shall have no rights to commercially exploit (e.g. by selling to third parties) any deliverables, matter or any other output supplied to the Approved Organisation in any format as part of the Services.

## **13 Indemnity**

- 13.1 The Supplier shall be liable to the Approved Organisation for, and shall indemnify and keep the Approved Organisation indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings in respect of:

13.1.1 any injury or allegation of injury to any person, including injury resulting in death;

13.1.2 any loss of or damage to property (whether real or personal);

13.1.3 any breach of Clause 11.1.21 and/or Clause 12 of this Schedule 2 of these Call-off Terms and Conditions; and/or

13.1.4 any failure by the Supplier to commence the delivery of the Services by the Services Commencement Date;

that arise or result from the Supplier's negligent acts or omissions or breach of contract in connection with the performance of this Contract including the supply of Goods and/or provision of the Services, except to the extent that such loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings have been caused by any act or omission by, or on behalf of, or in accordance with the instructions of, the Approved Organisation.

- 13.2 Liability under Clauses 13.1.1, 13.1.3 and 19.13 of this Schedule 2 of these Call-off Terms and Conditions and Clause 2.6 of Schedule 3 of these Call-off Terms and Conditions shall be unlimited. Liability under Clauses 4.10.4, 11.3, 13.1.2 and 13.1.4 of this Schedule 2 of these Call-off Terms and Conditions shall be subject to the limitation of liability set out in Clause 14 of this Schedule 2 of these Call-off Terms and Conditions.

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13.3 In relation to all third party claims against the Approved Organisation, which are the subject of any indemnity given by the Supplier under this Contract, the Approved Organisation shall use its reasonable endeavours, upon a written request from the Supplier, to transfer the conduct of such claims to the Supplier unless restricted from doing so. Such restrictions may include, without limitation, any restrictions:

13.3.1 relating to any legal, regulatory, governance, information governance, or confidentiality obligations on the Approved Organisation; and/or

13.3.2 relating to the Approved Organisation's membership of any indemnity and/or risk pooling arrangements.

Such transfer shall be subject to the Parties agreeing appropriate terms for such conduct of the third party claim by the Supplier (to include, without limitation, the right of the Approved Organisation to be informed and consulted on the ongoing conduct of the claim following such transfer and any reasonable cooperation required by the Supplier from the Approved Organisation).

## **14 Limitation of liability**

14.1 Nothing in this Contract shall exclude or restrict the liability of either Party:

14.1.1 for death or personal injury resulting from its negligence;

14.1.2 for fraud or fraudulent misrepresentation; or

14.1.3 in any other circumstances where liability may not be limited or excluded under any applicable law.

14.2 Subject to Clauses 13.2, 14.1, 14.3 of this Schedule 2 of these Call-off Terms and Conditions and Section L (Limit of Liability) of the Order Form, the total liability of each

Party to the other under or in connection with this Contract whether arising in contract, tort, negligence, breach of statutory duty or otherwise shall be limited in aggregate to the greater of:

14.2.1 five million GBP (£5,000,000); or

14.2.2 one hundred and twenty five percent (125%) of the total Contact Price paid or payable during the Term by the Approved Organisation to the Supplier for the Goods and/or Services,

expect that the Parties may agree a limit of liability that is a higher value and/or percentage than those specified in Clauses 14.2.1 and 14.2.2 of this Schedule 2, in the Order Form.

14.3 There shall be no right to claim losses, damages and/or other costs and expenses under or in connection with this Contract whether arising in contract (to include, without limitation, under any relevant indemnity), tort, negligence, breach of statutory duty or otherwise to the extent that any losses, damages and/or other costs and expenses claimed are in respect of loss of production, loss of business opportunity or are in respect of indirect loss of any nature suffered or alleged. For the avoidance of doubt, without limitation, the Parties agree that for the purposes of this Contract the following



costs, expenses and/or loss of income shall be direct recoverable losses (to include under any relevant indemnity) provided such costs, expenses and/or loss of income are properly evidenced by the claiming Party:

14.3.1 extra costs incurred purchasing replacement or alternative goods and/or services;

14.3.2 costs incurred in relation to any product recall;

14.3.3 costs associated with advising, screening, testing, treating, retreating or otherwise providing healthcare to patients;

14.3.4 the costs of extra management time; and/or

14.3.5 loss of income due to an inability to provide health care services,

in each case to the extent to which such costs, expenses and/or loss of income arise or result from the other Party's breach of contract, negligent act or omission, breach of statutory duty, and/or other liability under or in connection with this Contract.

14.4 Each Party shall at all times take all reasonable steps to minimise and mitigate any loss for which that Party is entitled to bring a claim against the other pursuant to this Contract.

14.5 Clause 14 of this Schedule 2 of these Call-off Terms and Conditions shall survive the expiry of or earlier termination of this Contract for any reason.

## **15 Insurance**

15.1 Subject to Clauses 15.2 and 15.3 of this Schedule 2 of these Call-off Terms and Conditions and unless otherwise confirmed in writing by the Approved Organisation, as a minimum level of protection, the Supplier shall put in place and/or maintain in force at its own cost with a reputable commercial insurer, insurance arrangements in respect of employer's liability, public liability, product liability and professional indemnity in accordance with Good Industry Practice with the minimum cover per claim of the greater of five million pounds (£5,000,000) or any sum as required by Law unless otherwise agreed with the Approved Organisation in writing. These requirements shall not apply to the extent that the Supplier is a member and maintains membership of each of the indemnity schemes run by NHS Resolution.

15.2 Without limitation to any insurance arrangements as required by Law, the Supplier shall put in place and/or maintain the different types and/or levels of indemnity arrangements explicitly required by the Approved Organisation, if specified in the Order Form, if any.

15.3 Provided that the Supplier maintains all indemnity arrangements required by Law, the Supplier may self insure in order to meet other relevant requirements referred to at Clauses 15.1 and 15.2 of this Schedule 2 of these Call-off Terms and Conditions on condition that such self insurance arrangements offer the appropriate levels of protection and are approved by the Approved Organisation in writing prior to the Commencement Date.

15.4 The amount of any indemnity cover and/or self insurance arrangements shall not relieve the Supplier of any liabilities under this Contract. It shall be the responsibility of the

Supplier to determine the amount of indemnity and/or self insurance cover that will be adequate to enable it to satisfy its potential liabilities under this Contract. Accordingly, the Supplier shall be liable to make good any deficiency if the proceeds of any indemnity cover and/or self insurance arrangement is insufficient to cover the settlement of any claim.

- 15.5 The Supplier warrants that it shall not take any action or fail to take any reasonable action or (in so far as it is reasonable and within its power) permit or allow others to take or fail to take any action, as a result of which its insurance cover may be rendered void, voidable, unenforceable, or be suspended or impaired in whole or in part, or which may otherwise render any sum paid out under such insurances repayable in whole or in part.
- 15.6 The Supplier shall from time to time and in any event within five (5) Business Days of written demand provide documentary evidence to the Approved Organisation that insurance arrangements taken out by the Supplier pursuant to Clause 15 of this Schedule 2 of these Call-off Terms and Conditions and/or the provisions of the Framework Agreement are fully maintained and that any premiums on them and/or contributions in respect of them (if any) are fully paid.
- 15.7 Upon the expiry or earlier termination of this Contract, the Supplier shall ensure that any ongoing liability it has or may have arising out of this Contract shall continue to be the subject of appropriate indemnity arrangements for the period of six (6) years from termination or expiry of this Contract or until such earlier date as that liability may reasonably be considered to have ceased to exist.

## **16 Term and termination**

- 16.1 This Contract shall commence on the Commencement Date and, unless terminated earlier in accordance with the terms of this Contract or the general law, shall continue until the end of the Term.
- 16.2 The Term of this Contract shall be as set out in the Order Form.
- 16.3 The Term may be extended in accordance with Clause 16.4 of this Schedule 2 of these Call-off Terms and Conditions provided that the duration of this Contract shall be no longer than any maximum applicable to the Contract if such maximum duration is set out in the Framework Agreement and/or the Order Form (including any options to extend).
- 16.4 The Approved Organisation:
- 16.4.1 subject to Clause 16.4.2 of this Schedule 2 of these Call-off Terms and Conditions shall be entitled to extend the Term on one or more occasions by giving the Supplier written notice no less than three (3) months prior to the date on which this Contract would otherwise have expired, provided that the duration of this Contract shall be no longer than the total term referred to in the Framework Agreement and/or the Order Form; or
  - 16.4.2 where the Term or any extension of the Term expires at a date the same as or after expiry of the Framework Agreement (including any extensions of the Framework Agreement in accordance with its terms), shall only be entitled to



extend the Term with the prior written agreement of the Supplier, such agreement not to be unreasonably withheld or delayed.

16.5 In the case of a breach of any of the terms of this Contract by either Party that is capable of remedy (including, without limitation any breach of any KPI and, subject to Clause 10.7 of this Schedule 2 of these Call-off Terms and Conditions, any breach of any payment obligations under this Contract), the non-breaching Party may, without prejudice to its other rights and remedies under this Contract, issue a Breach Notice and shall allow the Party in breach the opportunity to remedy such breach in the first instance via a remedial proposal put forward by the Party in breach ("**Remedial Proposal**") before exercising any right to terminate this Contract in accordance with Clause 16.6(ii) of this Schedule 2 of these Call-off Terms and Conditions. Such Remedial Proposal must be agreed with the non-breaching Party (such agreement not to be unreasonably withheld or delayed) and must be implemented by the Party in breach in accordance with the timescales referred to in the agreed Remedial Proposal. Once agreed, any changes to a Remedial Proposal must be approved by the Parties in writing. Any failure by the Party in breach to:

16.5.1 put forward and agree a Remedial Proposal with the non-breaching Party in relation to the relevant default or breach within a period of ten (10) Business Days (or such other period as the non-breaching Party may agree in writing) from written notification of the relevant default or breach from the non-breaching Party;

16.5.2 comply with such Remedial Proposal (including, without limitation, as to its timescales for implementation, which shall be thirty (30) Business Days unless otherwise agreed between the Parties); and/or

16.5.3 remedy the default or breach notwithstanding the implementation of such Remedial Proposal in accordance with the agreed timescales for implementation,

shall be deemed, for the purposes of Clause 16.6(ii) of this Schedule 2 of these Call-off Terms and Conditions, a material breach of this Contract by the Party in breach not remedied in accordance with an agreed Remedial Proposal.

16.6 Either Party may terminate this Contract by issuing a Termination Notice to the other Party if such other Party commits a material breach of any of the terms of this Contract which is:

- (i) not capable of remedy; or
- (ii) in the case of a breach capable of remedy, which is not remedied in accordance with a Remedial Proposal.

16.7 The Approved Organisation may terminate this Contract by issuing a Termination Notice to the Supplier if:

16.7.1 the Supplier does not commence supply of the Goods and/or delivery of the Services by any Long Stop Date;

- 16.7.2 the Supplier, or any third party guaranteeing the obligations of the Supplier under this Contract, ceases or threatens to cease carrying on its business; suspends making payments on any of its debts or announces an intention to do so; is, or is deemed for the purposes of any Law to be, unable to pay its debts as they fall due or insolvent; enters into or proposes any composition, assignment or arrangement with its creditors generally; takes any step or suffers any step to be taken in relation to its winding-up, dissolution, administration (whether out of court or otherwise) or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) otherwise than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation; has a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed (in each case, whether out of court or otherwise) in respect of it or any of its assets; has any security over any of its assets enforced; or any analogous procedure or step is taken in any jurisdiction;
- 16.7.3 the Supplier undergoes a change of control within the meaning of sections 450 and 451 of the Corporation Tax Act 2010 (other than for an intra-group change of control) without the prior written consent of the Approved Organisation and the Approved Organisation shall be entitled to withhold such consent if, in the reasonable opinion of the Approved Organisation, the proposed change of control will have a material impact on the performance of this Contract or the reputation of the Approved Organisation;
- 16.7.4 the Supplier purports to assign, Sub-contract, novate, create a trust in or otherwise transfer or dispose of this Contract in breach of Clause 30.1 of this Schedule 2 of these Call-off Terms and Conditions;
- 16.7.5 pursuant to and in accordance with any termination rights set out in the Order Form and Clauses 16.8, 25.8; 27.2; 27.4 and 32.2 of this Schedule 2 of these Call-off Terms and Conditions; or
- 16.7.6 the warranty given by the Supplier pursuant to Clause 11.8 of this Schedule 2 of these Call-off Terms and Conditions is materially untrue, the Supplier commits a material breach of its obligation to notify the Approved Organisation of any Occasion of Tax Non-Compliance as required by Clause 11.8 of this Schedule 2 of these Call-off Terms and Conditions, or the Supplier fails to provide details of proposed mitigating factors as required by Clause 11.8 of this Schedule 2 of these Call-off Terms and Conditions that in the reasonable opinion of the Approved Organisation are acceptable.
- 16.8 If the Approved Organisation, acting reasonably, has good cause to believe that there has been a material deterioration in the financial circumstances of the Supplier and/or any third party guaranteeing the obligations of the Supplier under this Contract and/or any material Sub-contractor of the Supplier when compared to any information provided to and/or assessed by the Approved Organisation as part of any procurement process or other due diligence leading to the award of this Contract to the Supplier or the entering into a Sub-contract by the Supplier or where the Approved Organisation reasonably believes that financial circumstances of the Supplier and/or any third party guaranteeing the obligations of the Supplier under this Framework Agreement and/or any material

Sub-contractor of the Supplier could directly impact on the continued performance and delivery of this Call-off Terms and Conditions, the following process shall apply:

- 16.8.1 the Approved Organisation may (but shall not be obliged to) give notice to the Supplier requesting adequate financial or other security and/or assurances for due performance of its material obligations under this Contract on such reasonable and proportionate terms as the Approved Organisation may require within a reasonable time period as specified in such notice;
- 16.8.2 a failure or refusal by the Supplier to provide the financial or other security and/or assurances requested in accordance with Clause 16.8 of this Schedule 2 of these Call-off Terms and Conditions in accordance with any reasonable timescales specified in any such notice issued by the Approved Organisation shall be deemed a breach of this Contract by the Supplier and shall be referred to and resolved in accordance with the Dispute Resolution Procedure; and
- 16.8.3 a failure to resolve such breach in accordance with such Dispute Resolution Procedure by the end of the escalation stage of such process (as set out in Clause 24.4 of this Schedule 2 of these Call-off Terms and Conditions) shall entitle, but shall not compel, the Approved Organisation to terminate this Contract in accordance with Clause 16.6(i) of this Schedule 2 of these Call-off Terms and Conditions.
- 16.9 In order that the Approved Organisation may act reasonably in exercising its discretion in accordance with Clause 16.8 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall provide the Approved Organisation with such reasonable and proportionate up-to-date financial or other information relating to the Supplier or any relevant third party entity upon request.
- 16.10 The Approved Organisation may terminate this Contract by issuing a Termination Notice to the Supplier where:
  - 16.10.1 the Contract has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure;
  - 16.10.2 the Approved Organisation has become aware that the Supplier should have been excluded under Regulation 57(1) or (2) of the Public Contracts Regulations 2015 from the procurement procedure leading to the award of this Contract; or
  - 16.10.3 there has been a failure by the Supplier and/or one of its Sub-contractors to comply with legal obligations in the fields of environmental, social or labour Law. Where the failure to comply with legal obligations in the fields of environmental, social or labour Law is a failure by one of the Supplier's Subcontractors, the Approved Organisation may request the replacement of such Sub-contractor and the Supplier shall comply with such request as an alternative to the Approved Organisation terminating this Contract under this Clause 16.10.3.

- 16.11 If the Approved Organisation novates this Contract to any body that is not a Contracting Authority, from the effective date of such novation, the rights of the Approved Organisation to terminate this Contract in accordance with Clause 16.7.2 to Clause 16.7.4 of this Schedule 2 of these Call-off Terms and Conditions shall be deemed mutual termination rights and the Supplier may terminate this Contract by issuing a Termination Notice to the entity assuming the position of the Approved Organisation if any of the circumstances referred to in such Clauses apply to the entity assuming the position of the Approved Organisation.
- 16.12 Within three (3) months of the Commencement Date the Supplier shall develop and agree an exit plan with the Approved Organisation consistent with the Exit Requirements, which shall ensure continuity of the Services on expiry or earlier termination of this Contract. The Supplier shall provide the Approved Organisation with the first draft of an exit plan within one (1) month of the Commencement Date. The Parties shall review and, as appropriate, update the exit plan on each anniversary of the Commencement Date of this Contract.
- 16.13 If the Parties cannot agree an exit plan in accordance with the timescales set out in this Clause 16.12 of this Schedule 2 of these Call-off Terms and Conditions (such agreement not to be unreasonably withheld or delayed), such failure to agree shall be deemed a Dispute, which shall be referred to and resolved in accordance with the Dispute Resolution Procedure.
- 16.14 Any Breach Notice issued by a Party in connection with this Contract shall not be invalid due to it containing insufficient information. A Party receiving a Breach Notice ("**Receiving Party**") may ask the Party that issued the Breach Notice ("**Issuing Party**") to provide any further information in relation to the subject matter of the Breach Notice that it may reasonably require to enable it to understand the Breach Notice and/or to remedy the breach. The Issuing Party shall not unreasonably withhold or delay the provision of such further information. Any withholding or delay shall invalidate the Breach Notice.

## **17 Consequences of expiry or early termination of this Contract**

- 17.1 Subject to the provision set out in Clause 17.5 of this Schedule 2 of these Call-off Terms and Conditions, upon expiry or earlier termination of this Contract, the Approved Organisation agrees to pay the Supplier for:
- 17.1.1 the Goods which have been supplied by the Supplier and not rejected by the Approved Organisation in accordance with this Contract prior to the expiry or earlier termination of this Contract; and
- 17.1.2 the Services which have been completed by the Supplier in accordance with this Contract prior to expiry or earlier termination of this Contract.
- 17.2 Immediately following expiry or earlier termination of this Contract and/or in accordance with any timescales as set out in the agreed exit plan:
- 17.2.1 the Supplier shall comply with its obligations under any agreed exit plan;
- 17.2.2 all data, excluding Personal Data, documents and records (whether stored electronically or otherwise) relating in whole or in part to the Services,

including without limitation relating to patients or other service users, and all other items provided on loan or otherwise to the Supplier by the Approved Organisation shall be delivered by the Supplier to the Approved Organisation provided that the Supplier shall be entitled to keep copies to the extent that: (a) the content does not relate solely to this Contract; (b) the Supplier is required by Law and/or Guidance to keep copies; or (c) the Supplier was in possession of such data, documents and records prior to the Commencement Date; and

17.2.3 any Personal Data Processed by the Supplier on behalf of the Approved Organisation shall be returned to the Approved Organisation or destroyed in accordance with the relevant provisions of the Approved Organisation's Data Protection Protocol.

17.3 The Supplier shall retain all data relating to the provision of the Services that are not transferred or destroyed pursuant to Clause 17.2 of this Schedule 2 of these Call-off Terms and Conditions for the period set out in Clause 26.1 of this Schedule 2 of these Call-off Terms and Conditions.

17.4 The Supplier shall cooperate fully with the Approved Organisation or, as the case may be, any replacement supplier during any re-procurement and handover period prior to and following the expiry or earlier termination of this Contract. This cooperation shall extend to providing access to all information relevant to the operation of this Contract, as reasonably required by the Approved Organisation to achieve a fair and transparent re-procurement and/or an effective transition without disruption to routine operational requirements.

17.5 If the Approved Organisation terminates the Contract in accordance with Clause 16.7.1 of this Schedule 2 of these Call-off Terms and Conditions, the Approved Organisation shall be entitled to a refund of any sums paid under this Contract provided the Approved Organisation informs the Supplier in writing of its intention to claim such refund no later than thirty (30) Business Days of the effective date of such termination. Should the Approved Organisation seek a refund in respect of Goods already delivered, the Approved Organisation shall return such Goods to the Supplier at the Supplier's written request and at the Supplier's cost and expense.

17.6 Immediately upon expiry or earlier termination of this Contract any licence or lease entered into in accordance with any Order Form shall automatically terminate.

17.7 The expiry or earlier termination of this Contract for whatever reason shall not affect any rights or obligations of either Party which accrued prior to such expiry or earlier termination.

17.8 The expiry or earlier termination of this Contract shall not affect any obligations which expressly or by implication are intended to come into or continue in force on or after such expiry or earlier termination.

17.9 The expiry or earlier termination of the Framework Agreement shall not affect this Contract. For the avoidance of doubt, any obligations set out in the Framework Agreement that form part of this Contract shall continue to apply for the purposes of this Contract notwithstanding any termination of the Framework Agreement.

## **18 Application of TUPE at the commencement of the provision of Services**

18.1 The Parties agree that at the commencement of the provision of Services by the Supplier, TUPE and the Cabinet Office Statement shall not apply so as to transfer the employment of any employees of the Approved Organisation or a Third Party to the Supplier.

18.2 If any person who is an employee of the Approved Organisation or a Third Party claims or it is determined that their contract of employment has been transferred from the Approved Organisation or Third Party to the Supplier or a Sub-contractor pursuant to TUPE, or claims that their employment would have so transferred had they not resigned, then:

18.2.1 the Supplier will, within seven (7) days of becoming aware of that fact, give notice in writing to the Approved Organisation;

18.2.2 the Approved Organisation or Third Party may offer employment to such person within twenty-eight (28) days of the notification by the Supplier;

18.2.3 if such offer of employment is accepted, the Supplier or a Sub-contractor shall immediately release the person from their employment;

18.2.4 if after that period specified in Clause 18.2.2 of this Schedule 2 of these Call-off Terms and Conditions has elapsed, no offer of employment has been made by the Approved Organisation or Third Party, or such offer has been made by the Approved Organisation or Third Party but not accepted within a reasonable time, the Supplier or Sub-contractor shall employ that person in accordance with its obligations and duties under TUPE and shall be responsible for all liabilities arising in respect of any such person and shall (where relevant) be bound to apply Fair Deal for Staff Pensions in respect of any such person in accordance with the requirements of Part D of Schedule 7 of the NHS Terms and Conditions for the Provision of Services (Contract Version) (January 2018).

## **19 Staff information and the application of TUPE at the end of the Contract**

19.1 Upon the day which is no greater than nine (9) months before the expiry of this Contract or as soon as the Supplier is aware of the proposed termination of the Contract, the Supplier shall, within twenty eight (28) days of receiving a written request from the Approved Organisation and to the extent permitted by Law, supply to the Approved Organisation and keep updated all information required by the Approved Organisation as to the terms and conditions of employment and employment history of any Supplier Personnel (including all employee liability information identified in regulation 11 of TUPE) and the Supplier shall warrant such information is full, complete and accurate.

19.2 No later than twenty eight (28) days prior to the Subsequent Transfer Date, the Supplier shall or shall procure that any Sub-contractor shall provide a final list to the Successor and/or the Approved Organisation, as appropriate, containing the names of all the Subsequent Transferring Employees whom the Supplier or Sub-contractor expects will transfer to the Successor or the Approved Organisation and all employee liability information identified in regulation 11 of TUPE in relation to the Subsequent Transferring Employees.



## Classification: Official

- 19.3 If the Supplier shall, in the reasonable opinion of the Approved Organisation, deliberately not comply with its obligations under Clauses 19.1 and 19.2 of this Schedule 2 of these Call-off Terms and Conditions, the Approved Organisation may withhold payment under Clause 10 of this Schedule 2 of these Call-off Terms and Conditions.
- 19.4 The Supplier shall be liable to the Approved Organisation for, and shall indemnify and keep the Approved Organisation indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings that arise or result from any deficiency or inaccuracy in the information which the Supplier is required to provide under Clauses 19.1 and 19.2 of this Schedule 2 of these Call-off Terms and Conditions.
- 19.5 Subject to Clauses 19.6 and 19.7 of this Schedule 2 of these Call-off Terms and Conditions, during the period of nine (9) months preceding the expiry of this Contract or after notice of termination of this Contract has been served by either Party, the Supplier shall not, and shall procure that any Sub-contractor shall not, without the prior written consent of the Approved Organisation, such consent not to be unreasonably withheld or delayed:
- 19.5.1 make, propose or permit any material changes to the terms and conditions of employment or other arrangements of any of the Supplier Personnel;
  - 19.5.2 increase or seek to increase the emoluments (excluding cost of living increases awarded in the ordinary course of business) payable to any of the Supplier Personnel;
  - 19.5.3 replace any of the Supplier Personnel or increase the total number of employees providing the Services;
  - 19.5.4 deploy any person other than the Supplier Personnel to perform the Services;
  - 19.5.5 terminate or give notice to terminate the employment or arrangements of any of the Supplier Personnel;
  - 19.5.6 increase the proportion of working time spent on the Services by any of the Supplier Personnel; or
  - 19.5.7 introduce any new contractual term or customary practice concerning the making of any lump sum payment on the termination of employment of any of the Supplier Personnel.
- 19.6 Clause 19.5 of this Schedule 2 of these Call-off Terms and Conditions shall not prevent the Supplier or any Sub-contractor from taking any of the steps prohibited in that Clause in circumstances where the Supplier or Sub-contractor is required to take such a step pursuant to any changes in legislation or pursuant to a collective agreement in force at that time.
- 19.7 Where the obligations on the Supplier under Clause 18 of this Schedule 2 of these Call-off Terms and Conditions are subject to the Data Protection Legislation, the Supplier will, and shall procure that any Sub-contractor will, use its best endeavours to seek the consent of the Supplier Personnel to disclose any information covered under the Data

Protection Legislation and utilise any other exemption or provision within the Data Protection Legislation which would allow such disclosure.

- 19.8 Having as appropriate gained permission from any Sub-contractor, the Supplier hereby permits the Approved Organisation to disclose information about the Supplier Personnel to any Interested Party provided that the Approved Organisation informs the Interested Party in writing of the confidential nature of the information.
- 19.9 The Parties agree that where a Successor or the Approved Organisation provides the Services or services which are fundamentally the same as the Services in the immediate or subsequent succession to the Supplier or Sub-contractor (in whole or in part) on expiry or early termination of this Contract (howsoever arising) TUPE, the Cabinet Office Statement and Fair Deal for Staff Pensions may apply in respect of the subsequent provision of the Services or services which are fundamentally the same as the Services. If TUPE, the Cabinet Office Statement and Fair Deal for Staff Pensions apply then Clause 19.11 to Clause 19.14 of this Schedule 2 of these Call-off Terms and Conditions and (where relevant) the requirements of Clause 2.5 of Part D of Schedule 7 of the NHS Terms and Conditions for the Provision of Services (Contract Version) (January 2018) shall apply.
- 19.10 If on the termination or at the end of the Contract TUPE does not apply, then all Employment Liabilities and any other liabilities in relation to the Supplier Personnel shall remain with the Supplier or Sub-contractor as appropriate. The Supplier will, and shall procure that any Sub-contractor shall, indemnify and keep indemnified the Approved Organisation in relation to any Employment Liabilities arising out of or in connection with any allegation or claim raised by any Supplier Personnel.
- 19.11 In accordance with TUPE, and any other policy or arrangement applicable, the Supplier shall, and will procure that any Sub-contractor shall, comply with its obligations to inform and consult with the appropriate representatives of any of its employees affected by the subsequent transfer of the Services or services which are fundamentally the same as the Services.
- 19.12 The Supplier will and shall procure that any Sub-contractor will on or before any Subsequent Transfer Date:
- 19.12.1 pay all wages, salaries and other benefits of the Subsequent Transferring Employees and discharge all other financial obligations (including reimbursement of any expenses and any contributions to retirement benefit schemes) in respect of the period between the Transfer Date and the Subsequent Transfer Date;
- 19.12.2 account to the proper Approved Organisation for all PAYE, tax deductions and national insurance contributions payable in respect of the Subsequent Transferring Employees in the period between the Transfer Date and the Subsequent Transfer Date;
- 19.12.3 pay any Successor or the Approved Organisation, as appropriate, the amount which would be payable to each of the Subsequent Transferring Employees in lieu of accrued but untaken holiday entitlement as at the Subsequent Transfer Date;



- 19.12.4 pay any Successor or the Approved Organisation, as appropriate, the amount which fairly reflects the progress of each of the Subsequent Transferring Employees towards achieving any commission, bonus, profit share or other incentive payment payable after the Subsequent Transfer Date wholly or partly in respect of a period prior to the Subsequent Transfer Date; and
- 19.12.5 subject to any legal requirement, provide to the Successor or the Approved Organisation, as appropriate, all personnel records relating to the Subsequent Transferring Employees including, without prejudice to the generality of the foregoing, all records relating to national insurance, PAYE and income tax. The Supplier shall for itself and any Sub-contractor warrant that such records are accurate and up to date.
- 19.13 The Supplier will and shall procure that any Sub-contractor will indemnify and keep indemnified the Approved Organisation and/or a Successor in relation to any Employment Liabilities arising out of or in connection with any claim arising from:
- 19.13.1 the Supplier's or Sub-contractor's failure to perform and discharge its obligations under Clause 19.2 of this Schedule 2 of these Call-off Terms and Conditions;
- 19.13.2 any act or omission by the Supplier or Sub-contractor in respect of the Subsequent Transferring Employees occurring on or before the Subsequent Transfer Date;
- 19.13.3 any allegation or claim by any person who is not a Subsequent Transferring Employee but who alleges that their employment should transfer or has transferred to the Successor or the Approved Organisation, as appropriate;
- 19.13.4 any emoluments payable to a person employed or engaged by the Supplier or Sub-contractor (including without limitation all wages, accrued holiday pay, bonuses, commissions, PAYE, national insurance contributions, pension contributions and other contributions) payable in respect of any period on or before the Subsequent Transfer Date;
- 19.13.5 any allegation or claim by any of the Subsequent Transferring Employees on the grounds that the Successor or Approved Organisation, as appropriate, has failed to continue a benefit provided by the Supplier or Sub-contractor as a term of such Subsequent Transferring Employee's contract as at the Subsequent Transfer Date where it was not reasonably practicable for the Successor or Approved Organisation, as appropriate, to provide an identical benefit but where the Successor or Approved Organisation, as appropriate, has provided (or offered to provide where such benefit is not accepted by the Subsequent Transferring Employee) an alternative benefit which, taken as a whole, is no less favourable to such Subsequent Transferring Employee; and
- 19.13.6 any act or omission of the Supplier or any Sub-contractor in relation to its obligations under regulation 13 of TUPE, or in respect of an award of compensation under regulation 15 of TUPE except to the extent that the liability arises from the Successor's or Approved Organisation's failure to comply with regulation 13(4) of TUPE.

## Classification: Official

- 19.14 The Supplier will, or shall procure that any Sub-contractor will, on request by the Approved Organisation provide a written and legally binding indemnity in the same terms as set out in Clause 19.13 of this Schedule 2 of these Call-off Terms and Conditions to any Successor in relation to any Employment Liabilities arising up to and including the Subsequent Transfer Date.
- 19.15 The Supplier will indemnify and keep indemnified the Approved Organisation and/or any Successor in respect of any Employment Liabilities arising from any act or omission of the Supplier or Sub-contractor in relation to any other Supplier Personnel who is not a Subsequent Transferring Employee arising during any period whether before, on or after the Subsequent Transfer Date.
- 19.16 If any person who is not a Subsequent Transferring Employee claims or it is determined that their contract of employment has been transferred from the Supplier or any Sub-contractor to the Approved Organisation or Successor pursuant to TUPE or claims that their employment would have so transferred had they not resigned, then:
- 19.16.1 the Approved Organisation will, or shall procure that the Successor will, within seven (7) days of becoming aware of that fact, give notice in writing to the Supplier;
- 19.16.2 the Supplier may offer (or may procure that a Sub-contractor may offer) employment to such person within twenty eight (28) days of the notification by the Approved Organisation or Successor;
- 19.16.3 if such offer of employment is accepted, the Approved Organisation will, or shall procure that the Successor will, immediately release the person from their employment; and
- 19.16.4 if after the period in Clause 19.16.2 of this Schedule 2 of these Call-off Terms and Conditions has elapsed, no such offer of employment has been made or such offer has been made but not accepted, the Approved Organisation will, or shall procure that the Successor will (whichever is the provider of the Services or services of the same or similar nature to the Services), employ that person in accordance with its obligations and duties under TUPE and shall be responsible for all liabilities arising in respect of any such person after the Subsequent Transfer Date.

## **20 Packaging, identification, end of use and coding requirements**

- 20.1 The Supplier shall comply with all obligations imposed on it by Law relevant to the Goods in relation to packaging, identification, and obligations following end of use by the Approved Organisation.
- 20.2 Unless otherwise specified in the Specification and Bid or otherwise agreed with the Approved Organisation in writing, the Goods shall be securely packed in trade packages of a type normally used by the Supplier for deliveries of the same or similar goods in the same quantities within the United Kingdom.
- 20.3 The Supplier shall comply with any labelling requirements in respect of the Goods: (a) specified in the Specification and Bid; (b) agreed with the Approved Organisation in writing; and/or (c) required to comply with Law or Guidance.

## Classification: Official

- 20.4 The Supplier shall ensure that all Goods that are required by Law or Guidance to bear any safety information, environmental information, any mark, tab, brand, label, serial numbers or other device indicating place of origin, inspection by any government or other body or standard of quality at the point such Goods are delivered shall comply with such requirements at the point of delivery.
- 20.5 Unless otherwise set out in the Specification and Bid or agreed with the Approved Organisation in writing, the Supplier shall collect without charge any returnable containers and/or packages (including pallets) within fifteen (15) Business Days of the date of the relevant delivery. Empty containers and/or packages not so removed may be returned by the Approved Organisation at the Supplier's expense or otherwise disposed of at the Approved Organisation's discretion. The Supplier shall credit the Approved Organisation in full for any containers for which the Approved Organisation has been charged upon their collection, return and/or disposal by the Approved Organisation in accordance with Clause 20.5 of this Schedule 2 of these Call-off Terms and Conditions.
- 20.6 Unless otherwise confirmed and/or agreed by the Approved Organisation in writing and subject to Clause 20.7 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall ensure full compliance with any Guidance issued by the Department of Health in relation to the adoption of GS1 and PEPPOL standards (to include, without limitation, any supplier compliance timeline and other policy requirements published by the Department of Health in relation to the adoption of GS1 and PEPPOL standards for master data provision and exchange, barcode labelling, and purchase-to-pay transacting).
- 20.7 Once compliance with any published timelines has been achieved by the Supplier pursuant to Clause 20.6 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall, during the Term, maintain the required level of compliance relating to the Goods in accordance with any such requirements and Guidance referred to as part of this Contract.
- 20.8 Once Product Information relating to Goods is placed by the Supplier into a GS1 certified data pool, the Supplier shall, during the Term, keep such information updated with any changes to the product data relating to the Goods.

## **21 Sustainable development**

21.1 The Supplier shall comply in all material respects with applicable environmental, social and labour Law requirements in force from time to time in relation to the Goods and Services. Where the provisions of any such Law are implemented by the use of voluntary agreements, the Supplier shall comply with such agreements as if they were incorporated into English law subject to those voluntary agreements being cited in the Specification and Bid. Without prejudice to the generality of the foregoing, the Supplier shall:

- 21.1.1 comply with all Policies and/or procedures and requirements set out in the Specification and Bid in relation to any stated environmental, social and labour requirements, characteristics and impacts of the Goods and Services and the Supplier's supply chain;

21.1.2 maintain relevant policy statements documenting the Supplier's significant labour, social and environmental aspects as relevant to the Goods and

Services being supplied and provided and as proportionate to the nature and scale of the Supplier's business operations; and

21.1.3 maintain plans and procedures that support the commitments made as part of the Supplier's significant labour, social and environmental policies, as referred to at Clause 21.1.2 of this Schedule 2 of these Call-off Terms and Conditions.

21.2 The Supplier shall meet reasonable requests by the Approved Organisation for information evidencing the Supplier's compliance with the provisions of Clause 21 of this Schedule 2 of these Call-off Terms and Conditions.

21.3 The Supplier shall comply with the provisions set out in Schedule 7 (Corporate Social Responsibility).

## **22 Electronic product and services information**

22.1 Where requested by the Approved Organisation, the Supplier shall provide the Approved Organisation the Product Information and the Services Information in such manner and upon such media as agreed between the Supplier and the Approved Organisation from time to time for the sole use by the Approved Organisation.

22.2 The Supplier warrants that the Product Information and the Services Information is complete and accurate as at the date upon which it is delivered to the Approved Organisation and that the Product Information and the Services Information shall not contain any data or statement which gives rise to any liability on the part of the Approved Organisation following publication of the same in accordance with Clause 22 of this Schedule 2 of these Call-off Terms and Conditions.

22.3 If the Product Information and/or the Services Information ceases to be complete and accurate, the Supplier shall promptly notify the Approved Organisation in writing of any modification or addition to or any inaccuracy or omission in the Product Information and/or the Services Information.

22.4 The Supplier grants the Approved Organisation a perpetual, non-exclusive, royalty free licence to use and exploit the Product Information and the Services Information and any Intellectual Property Rights in the Product Information and the Services Information for the purpose of illustrating the range of goods and services (including, without limitation, the Goods and Services) available pursuant to the Approved Organisation's contracts from time to time. Subject to Clause 22.5 of this Schedule 2 of these Call-off Terms and Conditions, no obligation to illustrate or advertise the Product Information or the Services Information is imposed on the Approved Organisation, as a consequence of the licence conferred by this Clause 22.4 of this Schedule 2 of these Call-off Terms and Conditions.

22.5 The Approved Organisation may reproduce for its sole use the Product Information and the Services Information provided by the Supplier in the Approved Organisation's product and/or services catalogues from time to time which may be made available on any NHS communications networks in electronic format and/or made available on the

Approved Organisation's external website and/or made available on other digital media from time to time.

22.6 Before any publication of the Product Information and the Services Information (electronic or otherwise) is made by the Approved Organisation, the Approved Organisation will submit a copy of the relevant sections of the Approved Organisation's product and/or services catalogues to the Supplier for approval, such approval not to be unreasonably withheld or delayed. For the avoidance of doubt the Supplier shall have no right to compel the Approved Organisation to exhibit the Product Information and/or the Services Information in any product and/or services catalogues as a result of the approval given by it pursuant to this Clause 22.6 of this Schedule 2 of these Call-off Terms and Conditions or otherwise under the terms of this Contract.

22.7 If requested in writing by the Approved Organisation, and to the extent not already agreed as part of the Specification and Bid, the Supplier and the Approved Organisation shall discuss and seek to agree in good faith arrangements to use any Electronic Trading System.

## **23 Change management**

23.1 The Supplier acknowledges to the Approved Organisation that the Approved Organisation's requirements for the Goods and/or Services may change during the Term and the Supplier shall not unreasonably withhold or delay its consent to any reasonable variation or addition to the Specification and Bid, as may be requested by the Approved Organisation from time to time.

23.2 A party proposing the change shall issue a Contract Change Notice to the receiving party and the receiving party shall review and respond to the proposed change within a reasonable time, but by no later than fifteen (15) Business Days following receipt of the Contract Change Notice.

23.3 Subject to Clause 23.4 of this Schedule 2 of these Call-off Terms and Conditions, any change to the Goods and/or Services or other variation to this Contract shall only be binding once it has been agreed in writing and the Contract Change Notice has been signed by an authorised representative of both Parties.

23.4 Any change to the Data Protection Protocol shall be made in accordance with the relevant provisions of that protocol.

## **24 Dispute resolution**

24.1 Unless otherwise agreed by the Parties in writing, the management levels at which a Dispute will be dealt with are as follows:

<b>Level</b>	<b>Approved Organisation representative</b>	<b>Supplier representative</b>
1	Call-Off Contract Manager	Call-Off Contract Manager

Classification: Official

2	Assistant Director or equivalent	Assistant Director or equivalent
3	Director or equivalent	Director or equivalent

24.2 During any Dispute, including a Dispute as to the validity of this Contract, it is agreed that the Supplier shall continue its performance of the provisions of the Contract (unless the Approved Organisation requests in writing that the Supplier does not do so).

24.3 In the case of a Dispute arising out of or in connection with this Contract the Supplier and the Approved Organisation shall make every reasonable effort to communicate and cooperate with each other with a view to resolving the Dispute and follow the procedure set out in Clause 24.4 of this Schedule 2 of these Call-off Terms and Conditions as the first stage in the Dispute Resolution Procedure.

24.4 If any Dispute arises out of the Contract either Party may serve a notice on the other Party to commence formal resolution of the Dispute. The Parties shall first seek to resolve the Dispute by escalation in accordance with the management levels as set out in Clause 24.1 of this Schedule 2. Respective representatives at each level, as set out in Clause 24.1 of this Schedule 2, shall have five (5) Business Days at each level during which they will use their reasonable endeavours to resolve the Dispute before escalating the matter to the next level until all levels have been exhausted. Level 1 will commence on the date of service of the Dispute Notice. The final level of the escalation process shall be deemed exhausted on the expiry of five (5) Business Days following escalation to that level unless otherwise agreed by the Parties in writing.

24.5 If the procedure set out in Clause 24.4 of this Schedule 2 of these Call-off Terms and Conditions above has been exhausted and fails to resolve such Dispute, as part of the Dispute Resolution Procedure, the Parties will attempt to settle it by mediation. The Parties shall, acting reasonably, attempt to agree upon a mediator. In the event that the Parties fail to agree a mediator within five (5) Business Days following the exhaustion of all levels of the escalation procedure at Clause 24.4 of this Schedule 2 of these Call-off Terms and Conditions, the mediator shall be nominated and confirmed by the Centre for Effective Dispute Resolution, London.

24.6 The mediation shall commence within twenty eight (28) Business Days of the confirmation of the mediator in accordance with Clause 24.5 of this Schedule 2 of these Call-off Terms and Conditions or at such other time as may be agreed by the Parties in writing. Neither Party will terminate such mediation process until each Party has made its opening presentation and the mediator has met each Party separately for at least one hour or one Party has failed to participate in the mediation process. After this time, either Party may terminate the mediation process by notification to the other party (such notification may be verbal provided that it is followed up by written confirmation). The Approved Organisation and the Supplier will cooperate with any person appointed as mediator providing them with such information and other assistance as they shall require and will pay their costs, as they shall determine, or in the absence of such determination such costs will be shared equally.

24.7 Nothing in this Contract shall prevent:

24.7.1 the Approved Organisation taking action in any court in relation to any death



or personal injury arising or allegedly arising in connection with the supply of the Goods and/or the provision of the Services; or

24.7.2 either Party seeking from any court any interim or provisional relief that may be necessary to protect the rights or property of that Party or that relates to the safety of patients and other service users or the security of Confidential Information, pending resolution of the relevant Dispute in accordance with the Dispute Resolution Procedure.

24.8 Clause 24 of this Schedule 2 of these Call-off Terms and Conditions shall survive the expiry of or earlier termination of this Contract for any reason.

## **25 Force majeure**

25.1 Subject to Clause 25.2 of this Schedule 2 of these Call-off Terms and Conditions neither Party shall be liable to the other for any failure to perform all or any of its obligations under this Contract nor liable to the other Party for any loss or damage arising out of the failure to perform its obligations to the extent only that such performance is rendered impossible by a Force Majeure Event.

25.2 The Supplier shall only be entitled to rely on a Force Majeure Event and the relief set out in Clause 25 of this Schedule 2 of these Call-off Terms and Conditions and will not be considered to be in default or liable for breach of any obligations under this Contract if:

25.2.1 the Supplier has fulfilled its obligations pursuant to Clause 7 of this Schedule 2 of these Call-off Terms and Conditions;

25.2.2 the Force Majeure Event does not arise directly or indirectly as a result of any wilful or negligent act or default of the Supplier; and

25.2.3 the Supplier has complied with the procedural requirements set out in Clause 25 of this Schedule 2 of these Call-off Terms and Conditions.

25.3 Where a Party is (or claims to be) affected by a Force Majeure Event it shall use reasonable endeavours to mitigate the consequences of such a Force Majeure Event upon the performance of its obligations under this Contract, and to resume the performance of its obligations affected by the Force Majeure Event as soon as practicable.

25.4 Where the Force Majeure Event affects the Supplier's ability to perform part of its obligations under the Contract the Supplier shall fulfil all such contractual obligations that are not so affected and shall not be relieved from its liability to do so.

25.5 If either Party is prevented or delayed in the performance of its obligations under this Contract by a Force Majeure Event, that Party shall as soon as reasonably practicable serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to its failure to perform or any anticipated delay in performance of its obligations.

25.6 Subject to service of such notice, the Party affected by such circumstances shall have no liability for its failure to perform or for any delay in performance of its obligations affected by the Force Majeure Event only for so long as such circumstances continue and for

such time after they cease as is necessary for that Party, using its best endeavours, to recommence its affected operations in order for it to perform its obligations.

25.7 The Party claiming relief shall notify the other in writing as soon as the consequences of the Force Majeure Event have ceased and of when performance of its affected obligations can be resumed.

25.8 If the Supplier is prevented from performance of its obligations as a result of a Force Majeure Event, the Approved Organisation may at any time, if the Force Majeure Event subsists for twenty (20) Business Days or more, terminate this Contract by issuing a Termination Notice to the Supplier.

25.9 Following such termination in accordance with Clause 25.8 of this Schedule 2 of these Call-off Terms and Conditions and subject to Clause 25.10 of this Schedule 2 of these Call-off Terms and Conditions, neither Party shall have any liability to the other.

25.10 Any rights and liabilities of either Party which have accrued prior to such termination in accordance with Clause 25.8 of this Schedule 2 of these Call-off Terms and Conditions shall continue in full force and effect unless otherwise specified in this Contract.

## **26 Records retention and right of audit**

26.1 Subject to any statutory requirement and Clause 26.2 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall keep secure and maintain for the Term and six (6) years afterwards, or such longer period as may be agreed between the Parties, full and accurate records of all matters relating to this Contract.

26.2 Where any records could be relevant to a claim for personal injury such records shall be kept secure and maintained for a period of twenty one (21) years from the date of expiry or earlier termination of this Contract.

26.3 The Approved Organisation shall have the right to audit the Supplier's compliance with this Contract. The Supplier shall permit or procure permission for the Approved Organisation or its authorised representative during normal business hours having given advance written notice of no less than five (5) Business Days, access to any premises and facilities, books and records reasonably required to audit the Supplier's compliance with its obligations under this Contract.

26.4 Should the Supplier Sub-contract any of its obligations under this Contract, the Approved Organisation shall have the right to audit and inspect such third party. The Supplier shall procure permission for the Approved Organisation or its authorised representative during normal business hours no more than once in any twelve (12) months, having given advance written notice of no less than five (5) Business Days, access to any premises and facilities, books and records used in the performance of

the Supplier's obligations under this Contract that are Sub-contracted to such third party. The Supplier shall cooperate with such audit and inspection and accompany the Approved Organisation or its authorised representative if requested.

26.5 The Supplier shall grant to the Approved Organisation or its authorised representative, such access to those records as they may reasonably require in order to check the Supplier's compliance with this Contract for the purposes of:



26.5.1 the examination and certification of the Approved Organisation's accounts; or

26.5.2 any examination pursuant to section 6(1) of the National Audit Act 1983 of the economic efficiency and effectiveness with which the Approved Organisation has used its resources.

26.6 The Comptroller and Auditor General may examine such documents as they may reasonably require which are owned, held or otherwise within the control of the Supplier and may require the Supplier to provide such oral and/or written explanations as they consider necessary. Clause 26 of this Schedule 2 of these Call-off Terms and Conditions does not constitute a requirement or agreement for the examination, certification or inspection of the accounts of the Supplier under sections 6(3)(d) and 6(5) of the National Audit Act 1983.

26.7 The Supplier shall provide reasonable cooperation to the Approved Organisation, its representatives and any regulatory body in relation to any audit, review, investigation or enquiry carried out in relation to the subject matter of this Contract.

26.8 The Supplier shall provide all reasonable information as may be reasonably requested by the Approved Organisation to evidence the Supplier's compliance with the requirements of this Contract.

## **27 Conflicts of interest and the prevention of Fraud**

27.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Staff are placed in a position where, in the reasonable opinion of the Approved Organisation, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Approved Organisation under the provisions of this Contract. The Supplier will disclose to the Approved Organisation full particulars of any such conflict of interest which may arise.

27.2 The Approved Organisation reserves the right to terminate this Contract immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Approved Organisation, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Approved Organisation under the provisions of this Contract. The actions of the Approved Organisation pursuant to this Clause 27.2 of this Schedule 2 of these Call-off Terms and Conditions shall not prejudice or affect any right of action or remedy which shall have accrued or shall subsequently accrue to the Approved Organisation.

27.3 The Supplier shall take all reasonable steps to prevent Fraud by Staff and the Supplier (including its owners, members and directors). The Supplier shall notify the Approved Organisation immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.

27.4 If the Supplier or its Staff commits Fraud the Approved Organisation may terminate this Contract and recover from the Supplier the amount of any direct loss suffered by the Approved Organisation resulting from the termination. **28 Equality and human rights**

28.1 The Supplier shall:

28.1.1 ensure that (a) it does not, whether as employer, a supplier of Goods or as provider of the Services, engage in any act or omission that would contravene the Equality Legislation, and (b) it complies with all its obligations as an employer, a supplier of Goods or provider of the Services as set out in the Equality Legislation and take reasonable endeavours to ensure its Staff do not unlawfully discriminate within the meaning of the Equality Legislation;

28.1.2 in the management of its affairs and the development of its equality and diversity policies, cooperate with the Approved Organisation in light of the Approved Organisation's obligations to comply with its statutory equality duties whether under the Equality Act 2010 or otherwise. The Supplier shall take such reasonable and proportionate steps as the Approved Organisation considers appropriate to promote equality and diversity, including race equality, equality of opportunity for disabled people, gender equality, and equality relating to religion and belief, sexual orientation and age; and

28.1.3 the Supplier shall impose on all its Sub-contractors and suppliers, obligations substantially similar to those imposed on the Supplier by Clause 28 of this Schedule 2 of these Call-off Terms and Conditions.

28.2 The Supplier shall meet reasonable requests by the Approved Organisation for information evidencing the Supplier's compliance with the provisions of Clause 28 of this Schedule 2 of these Call-off Terms and Conditions.

## **29 Notice**

29.1 Unless otherwise agreed by the Parties in writing, notices served under this Contract are to be delivered to such persons at such addresses as referred to in the Order Form.

29.2 Subject to clause 29.1 of Schedule 2 of these Call-off Terms and Conditions, any notice required to be given by either Party under this Contract shall be in writing quoting the date of the Contract and shall be delivered by hand or sent by prepaid first class recorded delivery or by email to the person referred to in the Order Form or such other person as one Party may inform the other Party in writing from time to time or to a director of the relevant Party at the head office, main UK office or registered office of such Party.

29.3 A notice shall be treated as having been received:

29.3.1 if delivered by hand within normal business hours when so delivered or, if delivered by hand outside normal business hours, at the next start of normal business hours; or

29.3.2 if sent by first class recorded delivery mail on a normal Business Day, at 9.00 am on the second Business Day subsequent to the day of posting, or, if the notice was not posted on a Business Day, at 9.00 am on the third Business Day subsequent to the day of posting; or

29.3.3 if sent by email, if sent within normal business hours when so sent or, if sent outside normal business hours, at the next start of normal business hours provided the sender has either received an electronic confirmation of delivery

or has telephoned the recipient to inform the recipient that the email has been sent.

### **30 Assignment, novation and Sub-contracting**

30.1 The Supplier shall not, except where Clause 30.2 of this Schedule 2 of these Call-off Terms and Conditions applies, assign, Sub-contract, novate, create a trust in, or in any other way dispose of the whole or any part of this Contract without the prior consent in writing of the Approved Organisation such consent not to be unreasonably withheld or delayed. If the Supplier Sub-contracts any of its obligations under this Contract, every act or omission of the Sub-contractor shall for the purposes of this Contract be deemed to be the act or omission of the Supplier and the Supplier shall be liable to the Approved Organisation as if such act or omission had been committed or omitted by the Supplier itself.

30.2 Notwithstanding Clause 30.1 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier may assign to a third party ("**Assignee**") the right to receive payment of any sums due and owing to the Supplier under this Contract for which an invoice has been issued. Any assignment under this Clause 30.2 of this Schedule 2 of these Call-off Terms and Conditions shall be subject to:

30.2.1 the deduction of any sums in respect of which the Approved Organisation exercises its right of recovery under Clause 10.9 of this Schedule 2 of these Call-off Terms and Conditions;

30.2.2 all related rights of the Approved Organisation in relation to the recovery of sums due but unpaid;

30.2.3 the Approved Organisation receiving notification of the assignment and the date upon which the assignment becomes effective together with the Assignee's contact information and bank account details to which the Approved Organisation shall make payment;

30.2.4 the provisions of Clause 10 of this Schedule 2 of these Call-off Terms and Conditions continuing to apply in all other respects after the assignment which shall not be amended without the prior written approval of the Approved Organisation; and

30.2.5 payment to the Assignee being full and complete satisfaction of the Approved Organisation's obligation to pay the relevant sums in accordance with this Contract.

30.3 Any Approved Organisation given by the Approved Organisation for the Supplier to Sub-contract any of its obligations under this Contract shall not impose any duty on the Approved Organisation to enquire as to the competency of any authorised Subcontractor. The Supplier shall ensure that any authorised Sub-contractor has the appropriate capability and capacity to perform the relevant obligations and that the obligations carried out by such Sub-contractor are fully in accordance with this Contract.

30.4 Where the Supplier enters into a Sub-contract in respect of any of its obligations under this Contract relating to the manufacture, supply, delivery or installation of or training in relation to the Goods or the provision of the Services, the Supplier shall include

provisions in each such Sub-contract, unless otherwise agreed with the Approved Organisation in writing, which:

- 30.4.1 contain at least equivalent obligations as set out in this Contract in relation to such manufacture, supply, delivery or installation of or training in relation to the Goods or the performance of the Services to the extent relevant to such Sub-contracting;
- 30.4.2 contain at least equivalent obligations as set out in this Contract in respect of confidentiality, information security, data protection, Intellectual Property Rights, compliance with Law and Guidance and record keeping;
- 30.4.3 contain a prohibition on the Sub-contractor Sub-contracting, assigning or novating any of its rights or obligations under such Sub-contract without the prior written approval of the Approved Organisation (such approval not to be unreasonably withheld or delayed);
- 30.4.4 contain a right for the Approved Organisation to take an assignment or novation of the Sub-contract (or part of it) upon expiry or earlier termination of this Contract;
- 30.4.5 requires the Supplier or other party receiving goods or services under the contract to consider and verify invoices under that contract in a timely fashion;
- 30.4.6 provides that if the Supplier or other party fails to consider and verify an invoice in accordance with Clause 30.4.5 of this Schedule 2 of these Call-off Terms and Conditions, the invoice shall be regarded as valid and undisputed for the purpose of Clause 30.4.7 of this Schedule 2 of these Call-off Terms and Conditions after a reasonable time has passed;
- 30.4.7 requires the Supplier or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding thirty (30) days of verifying that the invoice is valid and undisputed;
- 30.4.8 giving the Approved Organisation a right to publish the Supplier's compliance with its obligation to pay undisputed invoices within the specified payment period;
- 30.4.9 permitting the Supplier to terminate, or procure the termination of, the relevant Sub-contract in the event the Sub-contractor fails to comply in the performance of its Sub-contract with legal obligations in the fields of environmental, social or labour Law where the Supplier is required to replace such Sub-contractor in accordance with Clause 16.10.3 of this Schedule 2 of these Call-off Terms and Conditions;
- 30.4.10 permitting the Supplier to terminate, or to procure the termination of, the relevant Sub-contract where the Supplier is required to replace such Subcontractor in accordance with Clause 30.5 of this Schedule 2 of these Call-off Terms and Conditions; and

30.4.11 requires the Sub-contractor to include a clause to the same effect as this Clause 30.4 of this Schedule 2 of these Call-off Terms and Conditions in any Sub-contract which it awards.

30.5 Where the Approved Organisation considers that the grounds for exclusion under Regulation 57 of the Public Contracts Regulations 2015 apply to any Sub-contractor, then:

30.5.1 if the Approved Organisation finds there are compulsory grounds for exclusion, the Supplier shall ensure, or shall procure, that such Subcontractor is replaced or not appointed; or

30.5.2 if the Approved Organisation finds there are non-compulsory grounds for exclusion, the Approved Organisation may require the Supplier to ensure, or to procure, that such Sub-contractor is replaced or not appointed and the Supplier shall comply with such a requirement.

30.6 The Supplier shall pay any undisputed sums which are due from it to a Sub-contractor within thirty (30) days of verifying that the invoice is valid and undisputed. Where the Approved Organisation pays the Supplier's valid and undisputed invoices earlier than thirty (30) days from verification in accordance with any applicable government prompt payment targets, the Supplier shall use its reasonable endeavours to pay its relevant Sub-contractors within a comparable timeframe from verifying that an invoice is valid and undisputed.

30.7 The Approved Organisation shall upon written request have the right to review any Sub-contract entered into by the Supplier in respect of the supply of the Goods and/or the provision of the Services and the Supplier shall provide a certified copy of any Subcontract within five (5) Business Days of the date of a written request from the Approved Organisation. For the avoidance of doubt, the Supplier shall have the right to redact any confidential pricing information in relation to such copies of Subcontracts.

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

### **31 Supply Chain Protection**

31.1 The Supplier shall ensure that all Sub-contracts (which in this Sub-Clause means any contract in the Supplier's supply chain entered into after the Commencement Date made wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract) contain provisions:

- 31.1.1 giving the Supplier a right to terminate the Sub-contract if the Subcontractor fails to comply in the performance of the Sub-contract with legal obligations in the fields of environmental, social or labour Law;
- 31.1.2 requiring the Supplier or other party receiving goods or services under the contract to consider and verify invoices under that contract in a timely fashion;
- 31.1.3 that if the Supplier or other party fails to consider and verify an invoice in accordance with Clause 31.1.2, the invoice shall be regarded as valid and undisputed for the purpose of Clause 31.1.4 after a reasonable time has passed;
- 31.1.4 requiring the Supplier or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding thirty (30) days of verifying that the invoice is valid and undisputed;
- 31.1.5 giving the Approved Organisation a right to publish the Supplier's compliance with its obligation to pay undisputed invoices within the specified payment period; and
- 31.1.6 requiring the Sub-contractor to include a clause to the same effect as this Clause 31.1 in any contracts it enters into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract.

31.2 The Supplier shall take reasonable endeavours to ensure that all Sub-contracts (which in this Sub-Clause means any contract in the Supplier's supply chain entered into before the Commencement Date made wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract) contain provisions:

- 31.2.1 giving the Supplier a right to terminate the Sub-contract if the Subcontractor fails to comply in the performance of the Sub-contract with legal obligations in the fields of environmental, social or labour Law;
- 31.2.2 requiring the Supplier or other party receiving goods or services under the contract to consider and verify invoices under that contract in a timely fashion;
- 31.2.3 that if the Supplier or other party fails to consider and verify an invoice in accordance with Clause 31.2.2, the invoice shall be regarded as valid and undisputed for the purpose of Clause 31.2.4 after a reasonable time has passed;
- 31.2.4 requiring the Supplier or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding thirty (30) days of verifying that the invoice is valid and undisputed;
- 31.2.5 giving the Approved Organisation a right to publish the Supplier's compliance with its obligation to pay undisputed invoices within the specified payment period; and
- 31.2.6 requiring the Sub-contractor to include a clause to the same effect as this Clause 31.2 in any contracts it enters into wholly or substantially for the purpose of



performing or contributing to the performance of the whole or any part of this Contract.

31.3 The Supplier shall:

31.3.1 pay any undisputed sums which are due from it to a Sub-contractor within thirty (30) days of verifying that the invoice is valid and undisputed;

31.3.2 include within the Management Information produced by it pursuant to Clause 9 (Contract Management) of this Schedule 2 a summary of its compliance with Clause 31.3.1, such data to be certified each Quarter by a director of the Supplier as being accurate and not misleading.

31.4 Without prejudice to Clause 31.3.1, the Supplier shall:

31.4.1 pay any sums which are due from it to any Sub-contractor or Unconnected Sub-contractor pursuant to any invoice (or other notice of an amount for payment) on the earlier of:

- (i) the date set out for payment in the relevant Sub-contract or Unconnected Sub-contract; or
- (ii) the date that falls sixty (60) days after the day on which the Supplier receives an invoice (or otherwise has notice of an amount for payment); and

31.4.2 include within the Management Information produced by it pursuant to Clause 9 (Contract Management) of this Schedule 2 a summary of its compliance with Clause 31.4.1, such data to be certified every six months by a director of the Supplier as being accurate and not misleading.

31.5 If any Management Information shows that in either of the last two six month periods the Supplier failed to pay 95% or above of all Sub-contractor or Unconnected Subcontractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt, the Supplier shall issue to the Approved Organisation within ten (10) Business Days of submission of the latest Management Information an action plan (the “**Action Plan**”) for improvement. The Action Plan shall include, but not be limited to, the following:

31.5.1 identification of the primary causes of failure to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt;

31.5.2 actions to address each of the causes set out in Clause 31.5.1; and

31.5.3 mechanism for and commitment to regular reporting on progress to the Supplier.

31.6 The Action Plan shall be certificated by a director of the Supplier and the Action Plan or a summary of the Action Plan and shared with Approved Organisation's Contract Manager within two (2) Business Days of the date on which the Action Plan has been agreed by both Parties.



- 31.7 Where the Supplier fails to pay any sums due to any Sub-contractor or Unconnected Sub-contractor in accordance with the terms set out in the relevant Sub-contract or Unconnected Sub-contract, the Action Plan shall include details of the steps the Supplier will take to address this.
- 31.8 The Supplier shall comply with the Action Plan or any similar action plan connected to the payment of Sub-contractors or Unconnected Sub-contractors which is required to be submitted to the Approved Organisation as part of the procurement process.
- 31.9 Notwithstanding any provision of Clause 1 (Confidentiality) of Schedule 3, if the Supplier notifies the Approved Organisation (whether in the Management Information or otherwise) that the Supplier has failed to pay a Sub-contractor's undisputed invoice within thirty (30) days of receipt or that it has failed to pay 95% or above of its SubContractors or Unconnected Sub-contractors within sixty (60) days after the day on which the Supplier receives an invoice or otherwise has notice of an amount for payment, or the Approved Organisation otherwise discovers the same, the Approved Organisation shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

## **32 Prohibited Acts**

32.1 The Supplier warrants and represents that:

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

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

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

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

32.2.1 the Approved Organisation shall be entitled:

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

32.2.2 any termination under Clause 32.2.1 of this Schedule 2 of these Call-off Terms and Conditions shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Approved Organisation; and

32.2.3 notwithstanding Clause 24 of this Schedule 2 of these Call-off Terms and Conditions, any Dispute relating to:

- (i) the interpretation of Clause 31 of this Schedule 2 of these Call-off Terms and Conditions; or
- (ii) the amount or value of any gift, consideration or commission,

shall be determined by the Approved Organisation, acting reasonably, and the decision shall be final and conclusive.

### **33 General**

33.1 Each of the Parties is independent of the other and nothing contained in this Contract shall be construed to imply that there is any relationship between the Parties of partnership or of principal/agent or of employer/employee nor are the Parties hereby engaging in a joint venture and accordingly neither of the Parties shall have any right or Approved Organisation to act on behalf of the other nor to bind the other by agreement or otherwise, unless expressly permitted by the terms of this Contract.

33.2 Failure or delay by either Party to exercise an option or right conferred by this Contract shall not of itself constitute a waiver of such option or right.

33.3 The delay or failure by either Party to insist upon the strict performance of any provision, term or condition of this Contract or to exercise any right or remedy consequent upon such breach shall not constitute a waiver of any such breach or any subsequent breach of such provision, term or condition.

33.4 Any provision of this Contract which is held to be invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions of this Contract and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.

33.5 Each Party acknowledges and agrees that it has not relied on any representation, warranty or undertaking (whether written or oral) in relation to the subject matter of this Contract and therefore irrevocably and unconditionally waives any rights it may have to claim damages against the other Party for any misrepresentation or undertaking

(whether made carelessly or not) or for breach of any warranty unless the representation, undertaking or warranty relied upon is set out in this Contract or unless such representation, undertaking or warranty was made fraudulently.

- 33.6 Each Party shall bear its own expenses in relation to the preparation and execution of this Contract including all costs, legal fees and other expenses so incurred.
- 33.7 The rights and remedies provided in this Contract are independent, cumulative and not exclusive of any rights or remedies provided by general law, any rights or remedies provided elsewhere under this Contract or by any other contract or document. In this Clause 33.7 of this Schedule 2 of these Call-off Terms and Conditions, right includes any power, privilege, remedy, or proprietary or security interest.
- 33.8 Unless otherwise expressly stated in this Contract, a person who is not a party to this Contract shall have no right to enforce any terms of it which confer a benefit on such person except that a Successor and/or a Third Party may directly enforce any indemnities or other rights provided to it under this Contract. No such person shall be entitled to object to or be required to consent to any amendment to the provisions of this Contract.
- 33.9 This Contract, any variation in writing signed by an authorised representative of each Party and any document referred to (explicitly or by implication) in this Contract or any variation to this Contract, contain the entire understanding between the Supplier and the Approved Organisation relating to the supply of the Goods and the provision of the Services to the exclusion of all previous agreements, confirmations and understandings and there are no promises, terms, conditions or obligations whether oral or written, express or implied other than those contained or referred to in this Contract. Nothing in this Contract seeks to exclude either Party's liability for Fraud. Any tender conditions and/or disclaimers set out in the Approved Organisation's procurement documentation leading to the award of this Contract shall form part of this Contract.
- 33.10 This Contract, and any Dispute or claim arising out of or in connection with it or its subject matter (including any non-contractual claims), shall be governed by, and construed in accordance with, the laws of England and Wales.
- 33.11 Subject to Clause 24 of this Schedule 2 of these Call-off Terms and Conditions, the Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any Dispute or claim that arises out of or in connection with this Contract or its subject matter.
- 33.12 All written and oral communications and all written material referred to under this Contract shall be in English.

**Schedule 3****Information and Data Provisions****1 Confidentiality**

1.1 In respect of any Confidential Information it may receive directly or indirectly from the other Party ("**Discloser**") and subject always to the remainder of Clause 1 of this Schedule 3 of these Call-off Terms and Conditions, each Party ("**Recipient**") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party without the Discloser's prior written consent provided that:

- 1.1.1 the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the Commencement Date;
- 1.1.2 the provisions of Clause 1 of this Schedule 3 of these Call-off Terms and Conditions shall not apply to any Confidential Information:
  - (i) which is in or enters the public domain other than by breach of this Contract or other act or omissions of the Recipient;
  - (ii) which is obtained from a third party who is lawfully authorised to disclose such information without any obligation of confidentiality;
  - (iii) which is authorised for disclosure by the prior written consent of the Discloser;
  - (iv) which the Recipient can demonstrate was in its possession without any obligation of confidentiality prior to receipt of the Confidential Information from the Discloser; or
  - (v) which the Recipient is required to disclose purely to the extent to comply with the requirements of any relevant stock exchange.

1.2 Nothing in Clause 1 of this Schedule 3 of these Call-off Terms and Conditions shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable Law, including the Freedom of Information Act 2000 ("**FOIA**"), Codes of Practice on Access to Government Information, on the Discharge of Public Authorities' Functions or on the Management of Records ("**Codes of Practice**") or the Environmental Information Regulations 2004 ("**Environmental Regulations**").

1.3 The Approved Organisation may disclose the Supplier's Confidential Information:

- 1.3.1 on a confidential basis, to any Contracting Authority (the Parties agree that all Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Contracting

Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Contracting Authority);

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

and for the purposes of this Contract, references to disclosure "on a confidential basis" shall mean the Approved Organisation making clear the confidential nature of such information and that it must not be further disclosed except in accordance with Law or this Clause 1.3 of this Schedule 3 of these Call-off Terms and Conditions.

- 1.4 The Supplier may only disclose the Approved Organisation's Confidential Information, and any other information provided to the Supplier by the Approved Organisation in relation to this Contract, to the Supplier's Staff or professional advisors who are directly involved in the performance of or advising on the Supplier's obligations under this Contract. The Supplier shall ensure that such Staff or professional advisors are aware of and shall comply with the obligations in Clause 1 of this Schedule 3 of these Call-off Terms and Conditions as to confidentiality and that all information, including Confidential Information, is held securely, protected against unauthorised use or loss and, at the Approved Organisation's written discretion, destroyed securely or returned to the Approved Organisation when it is no longer required. The Supplier shall not, and shall ensure that the Staff do not, use any of the Approved Organisation's Confidential Information received otherwise than for the purposes of performing the Supplier's obligations in this Contract.
- 1.5 For the avoidance of doubt, save as required by Law or as otherwise set out in this Schedule 3 of these Call-off Terms and Conditions, the Supplier shall not, without the prior written consent of the Approved Organisation (such consent not to be unreasonably withheld or delayed), announce that it has entered into this Contract and/or that it has been appointed as a Supplier to the Approved Organisation and/or make any other announcements about this Contract.
- 1.6 Clause 1 of this Schedule 3 of these Call-off Terms and Conditions shall remain in force:

- 1.6.1 without limit in time in respect of Confidential Information which comprises Personal Data or which relates to national security; and
- 1.6.2 for all other Confidential Information for a period of three (3) years after the expiry or earlier termination of this Contract unless otherwise agreed in writing by the Parties.

## **2 Data protection**

- 2.1 The Parties acknowledge their respective duties under Data Protection Legislation and shall give each other all reasonable assistance as appropriate or necessary to enable each other to comply with those duties. For the avoidance of doubt, the Supplier shall take reasonable steps to ensure it is familiar with the Data Protection Legislation and any obligations it may have under such Data Protection Legislation and shall comply with such obligations.
- 2.2 Where the Supplier is Processing Personal Data under or in connection with this Contract, the Parties shall comply with the Data Protection Protocol.
- 2.3 The Supplier and the Approved Organisation shall ensure that Personal Data is safeguarded at all times in accordance with the Law, and this obligation will include (if transferred electronically) only transferring Personal Data (a) if essential, having regard to the purpose for which the transfer is conducted; and (b) that is encrypted in accordance with any international data encryption standards for healthcare, and as otherwise required by those standards applicable to the Approved Organisation under any Law and Guidance (this includes, data transferred over wireless or wired networks, held on laptops, CDs, memory sticks and tapes).
- 2.4 Where, as a requirement of this Contract, the Supplier is Processing Personal Data relating to patients and/or service users as part of the Services, the Supplier shall:
  - 2.4.1 complete and publish an annual information governance assessment using the NHS information governance toolkit;
  - 2.4.2 achieve a minimum level 2 performance against all requirements in the relevant NHS information governance toolkit;
  - 2.4.3 nominate an information governance lead able to communicate with the Supplier's board of directors or equivalent governance body, who will be responsible for information governance and from whom the Supplier's board of directors or equivalent governance body will receive regular reports on information governance matters including, but not limited to, details of all incidents of data loss and breach of confidence;
  - 2.4.4 report all incidents of data loss and breach of confidence in accordance with Department of Health and/or the NHS England and/or Health and Social Care Information Centre guidelines;
  - 2.4.5 put in place and maintain policies that describe individual personal responsibilities for handling Personal Data and apply those policies vigorously;



2.4.6 put in place and maintain a policy that supports its obligations under the NHS Care Records Guarantee (being the rules which govern information held in the NHS Care Records Service, which is the electronic patient/service user record management service providing authorised healthcare professionals access to a patient's integrated electronic care record);

2.4.7 put in place and maintain agreed protocols for the lawful sharing of Personal Data with other NHS organisations and (as appropriate) with non-NHS organisations in circumstances in which sharing of that data is required under this Contract;

2.4.8 where appropriate, have a system in place and a policy for the recording of any telephone calls in relation to the Services, including the retention and disposal of those recordings;

2.4.9 at all times comply with any information governance requirements and/or processes as may be set out in the Specification and Bid; and

2.4.10 comply with any new and/or updated requirements, Guidance and/or Policies notified to the Supplier by the Approved Organisation from time to time (acting reasonably) relating to the Processing and/or protection of Personal Data.

2.5 Where any Personal Data is Processed by any Sub-contractor of the Supplier in connection with this Contract, the Supplier shall procure that such Sub-contractor shall comply with the relevant obligations set out in Clause 2 of this Schedule 3 of these Call-off Terms and Conditions, as if such Sub-contractor were the Supplier.

2.6 The Supplier shall indemnify and keep the Approved Organisation indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings whatsoever or howsoever arising from the Supplier's unlawful or unauthorised Processing, destruction and/or damage to Personal Data in connection with this Contract.

### **3 Freedom of Information and Transparency**

3.1 The Parties acknowledge the duties of Contracting Authorities under the FOIA, Codes of Practice and Environmental Regulations and shall give each other all reasonable assistance as appropriate or necessary to enable compliance with those duties.

3.2 The Supplier shall assist and cooperate with the Approved Organisation to enable it to comply with its disclosure obligations under the FOIA, Codes of Practice and Environmental Regulations. The Supplier agrees:

3.2.1 that this Contract and any recorded information held by the Supplier on the Approved Organisation's behalf for the purposes of this Contract are

subject to the obligations and commitments of the Approved Organisation under the FOIA, Codes of Practice and Environmental Regulations;

3.2.2 that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under



the FOIA, Codes of Practice and Environmental Regulations is a decision solely for the Approved Organisation;

3.2.3 that where the Supplier receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Supplier itself is subject to the FOIA, Codes of Practice and Environmental Regulations it will liaise with the Approved Organisation as to the contents of any response before a response to a request is issued and will promptly (and in any event within two (2) Business Days) provide a copy of the request and any response to the Approved Organisation;

3.2.4 that where the Supplier receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Supplier is not itself subject to the FOIA, Codes of Practice and Environmental Regulations, it will not respond to that request (unless directed to do so by the Approved Organisation) and will promptly (and in any event within two (2) Business Days) transfer the request to the Approved Organisation;

3.2.5 that the Approved Organisation, acting in accordance with the Codes of Practice issued and revised from time to time under both section 45 of FOIA, and regulation 16 of the Environmental Regulations, may disclose information concerning the Supplier and this Contract; and

3.2.6 to assist the Approved Organisation in responding to a request for information, by processing information or environmental information (as the same are defined in FOIA and the Environmental Regulations) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of FOIA, and providing copies of all information requested by the Approved Organisation within five (5) Business Days of that request and without charge.

3.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, Codes of Practice and Environmental Regulations, the content of this Contract is not Confidential Information.

3.4 Notwithstanding any other term of this Contract, the Supplier consents to the publication of this Contract in its entirety (including variations), subject only to the redaction of information that is exempt from disclosure in accordance with the provisions of the FOIA, Codes of Practice and Environmental Regulations.

3.5 In preparing a copy of this Contract for publication under Clause 3.4 of this Schedule 3 of these Call-off Terms and Conditions, the Approved Organisation may consult with the Supplier to inform decision making regarding any redactions but the final decision

in relation to the redaction of information will be at the Approved Organisation's absolute discretion.

3.6 The Supplier shall assist and cooperate with the Approved Organisation to enable the Approved Organisation to publish this Contract.

3.7 Where any information is held by any Sub-contractor of the Supplier in connection with this Contract, the Supplier shall procure that such Sub-contractor shall comply with the relevant obligations set out in Clause 3 of this Schedule 3 of these Call-off Terms and Conditions, as if such Sub-contractor were the Supplier.

#### **4 Information Security**

4.1 Without limitation to any other information governance requirements set out in this Schedule 3 of these Call-off Terms and Conditions, the Supplier shall:

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

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

4.2 Where required in accordance with the Specification and Bid, the Supplier will ensure that it puts in place and maintains an information security management plan appropriate to this Contract, the type of Services being provided and the obligations placed on the Supplier. The Supplier shall ensure that such plan is consistent with any relevant Policies, Guidance, Good Industry Practice and with any relevant quality standards as may be set out in the Key Sector Provisions and/or the Specification and Bid.

4.3 Where required in accordance with the Specification and Bid, the Supplier shall obtain and maintain certification under the HM Government Cyber Essentials Scheme at the level set out in the Specification and Bid.

**Schedule 4 of these Call-off Terms and Conditions****Definitions and Interpretations****1 Definitions**

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

<b>“Action Plan”</b>	has the meaning given to it in Clause 31.5 (Supply Chain Management);
<b>“Affiliate”</b>	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;
<b>“Approved Organisation”</b>	means the Approved Organisation named on the Order Form;
<b>“Approved Organisation’s Obligations”</b>	means the Approved Organisation’s further obligations, if any, referred to in the Specification and Bid and/or the Order Form;
<b>“Breach Notice”</b>	means a written notice of breach given by one Party to the other, notifying the Party receiving the notice of its breach of this Contract;
<b>“Business Continuity Event”</b>	means any event or issue that could impact on the operations of the Supplier and its ability to supply the Goods and/or provide the Services including an influenza pandemic and any Force Majeure Event;
<b>“Business Continuity Plan”</b>	means the Supplier’s business continuity plan which includes its plans for continuity of the supply of the Goods and the provision of the Services during a Business Continuity Event;
<b>“Business Day”</b>	means any day other than Saturday, Sunday, Christmas Day, Good Friday or a statutory bank holiday in England and Wales;
<b>“Cabinet Office Statement”</b>	the Cabinet Office Statement of Practice – Staff Transfers in the Public Sector 2000 (as revised 2013) as may be amended or replaced;
<b>“Call-Off Contract Manager”</b>	means for the Approved Organisation and for the Supplier the individuals specified in the Order Form or as otherwise

	agreed between the Parties in writing or such other person notified by
	a Party to the other Party from time to time in accordance with Clause 9.1 of Schedule 2 of these Call-off Terms and Conditions;
<b>“Call-Off Management Information”</b>	has the meaning given to that term in Clause 9.7 of Schedule 2;
<b>“Call-off Terms and Conditions”</b>	means these Call-off Terms and Conditions for the Supply of Goods and/or the Provision of Services;
<b>“Change Control Process”</b>	means the change control process, if any, referred to in the Order Form and/or the Key Sector Provisions;
<b>“Codes of Practice”</b>	shall have the meaning given to the term in Clause 1.2 of Schedule 3 of these Call-off Terms and Conditions;
<b>“Commencement Date”</b>	means the date of the Order Form;
<b>“Confidential Information”</b>	means information, data and material of any nature, which either Party may receive or obtain in connection with the conclusion and/or operation of the Contract including any procurement process which is: <ul style="list-style-type: none"> <li>(a) Personal Data including without limitation which relates to any patient or other service user or his or her treatment or clinical or care history;</li> <li>(b) designated as confidential by either party or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored); and/or</li> <li>(c) Policies and such other documents which the Supplier may obtain or have access to through the Approved Organisation's intranet;</li> </ul>
<b>“Contract”</b>	means the Order Form, the provisions on the front page and all Schedules of these Call-off Terms and Conditions, the Specification and Bid, the provisions of this Call-off Terms and Conditions and the applicable provisions of the Framework Agreement;
<b>“Contract Change Notice”</b>	means the form of notice to be agreed between the parties prior to an amendment to this Call-Off Contract as set out in Schedule 8;

<b>“Contracting Authority”</b>	means any contracting authority as defined in Regulation 3 of the Public Contracts Regulations 2015 (SI 2015/102) (as amended), other than the Authority;
<b>“Contract Price”</b>	means the price exclusive of VAT that is payable to the Supplier by the Approved Organisation under the Contract for the full and proper performance by the Supplier of its obligations under the Contract calculated in accordance with the provisions of the Framework Agreement and as confirmed in the Order Form;
<b>“Control”</b>	means the possession by person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and <b>“Controls”</b> and <b>“Controlled”</b> shall be interpreted accordingly;
<b>“Controller”</b>	shall have the same meaning as set out in the GDPR;
<b>“Convictions”</b>	means, other than in relation to minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding-over orders (including any spent convictions as contemplated by Section 1(1) of the Rehabilitation of Offenders Act 1974 or any replacement or amendment to that Act);
<b>“Data Protection Legislation”</b>	means (i) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (ii) the GDPR, the UK GDPR (which has the meaning given to it in section 3(1) (as supplemented by section 205(4) of the Data Protection Act 2018)), the Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing Law as amended from time to time; and (iii) all applicable Law about the processing of personal data and privacy;
<b>“Data Protection Protocol”</b>	means any document of that name as provided to the Supplier by the Approved Organisation (as amended from time to time in accordance with its terms) which shall include, without limitation, any such document appended to the Order Form;
<b>“Defective Goods”</b>	has the meaning given under Clause 4.7. of Schedule 2 of these Call-off Terms and Conditions;

<b>“Dispute(s)”</b>	means any dispute, difference or question of interpretation or construction arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Goods and/or Services, any matters of contractual construction and interpretation relating to the Contract, or any matter where this Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
<b>“Dispute Notice”</b>	means a written notice served by one Party to the other stating that the Party serving the notice believes there is a Dispute;

<b>“Dispute Resolution Procedure”</b>	means the process for resolving Disputes as set out in Clause 24 of Schedule 2 of these Call-off Terms and Conditions;
<b>“DOTAS”</b>	means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue and Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992;
<b>“Electronic Trading System(s)”</b>	means such electronic data interchange system and/or world wide web application and/or other application with such message standards and protocols as the Approved Organisation may specify from time to time;
<b>“Employment Liabilities”</b>	means all claims, demands, actions, proceedings, damages, compensation, tribunal awards, fines, costs (including but not limited to reasonable legal costs), expenses and all other liabilities whatsoever;
<b>“Environmental Regulations”</b>	shall have the meaning given to the term in Clause 1.2 of Schedule 3 of these Call-off Terms and Conditions;
<b>“eProcurement Guidance”</b>	means the NHS eProcurement Strategy available via: <a href="http://www.gov.uk/government/collections/nhs-procurement">http://www.gov.uk/government/collections/nhs-procurement</a> together with any further Guidance issued by the Department of Health in connection with it;

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<b>“Equality Legislation”</b>	means any and all legislation, applicable guidance and statutory codes of practice relating to equality, diversity, nondiscrimination and human rights as may be in force in England and Wales from time to time including, but not limited to, the Equality Act 2010, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 (SI 2002/2034) and the Human Rights Act 1998;
<b>“Exit Requirements”</b>	means the Approved Organisation’s requirements in respect of the expiry or earlier termination of this Contract as set out in the Order Form;
<b>“Fair Deal for Staff Pensions”</b>	means guidance issued by HM Treasury entitled “Fair Deal for staff pensions: staff transfer from central government” issued in October 2013 (as amended, supplemented or replaced);
<b>“FOIA”</b>	shall have the meaning given to the term in Clause 1.2 of Schedule 3 of these Call-off Terms and Conditions;



<b>“Force Event”</b>	<b>Majeure</b> means any event beyond the reasonable control of the Party in question to include, without limitation: <ul style="list-style-type: none"> <li>(a) war including civil war (whether declared or undeclared), riot, civil commotion or armed conflict materially affecting either Party’s ability to perform its obligations under this Contract;</li> <li>(b) acts of terrorism;</li> <li>(c) flood, storm or other natural disasters;</li> <li>(d) fire;</li> <li>(e) unavailability of public utilities and/or access to transport networks to the extent no diligent supplier could reasonably have planned for such unavailability as part of its business continuity planning;</li> <li>(f) government requisition or impoundment to the extent such requisition or impoundment does not result from any failure by the Supplier to comply with any relevant regulations, laws or procedures (including such laws or regulations relating to the payment of any duties or taxes) and subject to the Supplier having used all reasonable legal means to resist such requisition or impoundment;</li> <li>(g) compliance with any local law or governmental order, rule, regulation or direction applicable outside of England and Wales that could not have been reasonably foreseen;</li> <li>(h) industrial action which affects the ability of the Supplier to supply the Goods and/or to provide the Services, but which is not confined to the workforce of the Supplier or the workforce of any Sub-contractor of the Supplier; and</li> <li>(i) a failure in the Supplier’s and/or Approved Organisation’s supply chain to the extent that such failure is due to any event suffered by a member of such supply chain, which would also qualify as a Force Majeure Event in accordance with this definition had it been suffered by one of the Parties;</li> </ul>
	but excluding, for the avoidance of doubt, the withdrawal of the United Kingdom from the European Union and any related circumstances, events, changes or requirements;
<b>“Framework Agreement”</b>	means the Framework Agreement referred to in the Order Form;

<b>“Fraud”</b>	means any offence under any law in respect of fraud in relation to this Contract or defrauding or attempting to defraud or conspiring to defraud the government, parliament or any Contracting Authority;
<b>“GDPR”</b>	means the General Data Protection Regulation (Regulation (EU) 2016/679);
<b>“General Anti-Abuse Rule”</b>	means: (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
<b>“Good Industry Practice”</b>	means the exercise of that degree of skill, diligence, prudence, risk management, quality management and foresight which would reasonably and ordinarily be expected from a skilled and experienced supplier and/or service provider engaged in the manufacture and/or supply of goods and/or the provision of services similar to the Goods and Services under the same or similar circumstances as those applicable to this Contract; including in accordance with any codes of practice published by relevant trade associations;
<b>“Goods”</b>	means all goods, materials or items that the Supplier is required to supply to the Approved Organisation under this Contract;
<b>“GS1”</b>	means the Global System of Standards;
<b>“Guidance”</b>	means any applicable guidance, direction or determination and any policies, advice or industry alerts which apply to the Goods and/or Services, to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Supplier by the Approved Organisation and/or have been published and/or notified to the Supplier by the Department of Health, Monitor, NHS England, the Medicines and Healthcare Products Regulatory Agency, the European Medicine Agency, the European Commission, the Care Quality Commission and/or any other regulator or competent body;
<b>“Halifax Abuse Principle”</b>	means the principle explained in the CJEU Case C-255/02 Halifax and others;

<b>“HM Government Cyber Essentials Scheme</b>	means the HM Government Cyber Essentials Scheme as further defined in the documents relating to this scheme published at:  <a href="https://www.gov.uk/government/publications/cyber-essentialsscheme-overview">https://www.gov.uk/government/publications/cyber-essentialsscheme-overview</a> ;
<b>“Implementation Plan”</b>	means the implementation plan, if any, referred to in the Order Form and/or the Key Sector Provisions;
<b>“Implementation Requirements”</b>	means the Approved Organisation’s implementation and mobilisation requirements (if any), as may be set out in the Specification and Bid and/or otherwise as part of this Contract, which the Supplier must comply with as part of implementing the Services;
<b>“Intellectual Property Rights”</b>	means all patents, copyright, design rights, registered designs, trade marks, know-how, database rights, confidential formulae and any other intellectual property rights and the rights to apply for patents and trade marks and registered designs;
<b>“Interested Party”</b>	means any organisation which has a legitimate interest in providing services of the same or similar nature to the Services in immediate or proximate succession to the Supplier or any Sub-contractor and who had confirmed such interest in writing to the Approved Organisation;
<b>“Issuing Party”</b>	has the meaning given to it in Clause 16.14 of Schedule 2;
<b>“Key Sector Provisions”</b>	means the key sector provisions set out in Schedule 1 of these Call-off Terms and Conditions and/or as part of the Order Form;
<b>“KPI”</b>	means the key performance indicators as set out in the Specification and Bid and/or the Order Form, if any;
<b>“Law”</b>	means any applicable legal requirements including, without limitation,:  (a) any applicable statute or proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument as applicable in England and Wales;  (b) any applicable European Union obligation, directive, regulation, decision, law or right (including any such obligations, directives, regulations, decisions, laws or rights that are incorporated into the law of England and Wales or given effect in England and Wales by any

	<p>applicable statute, proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument);</p> <p>(c) any enforceable community right within the meaning of section 2(1) European Communities Act 1972;</p> <p>(d) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales;</p> <p>(e) requirements set by any regulatory body as applicable in England and Wales;</p> <p>(f) any relevant code of practice as applicable in England and Wales; and</p> <p>(g) any relevant collective agreement and/or international law provisions (to include, without limitation, as referred to in (a) to (f) above);</p>
<b>“Long Stop Date”</b>	means the date, if any, specified in the Specification and Bid;
<b>“Management Information”</b>	means the information to be provided by the Supplier to the Approved Organisation as set out in the Order Form;
<b>“NHS”</b>	means the National Health Service;
<b>“NHS Constitution”</b>	<p>means the document setting out the principles and values of the NHS in England as set out below (or as revised from time to time):</p> <p><a href="https://www.gov.uk/government/publications/the-nhsconstitution-for-england">https://www.gov.uk/government/publications/the-nhsconstitution-for-england</a></p>
<b>“NHS Resolution”</b>	means an arm’s length body of the Department of Health and Social Care established to resolve disputes in the NHS;
<b>“NHS Standards and Codes of Practice”</b>	<p>means the standards and codes of practice set out below (or as revised from time to time):</p> <p><a href="https://www.england.nhs.uk/estates/health-building-notes/">https://www.england.nhs.uk/estates/health-building-notes/</a>  <a href="https://www.england.nhs.uk/estates/health-technicalmemoranda/">https://www.england.nhs.uk/estates/health-technicalmemoranda/</a>;</p>
<b>“Occasion of Tax Non-Compliance”</b>	<p>means:</p> <p>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:</p> <p>(i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or</p>

	<p>legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</p> <p>(ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or</p> <p>(b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a civil penalty for fraud or evasion;</p>
<b>“Order Form”</b>	means the order form for the Goods and/or Services issued by the Approved Organisation in accordance with the Framework Agreement, the template order form is set out in Appendix B to Schedule 7 of the Framework Agreement;
<b>“Party”</b>	means the Approved Organisation or the Supplier as appropriate and Parties means both the Approved Organisation and the Supplier;
<b>“PEPPOL”</b>	means Pan European Public Procurement OnLine;
<b>“Personal Data”</b>	shall have the same meaning as set out in the GDPR;
<b>“Policies”</b>	means the policies, rules and procedures of the Approved Organisation as set out in the Order Form;
<b>“Premises and Locations”</b>	has the meaning given under Clause 5.1 of Schedule 2 of these Call-off Terms and Conditions;
<b>“Process”</b>	shall have the same meaning as set out in the GDPR. Processing and Processed shall be construed accordingly;
<b>“Processor”</b>	shall have the same meaning as set out in the GDPR;
<b>“Product Information”</b>	means information concerning the Goods as may be reasonably requested by the Approved Organisation and supplied by the Supplier to the Approved Organisation in accordance with Clause 20 of Schedule 2 of these Call-off Terms and Conditions for inclusion in the Approved Organisation’s product catalogue from time to time;
<b>“Prohibited Acts”</b>	has the meaning given to it in Clause 32.1.1 of Schedule 2;
<b>“Receiving Party”</b>	has the meaning given to it in Clause 16.14 of Schedule 2;

<b>“Rejected Goods”</b>	has the meaning given under Clause 4.2 of Schedule 2 of these Call-off Terms and Conditions;
<b>“Relevant Tax Authority”</b>	means HM Revenue and Customs, or, if applicable, a tax Authority in the jurisdiction in which the Supplier is established;
<b>“Remedial Proposal”</b>	has the meaning given under Clause 16.5 of Schedule 2 of these Call-off Terms and Conditions;
<b>“Requirement to Recall”</b>	has the meaning given under Clause 4.10 of Schedule 2 of these Call-off Terms and Conditions;
<b>“Services”</b>	means the services set out in this Contract;
<b>“Services Commencement Date”</b>	means the date delivery of the Services shall commence as specified in the Order Form. If no date is specified in the Order Form, this services commencement date shall be the Commencement Date;
<b>“Services Information”</b>	means information concerning the Services as may be reasonably requested by the Approved Organisation and supplied by the Supplier to the Approved Organisation in accordance with Clause 22 of Schedule 2 of these Call-off Terms and Conditions for inclusion in the Approved Organisation’s services catalogue from time to time;
<b>“Specification and Bid”</b>	means the Specification and Bid set out in Schedule 5 (Specification and Bid) as supplemented by any further information set out and/or referred to in the Order Form and as amended and/or updated in accordance with this Contract;
<b>“Staff”</b>	means all persons employed or engaged by the Supplier to perform its obligations under this Contract including any Subcontractors and person employed or engaged by such Subcontractors;
<b>“Sub-contract”</b>	means a contract between two or more suppliers, at any stage of remoteness from the Supplier in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of the whole or any part of this Contract;
<b>“Sub-contractor”</b>	means a party to a Sub-contract other than the Supplier;

<b>“Subsequent Transfer Date”</b>	means the point in time, if any, at which services which are fundamentally the same as the Services (either in whole or in part) are first provided by a Successor or the Approved Organisation, as appropriate, giving rise to a relevant transfer under TUPE;
<b>“Subsequent Transferring Employees”</b>	means any employee, agent, consultant and/or contractor who, immediately prior to the Subsequent Transfer Date, is wholly or mainly engaged in the performance of services fundamentally the same as the Services (either in whole or in part) which are to be undertaken by the Successor or Approved Organisation, as appropriate;
<b>“Successor”</b>	means any third party who provides services fundamentally the same as the Services (either in whole or in part) in immediate or subsequent succession to the Supplier upon the expiry or earlier termination of this Contract;
<b>“Supplier”</b>	means the supplier named on the Order Form;
<b>“Supplier Code of Conduct”</b>	means the code of that name published by the Government Commercial Function originally dated September 2017, as may be amended, restated, updated, re-issued or re-named from time to time;
<b>“Supplier Personnel”</b>	means any employee, agent, consultant and/or contractor of the Supplier or Sub-contractor who is either partially or fully engaged in the performance of the Services;
<b>“Term”</b>	means the term as referred to in the Order Form;
<b>“Termination Notice”</b>	means a written notice of termination given by one Party to the other notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract on a specified date and setting out the grounds for termination;
<b>“Third Party”</b>	means any supplier of services fundamentally the same as the Services (either in whole or in part) immediately before the Transfer Date;
<b>“Third Party Body”</b>	has the meaning given under Clause 9.7 of Schedule 2 of these Call-off Terms and Conditions;
<b>“Transfer Date”</b>	means the Services Commencement Date;
<b>“TUPE”</b>	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (2006/246) and/or any other regulations or other legislation enacted for the purpose of implementing or transposing the Acquired Rights Directive (77/187/EEC, as amended by Directive 98/50 EC and consolidated in



	2001/23/EC) into English law;
<b>“Unconnected Subcontract”</b>	any contract or agreement which is not a Sub-contract and is between the Supplier and a third party (which is not an Affiliate of the Supplier) and is a qualifying contract under regulation 6
	of The Reporting on Payment Practices and Performance Regulations 2017;
<b>“Unconnected Subcontractor”</b>	any third party with whom the Supplier enters into an Unconnected Sub-contract; and
<b>“VAT”</b>	means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax.

1.2 References to any Law shall be deemed to include a reference to that Law as amended, extended, consolidated, re-enacted, restated, implemented or transposed from time to time.

1.3 References to any legal entity shall include any body that takes over responsibility for the functions of such entity.

1.4 References in this Contract to a “Schedule”, “Appendix”, “Paragraph” or to a “Clause” are to schedules, appendices, paragraphs and clauses of this Contract.

1.5 References in this Contract to a day or to the calculation of time frames are references to a calendar day unless expressly specified as a Business Day.

1.6 The headings are for convenience only and shall not affect the interpretation of this Contract.

1.7 Words denoting the singular shall include the plural and vice versa.

1.8 Where a term of this Contract provides for a list of one or more items following the word “including” or “includes” then such list is not to be interpreted as an exhaustive list. Any such list shall not be treated as excluding any item that might have been included in such list having regard to the context of the contractual term in question. General words are not to be given a restrictive meaning where they are followed by examples intended to be included within the general words.

1.9 Where a document is required under this Contract, the Parties may agree in writing that this shall be in electronic format only.

1.10 Where there is an obligation on the Approved Organisation to procure any course of action from any third party, this shall mean that the Approved Organisation shall use its reasonable endeavours to procure such course of action from that third party.

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1.11 Any terms defined as part of a Schedule or other document forming part of this Contract shall have the meaning as defined in such Schedule or document.

## **Schedule 5**

### Specification and Bid

#### **Specification**

##### **1. Introduction**

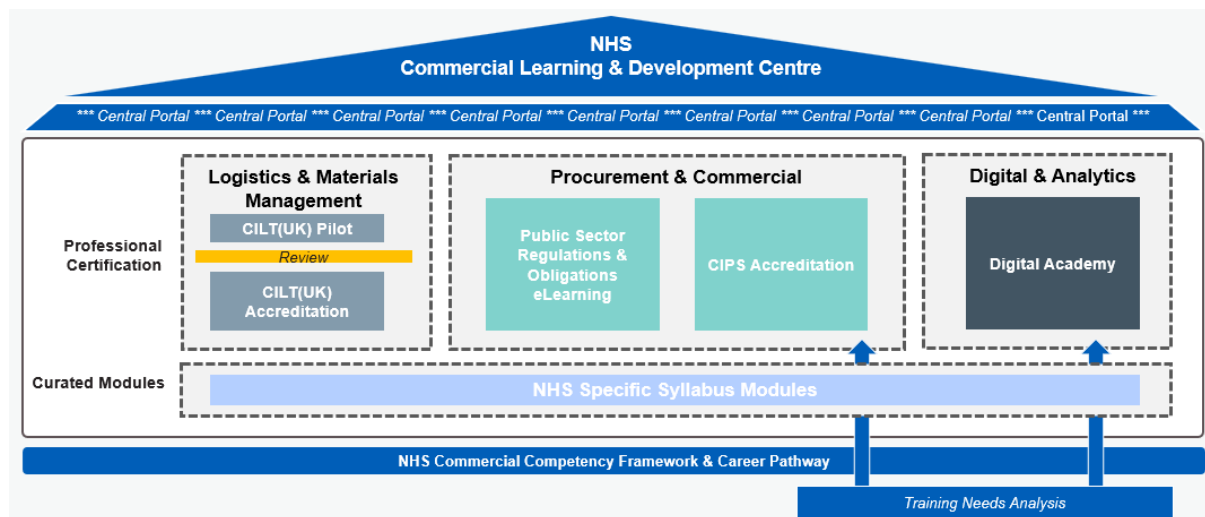
- 1.1. The Central Commercial Function's (CCF) role is to develop and lead the NHS commercial strategy that binds the NHS commercial community, drives collaboration across commercial teams, leverages NHS collective buying power and provides a clear, consistent guideline on how to contract with the NHS. It focusses on identifying and delivering national vehicles to support NHS providers in delivering their role. Training and development of the workforce is seen as one of the areas that will benefit from this centralised approach and forms a key component to the Our People section in the published [Strategic framework for NHS Commercial](#) (2023). The ambition is to ensure **we continue to attract the best and most diverse commercial talent to the NHS, and accredit, develop and connect this workforce.**
- 1.2. Funding has been received to deliver a centrally managed learning and development programme by the CCF, specifically the Capability team within it for the NHS. The **NHS Commercial Learning and Development Centre of Excellence** will draw expertise from leading sources, utilise industry best practice and will disseminate knowledge and skills to the right staff at the right time. This will support the development and increase the maturity of NHS commercial and procurement functions and offer our staff opportunities to develop in their chosen career pathway without local or regional disparity in England.
- 1.3. The Best Practice and Capabilities team within NHS England who the appointed Supplier will work with and report to is a small, efficient team who already manages a wide-ranging portfolio of offers for NHS staff (full details can be found in appendix 1), which include offering Government Commercial Function's Assessment Development Centre (ADC); GCF Contract Management Capabilities Programme; Digital and CIPS Apprenticeship schemes; HCSA Graduate scheme.

##### **2. About the NHS Commercial Learning & Development Centre**

- 1.2 Through the research process to secure the funding, it was clear there is no single source for training that will meet the full range of needs of the NHS Procurement, Commercial, Materials Management and Logistic, Digital and Analytics staff given the diverse market the NHS operates within. As such, the Centre of Excellence will be an umbrella approach where a central point (the CCF capabilities team) will manage and direct learners through their learning journey and career pathway. Curated, module

specific content will be refined for NHS specific users from world leading providers, that will support a holistic, inclusive and end to end development package for every staff member. Each module and learning and development offer will be aligned to the developed Competency Framework (appendix 1).

**Figure 1: NHS Commercial Learning & Development Centre**



1.3 Within the first phase of development and roll out, the Centre will deliver:

- NHS-CILT(UK) Learning and Development Academy: Offering different levels of CILT(UK) accreditation to identified in scope learners over a three-year period.
- MCIPS Accreditation: Offering MCIPS certification to identified in scope learners over a three-year period.
- Training Needs Analysis: To identify gaps in knowledge and skills in the workforce to support prioritisation and the development of curated NHS specific training modules
- L&D Platform: An eLearning platform where all training can be accessed/ booked and used as a reporting tool for the CCF team.
- eLearning Modules: Procurement Act 2023 and Provider Selection Regime 2023 eLearning modules in the first instance plus a portfolio of modules as the result of the TNA output.

### 3. The Training Needs Analysis (TNA)

- 3.1 The requirement of the TNA is to undertake research, communications and engagement to identify the gaps in knowledge and skills in the identified “in scope” NHS staff that is not being addressed by existing or “in development” training that will fall under the Centre’s umbrella. Furthermore, it will provide a suite of recommendations and a costed delivery programme plan for the next phase with the ultimate aim of developing and delivering various NHS specific training modules that can be accessed by the right staff at the right time.

## Classification: Official

- 3.2 As an example, the TNA may identify a gap in skills for staff in the “professional” NHS role category in negotiation techniques which would best be delivered in a face-to-face workshop setting. The CCF would as a result, develop a specific syllabus ensuring content is aligned to wider NHS requirements, in this case not just offering generic negotiation skills, but include how negotiations can be applied within the new Procurement Act 2023 parameters and how this is recorded to ensure the Procurement Act transparency requirements are also met.
- 3.3 The syllabus designed would be copyright and owned by the CCF and training providers would be appointed to deliver the training across the country. So regardless of the learners’ physical location, or who the training provider is, there would be no disparity in the training provided, lifting competency in a consistent manner and eliminating inequality across our NHS community.

## 4. Scope of the TNA

- 4.1 The structure of the NHS is complex, and the way procurement and commercial activities are conducted within the landscape are additionally complicated. The CCF Capabilities team will support the appointed Supplier in their understanding of the landscape to ensure the TNA stays within scope and the roles of the varying stakeholders involved are understood but there is an expectation that the appointed Supplier already has a good understanding of the current landscape in which NHS procurement operates.
- 4.2 The NHS Procurement and Commercial teams under the Centre (as per figure 1 above) are separated into three distinct skill sets all of which are in scope of the TNA:
  - Materials management and logistics staff
  - Procurement and commercial staff
  - Digital and analytics staff

### 4.3 A Note on Digital and Analytics Staff

- 4.3.1 At an operational level, NHS organisations structure their teams differently. Some teams separate digital and analytical staff from their procurement specialists, and in some teams, procurement experts also undertake analytical roles alongside their buying activities. Additionally, some NHS staff responsible for scan for safety activity which would be classified as digital are captured in the Logistics and Materials Management staffing group. It is recognised by the CCF that digital and analytical skills are essential for procurement and commercial functions, but there has been little specific focus or investment into these skills to date. It is a specific subsection that should be addressed and given consideration during the TNA.

### 4.4 A Note on Clinical Procurement Staff

- 4.4.1 Similarly to Digital & Analytical staff, Clinical Procurement staff are not currently captured as a separate group in the numbers. Clinical Nurse Specialists are staff who have a nursing or medical background who now are employed within the procurement function to provide expertise on the clinical products the functions are procuring.
- 4.4.2 The CCF recognise these staff have not been included in the competency framework and intend on developing these competencies in financial year 2025/26. As such, during the TNA, when these staff are identified, the TNA needs to identify if there are specific learning & development needs for this group that are not met within the wider competencies.

## 4.5 Organisations in/ out of Scope

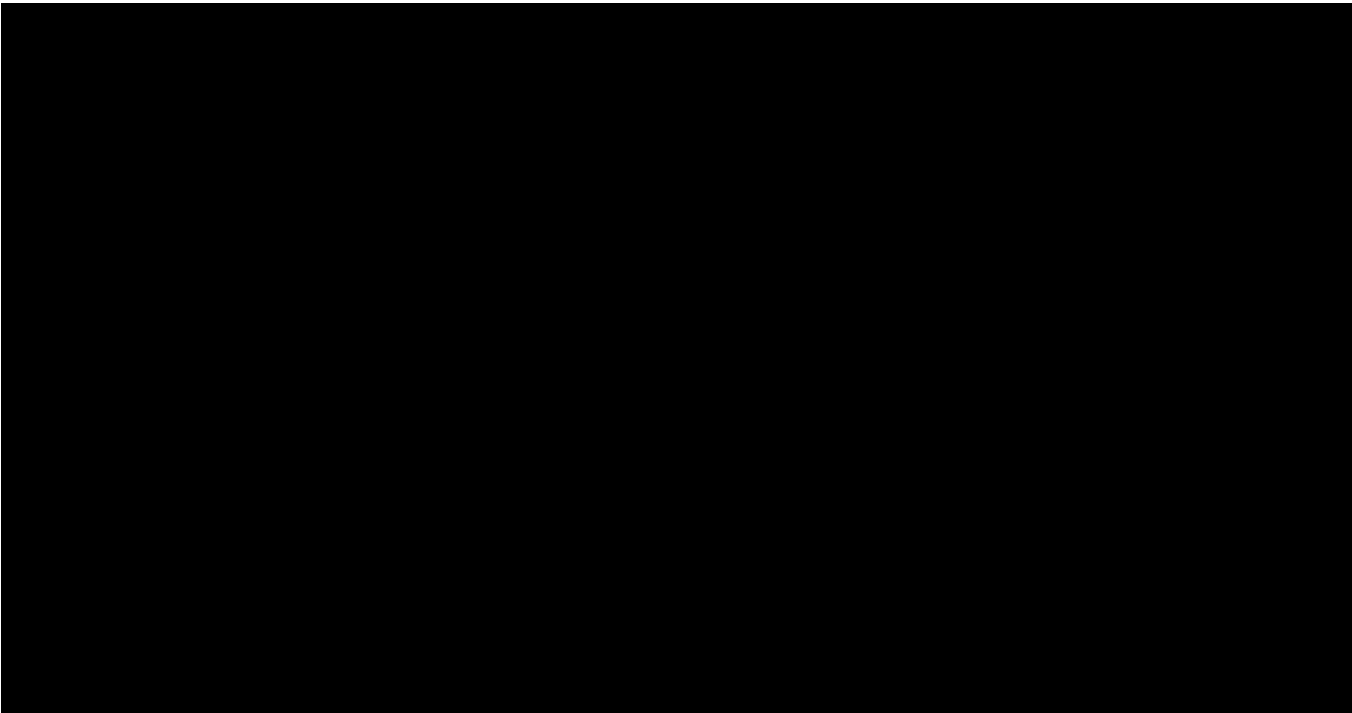
- 4.5.1 As mentioned, the NHS is made up of hundreds of separate organisations. The specific organisations that are in scope of this TNA are as per Figure 2 below.

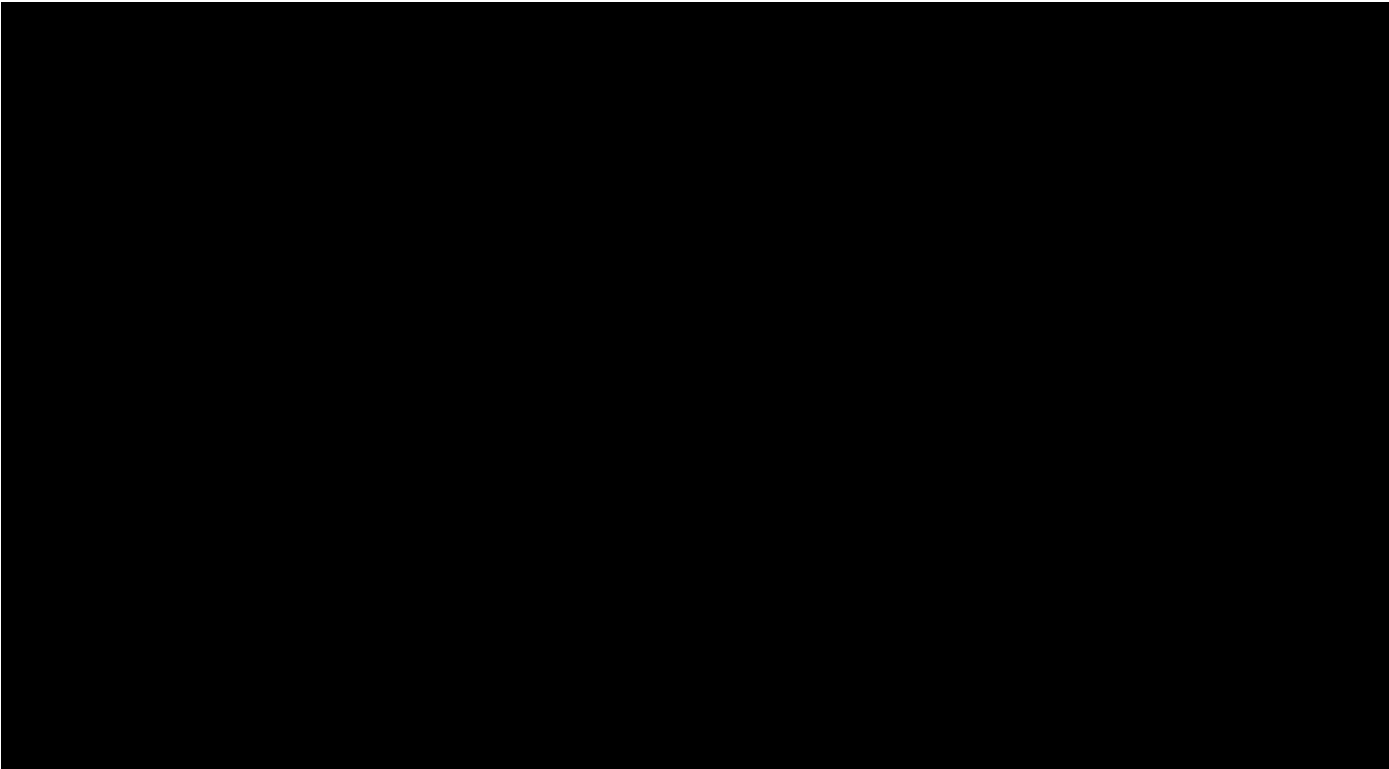
Figure 2: In/ Out of Scope Organisations

Ref	Scope	NHS Organisation	Notes
i.	In Scope	NHS providers	i.e. trusts and foundation trusts in England. As laid out in appendix 2
ii.	In Scope	NHS England commercial team	Those delivering procurement/ commercial specific role (project management/ administration/ policy excluded from scope)
iii.	In Scope	NHS Procurement hubs	Specific organisations: North of England Commercial Procurement Collaborative (NOECPC) East of England NHS Collaborative Procurement Hub (EoE) Commercial Solutions London Procurement Partnership (LPP) Peninsula Purchasing and Supply Alliance (PPSA)

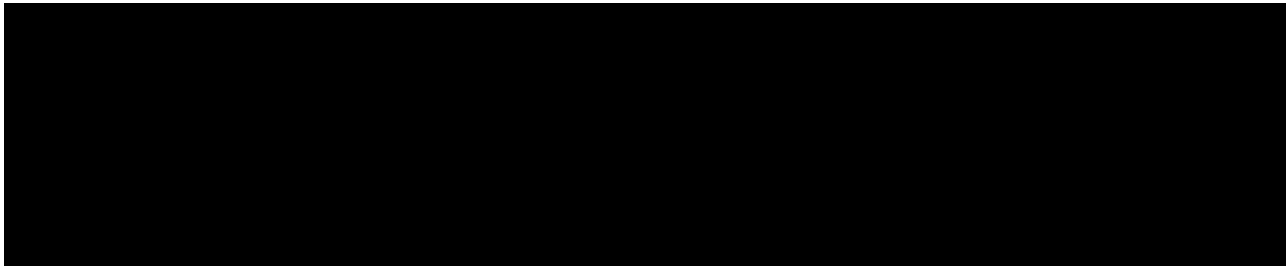
- 4.6 In Scope Approximate Staff Numbers
- 4.6.1 Utilising the latest data from the Corporate Service Returns (CSR) 2022/23 and data collections for other organisation groups; the number of staff in scope of the TNA are as Figure 3; Figure 4 and Figure 5 below. Please note these are not 100% accurate. Further breakdown of this data can be offered at a regional and/or ICS level should the successful Supplier require this but will not be provided at bidding stage.
- 4.6.2 It is not expected every “in scope” learner and their line manager to be individually assessed, and cost efficiency needs to be borne in mind when designing your approach.

Figure 3: NHS Providers (ref: i.) In Scope Staff Numbers by Pay Grade

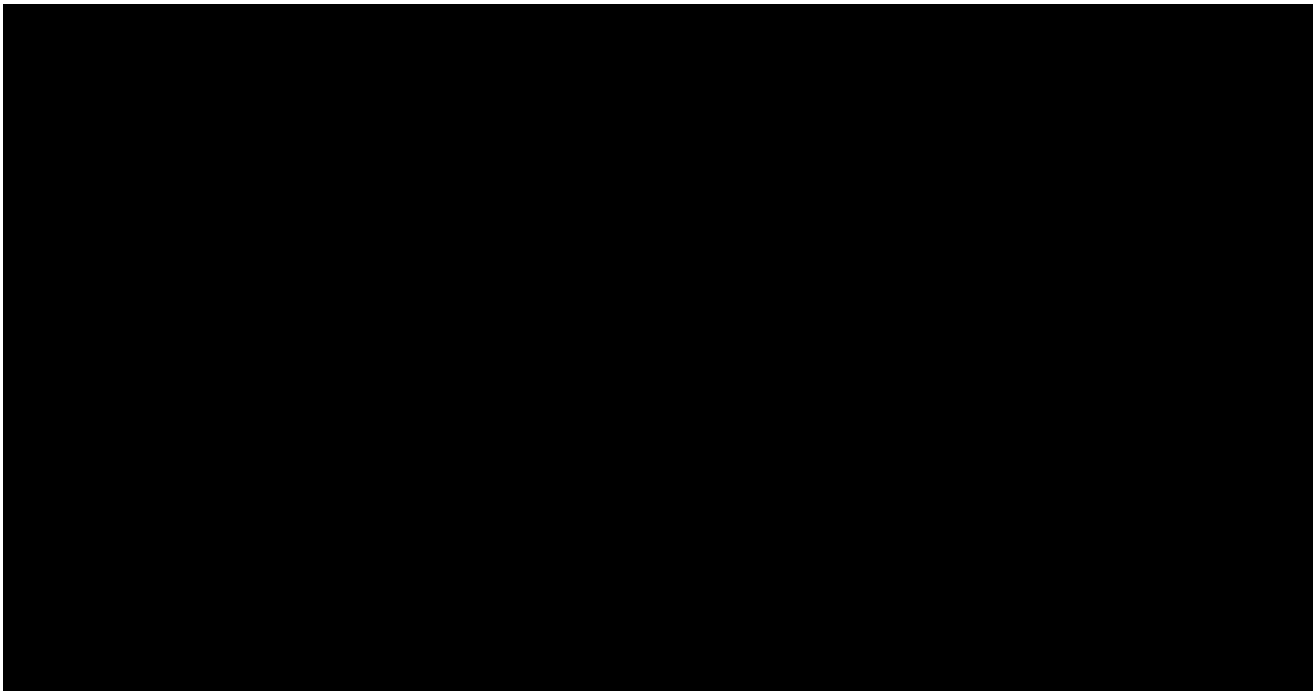




**Figure 4: NHS England Commercial Team (ref: ii.) In Scope Staff Numbers by Pay Grade**



**Figure 5: NHS Procurement Hubs (ref: iii.) In Scope Staff Numbers by Pay Grade**







## Shared Business Services

### 4.6 NHS Providers – Further Information

- 4.6.1 The provider landscape is split into seven separate regions. In total there are 42x Integrated Care Systems plus ambulance trusts. Every NHS organisation works within an ICS (ambulance trusts work across several ICS) and a region.
- 4.6.2 The CCF engages with and has contacts for every ICS procurement lead and every NHS trust head of procurement (HoP). The CCF does not have direct contact details for any further tiers of staff below heads of procurement but can engage with HoP and ICS procurement leads to disseminate information and ask for participation from the wider community.
- 4.6.2 Additionally, the Health Care Supply Association has confirmed their support for this activity and would be willing to assist in the promotion of engagement within the NHS community.

### 4.7 A Note on NHS Competencies

- 4.7.1 The NHS Commercial Competencies framework has been recently refreshed and is in the final approval stages with the Learning and Development Centre of Excellence Board. It covers all specialisms in the NHS commercial workforce: procurement & commercial; logistics and materials management; and data and analytics and has been developed using the Government Commercial Function (GCF); Chartered Institute of Procurement and Supply (CIPS); Chartered Institute of Logistics and Transport (CILT)(UK) and NHS Digital professional competencies.
- 4.7.2 Recognising different commercial function constructs in the NHS, the Competency Framework enables flexibility in application and focuses on the capabilities required to perform at each relevant professional level. Supporting both vertical and horizontal movement across all three sub-role specialisms, the framework supports individual career aspirations and creates opportunities for staff to broaden their skills and expertise in NHS commercial.
- 4.7.3 All learning and development products offered by the NHS Commercial Learning & Development Centre of Excellence will be aligned to and underpinned by the NHS Competency Framework. This will ensure that staff receive the right learning at the right time and in a fair and equitable way, improving competencies without disparity across all NHS Providers in England.
- 4.7.4 Split into four distinct pillars, each pillar has separate role components with specific technical competencies. Depending on the specific role deliverables, various competencies from different pillars on the same hierarchal level will form the job description and outputs.



Shared Business Services

Pillar:	Business	Procurement	Data Analytics	Logistics
Role Components	Business Acumen and Commercial Judgement	Understanding Needs and Sourcing Options	Procurement Data Analytics	Operations and Supply Chain Management
	Leadership Skills and Capability	Procurement Process	Procurement Data Analytics 2	Logistics and Freight Movement
	Sustainability	Contract and Supplier Management		Planning in Transport
	Strategy and Policy Development	Complex Deals 1: Foundation		Patient Mobility
		Complex Deals 2: Advanced		Efficiency, Quality and Risk

4.7.5 The full Competency Framework can be found in Appendix 1 of this document.

5. Key Stakeholders Requiring Engagement

5.1 To understand national priorities and activities, the appointed Supplier will be connected to the following CCF workstreams to understand the requirements that NHS procurement staff need to adhere to and whether formal training to improve knowledge and skills to deliver upon these requirements may be required to support delivery. The workstreams, in no particular order include:

- Sustainability (*includes national sustainability policies NHS organisations must meet such as net carbon zero and modern slavery*)
- Data & technology (*includes Atamis; Spend Comparison Service and wider needs*)
- Governance and assurance (*Procurement Act 2023 and Provider Selection Regime training is already being provided, but other activities include Cabinet Office Spend Controls and Model Contract terms and conditions*)
- Supply Resilience
- Supplier Relationship Management
- Framework Standardisation
- Best Practice



## Shared Business Services

5.2 Appendix 3 provides further detail on the CCF and each workstream for information purposes.

5.3 Additionally, other key stakeholders within the system who have specific insight relevant to the TNA that should be engaged with include:

- HCSA – Health Care Supplies Association
- Department of Health and Social Care policy team (*responsible for both health procurement policy but also responsible for L&D for their procurement teams*)
- Central Commercial Function Director
- CCF Learning and Development Centre of E Governance Board

## 6. HCSA

6.1 The Health Care Supply Association (HCSA) is a registered charity in the UK and is self-financed through a combination of income from conferences, seminars, other training events and advertising. Their work focuses on promoting the work of procurement and supply chain staff at all levels in healthcare and members are likely to be included in the scope of this training needs analysis.

6.2 HCSA is currently reviewing their Learning & Development portfolio and have agreed to align with the Centre of Excellence to ensure there is no duplication of modules. As a result, the Training Needs Analysis needs to identify any HCSA modules that may be duplication of the module proposal for the Centre of Excellence.

6.3 Appendix 5 provides the HCSA current training catalogue.

## 7. Existing Learning & Development Portfolio

7.1 As confirmed earlier, the Centre will be the umbrella for all the different learning and development offers for our community. The existing training, or training that is in the process of being developed and offered is as per Appendix 4. When undertaking the TNA, if gaps are identified, but existing training in the Centre is available and delivers upon specific competencies it addresses, this should be noted but not included in the recommendations and prioritisation.

## 8. Timelines

8.1 The CCF team is focussed on ensuring the TNA is undertaken in a planned and considered manner. Ensuring the right people are involved and input into the TNA is important, and working to their diary constraints will be something that needs to be borne in mind when planning timelines.



## Shared Business Services

- 8.2 As other activities under the umbrella of the Centre are also being undertaken at the same time, managing engagement in a coordinated manner is something the CCF Capabilities team will be responsible for, and the appointed Supplier will need to work with the team recognising the helicopter view of activities.

### 9. The Final Output

- 9.1 The output of this contract will be a completed training needs analysis with a detailed report of its findings and recommendations to include the below detail as a minimum.

- 9.2 Furthermore, a detailed and costed delivery plan for phase two of the programme should be provided which will produce the training content identified from the TNA recommendations.

- 9.3 The outputs will also need to include a usable presentation for the CCF team (NHS England branded) to update the system on the outputs of the TNA and next steps as a key communication tool that providers will use.

- 9.4 Key areas of mapping should include:

- a) The skills or knowledge gap.
- b) Details of the specific requirements/ learning outcomes for the recommended module. *For instance, it may be suggested that leadership and influencing skills are required for our most senior leaders. The details of which may be skills to influence boards to raise the procurement profile and gain a seat at the table.*
- c) Which role component in the NHS Competency Framework this applies to (using the Competency Framework in annex 1).
- d) Which specific competencies within the framework the training would address (if applicable).
- e) What CCF workstream it relates to (if any). *For instance, modern slavery training would relate specifically to activity being undertaken by the CCF Sustainability team.*
- f) What national policy or regulatory requirement it has interlinkage with (if any). *For instance, negotiation skills directly relate to the Procurement Act 2023.*

**Shared Business Services**

- g) What method of training would be the most appropriate considering the need of learners and long-term affordability of delivery (e.g. eLearning; face to face workshop; hybrid face to face and virtual).
- h) A ranking of priority of the training gaps, recognising that budget and resource constraints will not be able to deliver everything the TNA may identify, so the CCF team will want to start with the highest priorities first.

\*\*\*end\*\*\*

Appendix 1: NHS Commercial Competency Framework

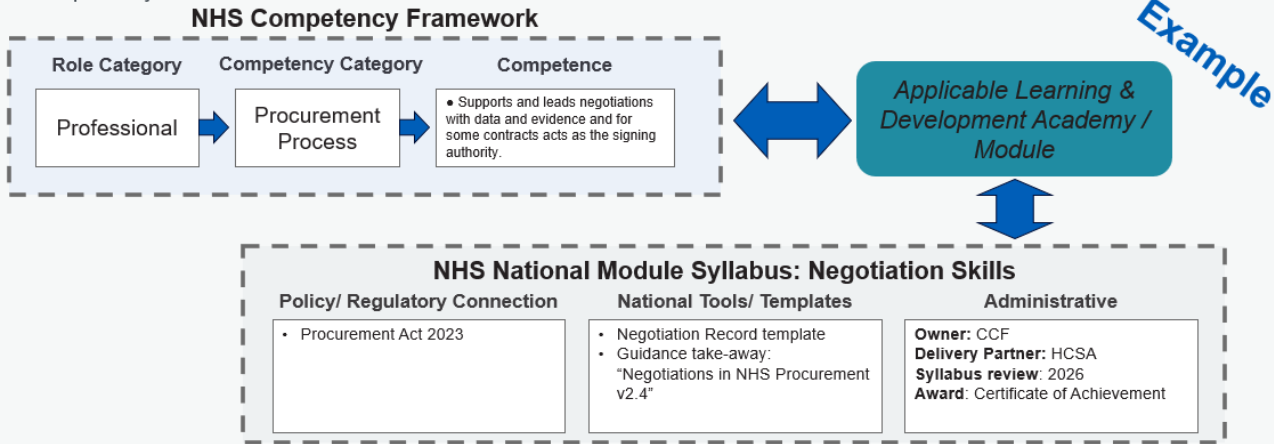
  
NHS Commercial Competency Framework

Full document:



# How Competency Framework Connects to Modules

Each L&D module will be mapped to the Competency Framework at a role category, competence category & where possible actual competence level. This will support learners & their line managers identify the right training for learners and support their career pathway.





East of England	Bedfordshire, Luton & Milton Keynes	Bedfordshire Hospitals NHS Foundation Trust	Acute
		Milton Keynes University Hospital NHS Foundation Trust	Acute
		East of England Ambulance Service NHS Trust	Ambulance
	Cambridgeshire & Peterborough	Cambridge University Hospitals NHS Foundation Trust	Acute
		Cambridgeshire and Peterborough NHS Foundation Trust	Mental Health
		North West Anglia NHS Foundation Trust	Acute
		Royal Papworth Hospital NHS Foundation Trust	Acute (specialist)
		Cambridgeshire Community Services NHS Trust	Community
		East of England Ambulance Service NHS Trust	Ambulance
	Hertfordshire and West Essex	East and North Hertfordshire NHS Trust	Acute
		Hertfordshire Community NHS Trust	Community
		Hertfordshire Partnership University NHS Foundation Trust	Mental Health
		The Princess Alexandra Hospital NHS Trust	Acute
		West Hertfordshire Hospitals NHS Trust	Acute
	Mid and South Essex Health & Care Partnership	Basildon And Thurrock University Hospitals NHS Foundation Trust	Acute
		Essex Partnership University NHS Foundation Trust	Mental Health
		Mid Essex Hospital Services NHS Trust	Acute
		Southend University Hospital NHS Foundation Trust	Acute
		East of England Ambulance Service NHS Trust	Ambulance
	Norfolk and Waveney Health & Care Partnership	James Paget University Hospitals NHS Foundation Trust	Acute
		Norfolk And Norwich University Hospitals NHS Foundation Trust	Acute
		Norfolk And Suffolk NHS Foundation Trust	Mental Health
		Norfolk Community Health and Care NHS Trust	Community
		Queen Elizabeth Hospital Kings Lynn NHS Foundation Trust	Acute
	Suffolk and North East Essex	East of England Ambulance Service NHS Trust	Ambulance
		East Suffolk and North Essex NHS Foundation Trust	Acute
		West Suffolk NHS Foundation Trust	Acute
		East of England Ambulance Service NHS Trust	Ambulance
London	North East London	Barking, Havering and Redbridge University Hospitals NHS Trust	Acute
		Barts Health NHS Trust	Acute
		East London NHS Foundation Trust	Mental Health
		Homerton University Hospital NHS Foundation Trust	Acute
		North East London NHS Foundation Trust	Mental Health
	North Central London Partners in Health & Care	Barnet, Enfield and Haringey Mental Health NHS Trust	Mental Health
		Camden And Islington NHS Foundation Trust	Mental Health
		Great Ormond Street Hospital for Children NHS Foundation Trust	Specialist
		Moorfields Eye Hospital NHS Foundation Trust	Specialist
		North Middlesex University Hospital NHS Trust	Acute
		Royal Free London NHS Foundation Trust	Acute
		Royal National Orthopaedic Hospital NHS Trust	Specialist
		Tavistock And Portman NHS Foundation Trust	Mental Health
		The Whittington Hospital NHS Trust	Acute
		University College London Hospitals NHS Foundation Trust	Acute
	North West London	Central And North West London NHS Foundation Trust	Mental Health
		Central London Community Healthcare NHS Trust	Community

NHS SBS Call-off Terms and Conditions for the Supply of Goods and/or the Provision of Services – V0.1



## Shared Business Services

Midlands	Our Healthier South East London	Chelsea And Westminster Hospital NHS Foundation Trust	Acute
		Hillingdon Hospitals NHS Foundation Trust	Acute
		Imperial College Healthcare NHS Trust	Acute
		London North West Healthcare NHS Trust	Acute
		Royal Brompton and Harefield NHS Foundation Trust	Specialist
		West London NHS Trust	Mental Health
	South West London Health & Care Partnership	Guy's And St Thomas' NHS Foundation Trust	Acute
		King's College Hospital NHS Foundation Trust	Acute
		Lewisham and Greenwich NHS Trust	Acute
		Oxleas NHS Foundation Trust	Mental Health
		South London And Maudsley NHS Foundation Trust	Mental Health
		Croydon Health Services NHS Trust	Acute
	Live Healthy Live Happy Birmingham & Solihull	Epsom and St Helier University Hospitals NHS Trust	Acute
		Hounslow and Richmond Community Healthcare NHS Trust	Community
		Kingston Hospital NHS Foundation Trust	Acute
		South West London and St George's Mental Health NHS Trust	Mental Health
		St George's University Hospitals NHS Foundation Trust	Acute
		The Royal Marsden NHS Foundation Trust	Specialist
Midlands	Herefordshire & Worcestershire	The Royal Orthopaedic Hospital NHS FT	Acute (specialist)
		Birmingham and Solihull Mental Health NHS Foundation Trust	Mental Health
		Birmingham Women's and Children's NHS Foundation Trust	Acute (specialist)
		University Hospitals Birmingham NHS Foundation Trust	Acute
		Birmingham Community Healthcare NHS Foundation Trust	Community
		Worcestershire Acute Hospitals NHS Trust	Acute
	Coventry & Warwickshire	Worcestershire Health and Care NHS Trust	Mental Health
		Wye Valley NHS Trust	Acute
		Coventry and Warwickshire Partnership NHS Trust	Mental Health
		George Eliot Hospital NHS Trust	Acute
		South Warwickshire NHS Foundation Trust	Acute
		University Hospitals Coventry and Warwickshire NHS Trust	Acute
	Joined Up Care Derbyshire	Chesterfield Royal Hospital NHS Foundation Trust	Acute
		Derbyshire Community Health Services NHS Foundation Trust	Community
		Derbyshire Healthcare NHS Foundation Trust	Mental Health
		University Hospitals of Derby and Burton NHS Foundation Trust	Acute
	Leicester, Leicestershire & Rutland	Leicestershire Partnership NHS Trust	Mental Health
		University Hospitals of Leicester NHS Trust	Acute
	Lincolnshire	Lincolnshire Partnership NHS Foundation Trust	Mental Health
		United Lincolnshire Hospitals NHS Trust	Acute



## Shared Business Services

	Northamptonshire Health & Care Partnership	Lincolnshire Community Health Services NHS Trust	Community
		Kettering General Hospital NHS Foundation Trust	Acute
		Northampton General Hospital NHS Trust	Acute
		Northamptonshire Healthcare NHS Foundation Trust	Mental Health
	Nottingham & Nottinghamshire	Nottingham University Hospitals NHS Trust	Acute
		Nottinghamshire Healthcare NHS Foundation Trust	Mental Health
		Sherwood Forest Hospitals NHS Foundation Trust	Acute
	Shropshire, Telford & Wrekin	The Robert Jones And Agnes Hunt Orthopaedic Hospital NHS Foundation Trust	Specialist
		Shrewsbury and Telford Hospital NHS Trust	Acute
		Shropshire Community Health NHS Trust	Community
	Together we're Better - Staffordshire & Stoke on Trent	Midlands Partnership NHS Foundation Trust	Mental Health
		North Staffordshire Combined Healthcare NHS Trust	Mental Health
		University Hospitals of North Midlands NHS Trust	Acute
	The Black Country	Black Country Partnership NHS Foundation Trust	Mental Health
		Dudley & Walsall Mental Health Partnership NHS Trust	Mental Health
		Sandwell & West Birmingham Hospitals NHS Trust	Acute
		The Dudley Group NHS Foundation Trust	Acute
		The Royal Wolverhampton NHS Trust	Acute
		Walsall Healthcare NHS Trust	Acute
North East & Yorkshire	Humber Coast & Vale		Acute
		Humber NHS Foundation Trust	Mental Health
		Northern Lincolnshire And Goole NHS Foundation Trust	Acute
		York Teaching Hospital NHS Foundation Trust	Acute
	North East and North Cumbria	County Durham And Darlington NHS Foundation Trust	Acute
		Gateshead Health NHS Foundation Trust	Acute
		North Cumbria Integrated Care NHS Foundation Trust	Mental Health
		North Tees And Hartlepool NHS Foundation Trust	Acute
		Northumberland, Tyne And Wear NHS Foundation Trust	Mental Health
		Northumbria Healthcare NHS Foundation Trust	Acute
		South Tees Hospitals NHS Foundation Trust	Acute
		South Tyneside and Sunderland NHS Foundation Trust	Acute
		Tees, Esk And Wear Valleys NHS Foundation Trust	Mental Health
		The Newcastle Upon Tyne Hospitals NHS Foundation Trust	Acute
	South Yorkshire and Bassetlaw	Barnsley Hospital NHS Foundation Trust	Acute
		Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust	Acute
		Rotherham Doncaster And South Humber NHS Foundation Trust	Mental Health
		Rotherham NHS Foundation Trust	Acute
		Sheffield Children's NHS Foundation Trust	Specialist



## Shared Business Services

West Yorkshire and Harrogate		Sheffield Health And Social Care NHS Foundation Trust	Mental Health
		Sheffield Teaching Hospitals NHS Foundation Trust	Acute
		Airedale NHS Foundation Trust	Acute
		Bradford District Care NHS Foundation Trust	Mental Health
		Bradford Teaching Hospitals NHS Foundation Trust	Acute
		Calderdale And Huddersfield NHS Foundation Trust	Acute
		Harrogate And District NHS Foundation Trust	Acute
		Leeds And York Partnership NHS Foundation Trust	Mental Health
		Leeds Community Healthcare NHS Trust	Community
		Leeds Teaching Hospitals NHS Trust	Acute
		Mid Yorkshire Hospitals NHS Trust	Acute
		South West Yorkshire Partnership NHS Foundation Trust	Mental Health
North West	Cheshire & Merseyside	Alder Hey Children's NHS Foundation Trust	Specialist
		Bridgewater Community Healthcare NHS Foundation Trust	Community
		Cheshire And Wirral Partnership NHS Foundation Trust	Mental Health
		Countess Of Chester Hospital NHS Foundation Trust	Acute
		East Cheshire NHS Trust	Acute
		Liverpool Heart And Chest Hospital NHS Foundation Trust	Specialist
		Liverpool University Hospitals NHS Foundation Trust	Acute
		Liverpool Women's NHS Foundation Trust	Specialist
		Mersey Care NHS Foundation Trust	Mental Health
		Mid Cheshire Hospitals NHS Foundation Trust	Acute
		North West Boroughs Healthcare NHS Foundation Trust	Mental Health
		Southport and Ormskirk Hospital NHS Trust	Acute
		St Helens and Knowsley Teaching Hospitals NHS Trust	Acute
		The Clatterbridge Cancer Centre NHS Foundation Trust	Specialist
		The Walton Centre NHS Foundation Trust	Specialist
		Warrington And Halton Hospitals NHS Foundation Trust	Acute
		Wirral Community NHS Foundation Trust	Community
		Wirral University Teaching Hospital NHS Foundation Trust	Acute
	Lancashire and South Cumbria	Blackpool Teaching Hospitals NHS Foundation Trust	Acute
		East Lancashire Hospitals NHS Trust	Acute
		Lancashire & South CumbriaCare NHS Foundation Trust	Mental Health
		Lancashire Teaching Hospitals NHS Foundation Trust	Acute
		University Hospitals Of Morecambe Bay NHS Foundation Trust	Acute
	Greater Manchester Health & Social Care Partnership	Bolton NHS Foundation Trust	Acute
		Christie NHS Foundation Trust	Specialist
		Greater Manchester Mental Health NHS Foundation Trust	Mental Health
		Manchester University NHS Foundation Trust	Acute
		Pennine Acute Hospitals NHS Trust	Acute



## Shared Business Services

			Pennine Care NHS Foundation Trust	Mental Health
			Salford Royal NHS Foundation Trust	Acute
			Stockport NHS Foundation Trust	Acute
			Tameside and Glossop Integrated Care Hospital NHS Foundation Trust	Acute
			Wrightington, Wigan And Leigh NHS Foundation Trust	Acute
South East	Buckinghamshire, Oxfordshire and Berkshire West		Berkshire Healthcare NHS Foundation Trust	Mental Health
			Buckinghamshire Healthcare NHS Trust	Acute
			Oxford Health NHS Foundation trust	Mental Health
			Oxford University Hospitals NHS Foundation Trust	Acute
			Royal Berkshire NHS Foundation Trust	Acute
	Frimley Health and Care		Frimley Health NHS Foundation Trust	Acute
	Hampshire and the Isle of White		Isle of Wight NHS Trust	Acute
			Portsmouth Hospitals NHS Trust	Acute
			Solent NHS Trust	Community
			Southern Health NHS Foundation Trust	Mental Health
			University Hospital Southampton NHS Foundation Trust	Acute
			Hampshire Hospitals NHS Foundation Trust	Acute
	Kent and Medway		Dartford and Gravesham NHS Trust	Acute
			East Kent Hospitals University NHS Foundation Trust	Acute
			Kent and Medway NHS and Social Care Partnership Trust	Mental Health
			Kent Community Health NHS Foundation Trust	Community
			Maidstone and Tunbridge Wells NHS Trust	Acute
			Medway NHS Foundation Trust	Acute
	Surrey Heartlands Health & Care Partnership		Ashford and St Peter's Hospitals NHS Foundation Trust	Acute
			Royal Surrey County Hospital NHS Foundation Trust	Acute
			Surrey And Borders Partnership NHS Foundation Trust	Mental Health
	Sussex Health & Care Partnership		Brighton and Sussex University Hospitals NHS Trust	Acute
			East Sussex Healthcare NHS Trust	Acute
			Queen Victoria Hospital NHS Foundation Trust	Specialist
			Surrey and Sussex Healthcare NHS Trust	Acute
			Sussex Community NHS Foundation Trust	Community
			Sussex Partnership NHS Foundation Trust	Mental Health
			Western Sussex Hospitals NHS Foundation Trust	Acute
South West	Bath & North Somerset, Swindon & Wiltshire		Great Western Hospitals NHS Foundation Trust	Acute
			Royal United Hospitals Bath NHS Foundation Trust	Acute
			Salisbury NHS Foundation Trust	Acute
			South Western Ambulance Service NHS Foundation Trust	Ambulance
	Healthier Together Bristol, North Somerset &		North Bristol NHS Trust	Acute
			Weston Area Health NHS Trust	Acute
			University Hospitals Bristol and Weston NHS Foundation Trust	Acute



## Shared Business Services

South Gloucestershire	South Western Ambulance Service NHS Foundation Trust	Ambulance
	Avon and Wiltshire Mental Health Partnership NHS Trust	Mental Health
Cornwall & The Isles of Scilly Health & Care Partnership	Cornwall Partnership NHS Foundation Trust	Mental Health
	Royal Cornwall Hospitals NHS Trust	Acute
Together for Devon	Devon Partnership NHS Trust	Mental Health
	Northern Devon Healthcare NHS Trust	Acute
	Royal Devon And Exeter NHS Foundation Trust	Acute
	Torbay and South Devon NHS Foundation Trust	Acute
	University Hospitals Plymouth NHS Trust	Acute
Our Dorset	Dorset County Hospital NHS Foundation Trust	Acute
	Dorset Healthcare University NHS Foundation Trust	Mental Health
	Poole Hospital NHS Foundation Trust	Acute
	The Royal Bournemouth And Christchurch Hospitals NHS Foundation Trust	Acute
One Gloucestershire	Gloucester Health and Care NHS Foundation Trust	Mental Health
	Gloucestershire Hospitals NHS Foundation Trust	Acute
Somerset	Somerset Partnership NHS Foundation Trust	Mental Health
	Taunton And Somerset NHS Foundation Trust	Acute
	Yeovil District Hospital NHS Foundation Trust	Acute
<b>Ambulance Services</b>	East Midlands Ambulance Service NHS Trust	Ambulance
	East Of England Ambulance Service NHS Trust	Ambulance
	London Ambulance Service NHS Trust	Ambulance
	North East Ambulance Service NHS Foundation Trust	Ambulance
	North West Ambulance Service NHS Trust	Ambulance
	South Central Ambulance Service NHS Foundation Trust	Ambulance
	South East Coast Ambulance Service NHS Foundation Trust	Ambulance
	South Western Ambulance Service NHS Foundation Trust	Ambulance
	West Midlands Ambulance Service NHS Foundation Trust	Ambulance
	Yorkshire Ambulance Service NHS Trust	Ambulance

## Appendix 2: NHS Providers Structure - Region/ ICS/ Trust



## Shared Business Services

### Appendix 3: CCF Workstream Information

Central Commercial Function		
<b>Commercial Practice Capability</b>	<b>Best and</b>	<p>The team lead the Commercial Best Practice, People and Community and workstreams of the CCF.</p> <p>The Best Practice and Capability team is the central engagement point with the ICS Procurement leads and Heads of Procurement – building a community of practice across NHS Procurement.</p> <p>They provide guidance to the whole community on Policy, and Continuous improvement. They own the repository for best practice storing and sharing 'playbooks' with procurement leads in categories, ICBs and Trusts.</p> <p>They own National operating models and support ICS Procurement Directors in the development of the Strategies.</p> <p>The team lead the Commercial capability agenda – building and coordinating training, accreditations, standardisation of commercial job profiles, and support the ICS and Trust Procurement teams in attracting, developing, retaining talent alongside building a community of NHS Procurement.</p>
<b>NHS Commercial Interventions</b>	<b>The</b>	<p>Commercial Intervention team work across the Commercial Directorate and the wider NHS to identify the categories that require policy and strategic direction or intervention at a national level; driving better value for money for each pound spent.</p> <p>The function focus on priority categories identified by ICS and Trust Procurement leaders across the system or national priorities. Priorities are based on efficiency opportunities and areas requiring national market intervention and shaping.</p> <p>The team provide a convening capability to bring the relevant partners – internally in NHS England and externally across the health and care system - to identify and lead the necessary response and strategy for the identified category / sub-category.</p>
<b>Commercial Efficiency and innovation</b>		<p>This function leads the Commercial Efficiency programme and identifies and works across CCF and Commercial Delivery to identify and coordinate commercial efficiency opportunities.</p> <p>It leads on commercial innovation working with other parts of the system to support approaches to the scaling of innovation with the appropriate</p>





## Shared Business Services

	commercial approaches and support.
<b>Sustainability</b>	<p>By 2045, we see an NHS with a net zero, fair, and transparent supply chain free of modern slavery.</p> <p>The CCF Sustainability team work closely with the Estates Net Zero (NZ) team and through the Commercial NZ board, provide direction and guidance to the whole community on the Net Zero roadmap, which lays out the steps towards the 2045 ambition.</p> <p>The team also provide subject matter expertise on specific aspects within this guidance, such as the social value toolkit and playbooks for both Procurement teams and our Supplier base.</p> <p>The team are also responsible for supporting the NHS commitment to eradicate modern slavery across our supply chain.</p>
<b>Continuity of supply</b>	<p>This team oversee Supplier resilience and plans on behalf of NHSE.</p> <p>This is managed through operational governance and provision of guidance, tools and best practice – which are used by Provider Procurement teams and Category leads within NHSE.</p> <p>The team also identify areas of risk and variation to supply continuity across key categories – and use data and insight to horizon scan global risks and solutions to protect onward supply.</p>
<b>Commercial Systems, Data &amp; Insight</b>	<p>This team leads the Data and Technology workstream within the CCF.</p> <p>They develop the commercial systems, data and intelligence strategy for the NHS, providing the national commercial intelligence systems (e.g., Spend Comparison Service, Atamis, Model Health System Procurement Compartment) and underpinning master data management.</p> <p>They consolidate the NHS commercial system and data landscape and manage select national systems to improve transparency, identify commercial opportunities and risks, enable process efficiency, robust controls and effective decision making leading to improved commercial and estates outcomes.</p>

## Appendix 4: Existing CCF Managed Learning &amp; Development Available

Course Name	Provider	Details
<u>Assessment</u> <u>Development</u> <u>Centre</u> <u>(ADC)</u>	Government Commercial Function	<p>ADC is used to assess the commercial expertise, skills and capability of individuals against the GCF People Standards for the Profession, is recognised certification across the GCF and delivers individuals a comprehensive report with expert insight on your areas of strength and areas for development to help you develop in your career.</p> <p>The NHS has a central budget to fund NHS procurement &amp; commercial staff undertake the ADC. This is voluntary &amp; the policy of who is recommended to undertake it is currently in development.</p>
<u>Contract</u> <u>Management</u> <u>Capability</u> <u>Program</u> <u>me</u> <u>(CMCP)</u>	Government Commercial Function	<p>End to end contract management training set over four levels.</p> <p>Foundation Level</p> <p>Foundation is a flexible, online learning programme for anyone working on a lower value, lower complexity, or lower risk, contract.</p> <ul style="list-style-type: none"> <li>Is available and free to <b>all</b> NHS staff in procurement or commercial.</li> <li>It is ideal for contract managers and anyone working on a government or public sector contract.</li> <li>It provides a broader understanding of the principles of contract management.</li> </ul>

- The focus is the skills and knowledge needed to work on government contracts.

### **The modules**

- Design & ongoing Development
- Procurement & Mobilisation
- Managing contract delivery
- Change control
- Stakeholder engagement
- Risk management

### **Beyond Foundation Level**

As Foundation is a baseline, there can sometimes be a skills 'gap' upwards to the more technical and strategic elements of Practitioner or Expert accreditations. Beyond Foundation bridges the skills 'gap' upwards to the more technical and strategic elements. It focusses on the essential contract management principles and the softer, interpersonal, skills. The course aims:

- to arm you with the insight needed to progress on the more technical practitioner or expert programmes
- to act as a refresher and top-up skills and knowledge ready for success at practitioner-or expert-level accreditation assessment
- Is free to **all** NHS staff in procurement and commercial who have successfully completed the Foundation Level.

**The modules**

- Design & ongoing development
- Procurement, Mobilisation
- Financial control
- Performance management
- Managing change
- Exit and transition
- Stakeholder engagement
- Managing risk

**Practitioner Programme**

A technical contract management qualification, the course has been designed for anyone who manages a supplier or contract as part (or all) of their role, working on medium profile, medium-value (Silver) contracts - with the supplier relationship being medium or high risk. The NHS recommends a minimum AfC Band 7.

The structured learning programme comprises 15 modules and includes formal assessment at the end. It features subject matter-led online workshops, complemented by a couple of Q&A 'drop-in' sessions. These are held over 24 weeks.

**The Modules****Contract design, procurement, mobilisation**

- Business case
- Contract finances
- Initial risk and regulations
- Mobilisation plan (including resourcing)

- Contract literacy
- KPIs and management
- Information and reporting
- Stakeholder management

#### **Contract delivery, change, exit & transition**

- Payment mechanisms and their KPIs
- Contract implementation
- Contract operations (1) & (2)
- Contract performance & managing disputes
- Contract exit and transition
- Programme summary, preparing for assessment

The cost of this programme is currently £[REDACTED] per person. The Central Commercial Function does hold funding for a number of NHS staff members to undertake the course free of charge to them and their organisation each year.

#### **Expert Programme**

Expert is a nationally-recognised, strategic level development & accreditation programme, with 23 modules (with eight further strategic modules topping-up the initial Practitioner programme modules).

It is suitable for anyone who works on large (gold) higher-profile, higher risk contracts as part of their role, it is a blend of individual learning, subject matter-led online workshops, online group

discussion, and Q&A 'drop-in' sessions. It is suggested that it is applicable to those NHS staff on AfC Band 8B and above.

### **The Modules**

#### **Technical Skills**

- Business case
- Contract finances
- Initial risk and regulations
- Mobilisation & resourcing
- Contract literacy
- KPIs
- Information & reporting
- Stakeholder management
- Payment mechanisms & KPIs
- Contract implementation
- Contract operations
- Contract performance & managing disputes
- Contract exit and transition

#### **Strategy**

- Portfolio contract management
- Horizon scanning
- Strategy and political insight
- People & networks
- Strategic models
- VMOST & SWOT
- Preparing for assessment

The cost of this programme is currently £[REDACTED] per person. The Central Commercial Function



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		<p>does hold funding for a number of NHS staff members to undertake the course free of charge to them and their organisation each year.</p>
<p><u>Digital</u></p> <p><u>Apprenticeships</u></p>	Multiverse	<p>Promoted by the CCF but funded by trusts apprenticeship levy.</p> <p>The use of data and analytics within procurement is recognised as an essential skill and there are an increasing number of roles dedicated to managing procurement systems and the production of intelligence to support the function in its deliverables.</p> <p>Last year, a digital skills survey was conducted with procurement staff in the NHS. It identified:</p> <ul style="list-style-type: none"> <li>• 96% of people surveyed confirmed there is a heavy use of Excel in their role.</li> <li>• 43% use patterns in data for decision making - leading to less missed opportunities.</li> <li>• 0% had worked with Python and only 35% had engaged with predictive analytics.</li> <li>• 87% of respondents have gaps between how skilled they are and how critical those skills are for their role.</li> </ul> <p>By upskilling our procurement and commercial workforce in digital and analytic skills, it is estimated staff can save 30% of their time in undertaking existing activities in addition to offering better insight to support decision making and unlocking greater opportunities for the NHS. In the first cohort, Learners are</p>





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		<p>already developing programmes to help better manage data across ICS footprints; track inflation on goods; and automating savings dashboards.</p> <p><b>The NHS Procurement and Commercial Digital Academy</b></p> <p>The NHS Procurement and Commercial Digital Academy aims to support those staff members who want to further their skills and knowledge in data and analytics. Offering three entry points and qualifications, the programme can fit an individual and organisations specific needs. The programmes are focussed on supporting individuals to take the new digital and data skills being learned and applying the skills directly to their specific role. This enables them to drive impact for their organisation and the NHS broadly within months of commencing the programme.</p>
<p><u>Procurement</u></p> <p><u>Graduate</u></p> <p><u>Program</u></p> <p><u>me</u></p>	<p>HCSA</p> <p>with</p> <p>Skills</p> <p>Develo</p> <p>pment</p> <p>Netwo</p> <p>rk</p>	<p>Promoted by the CCF but administered by HCSA and SDN.</p> <p>The NHS Procurement Graduate Training Scheme was introduced in 2020 by The Skills Development Network, Yorkshire &amp; Humber (SDN Y&amp;H), now with support from Health Care Supply Association (HCSA) and NHS England (NHSE), welcoming the first cohort of graduates into NHS procurement teams in 2021.</p>

		<p>This training initiative offers graduates an opportunity to develop a career in NHS procurement. It will allow them to gain experience in buying, contract management, materials management and many more areas within procurement. The graduate programme will give them a unique insight into how an NHS organisation works.</p> <p>This 2-year training scheme is based on work placements and is guaranteed to offer outstanding development opportunities.</p>
<p><u>Procurement Act 2023</u></p>	<p>Cabinet Office</p>	<p>In preparation for the implementation of the Procurement Act, the Cabinet Office have developed a two level training programme that focusses on the differences between the PCR2015 and PA2023.</p> <p><b>eLearning</b></p> <p><b>What are they?</b></p> <p>This is the core training product, which will be open to all public sector procurement and commercial practitioners.</p> <p><b>Who are they for?</b></p> <p>Developed for skilled practitioner level commercial and procurement professionals, who require training to understand the new regime (or aspects of it) such as:</p> <ul style="list-style-type: none"><li>Operational procurement staff (<i>whose main role is to run tenders or let contracts</i>).</li></ul>



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- Procurement or commercial professionals (*whose main role is to manage suppliers or contracts*).

### Content

Module 1 - Scope, definitions and general principles

Module 2 - Transparency

Module 3 - Procurement procedures

Module 4 - Competitive flexible procedure

Module 5 - Frameworks and dynamic markets

Module 6 - Supplier selection

Module 7 - Assessment and award of contracts

Module 8 - Remedies, procurement oversight and the debarment list

Module 9 - Contract governance

Module 10 - Final certification module

### Deep Dive

#### What are they?

These will build on the 'what' provided by the e-Learning to focus on the 'how'.

#### Who are they for?

Aimed at commercial or procurement professionals in contracting authorities who require intensive L&D to become experts in operating the new regime, such as:

- Commercial or procurement leadership team members (*who are directly involved in operational procurement*)
- Strategic commercial practitioners

- In-house specialist procurement or contract lawyers
- Those responsible for commercial or procurement policy and capability

## Content

### Day 1

AM: designing a competitive process (part 1)

PM: designing a competitive process (part 2)

### Day 2

AM: setting award criteria

PM: assessment and award

### Day 3

AM: frameworks and dynamic markets

PM: contract governance

Recognising this training does not go far enough, the CCF has allocated budget to develop, as priority 1 End to End eLearning for Statutory Regulations and Obligations

This eLearning will enable all staff who are in the organisation now and those who join at any point in the future, regardless of their organisation's physical location, regardless of if they work in a community trust or large teaching hospital to be invested in and upskilled in a consistent and equitable way.



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<b>Provider Selection Regime 2023</b>	NHS England	Three 10 minute videos exist on the PSR which is not suffice and the CCF again has allocated budget to develop end to end training on this regime as priority 1.
<b>Masterclasses</b>	Government Commercial Function	The GCF runs hour long lunch & learn and master classes exploring various different topics.
<b>Atamis Training</b>	CCF	<p>Monthly webinars are run by the Digital &amp; Tech team covering:</p> <p><b>Training</b></p> <p><a href="#">Tender Management</a></p> <p><a href="#">DocuSign training session</a></p> <p><a href="#">Notice training session</a></p> <p><a href="#">Sourcing And Evaluation - Managing templates</a></p> <p><a href="#">Dashboards and Reporting</a></p> <p><a href="#">Contract Management</a></p> <p><a href="#">Supplier Relationship Management</a></p> <p><a href="#">Q&amp;A session</a></p>

## Appendix 5: Existing HCSA Learning &amp; Development Available

Course	Description	Outcome	Delivery	Target Audience
<b>Specification Writing</b>	Tools to use to when working with stakeholders to develop specifications.	No formal outcome	Virtual	Any procurement practitioner
<b>Managing Contracts</b>	An understanding to the contract process up to the completion of that contract.	No formal outcome	Virtual	It is primarily designed for procurement staff or those are responsible for ensuring contracts run efficiently and effectively.
<b>Inventory Management</b>	On the course you will learn about: Why do we hold stock? How do we manage stock? Materials Management & Systems	No formal outcome	Virtual	
<b>Stakeholder Management</b>	Tools to use to work effectively with stakeholders	No formal outcome	Virtual	Any procurement practitioner who works with

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	ers at all levels.					stakeholders on a regular basis or those who would like further information on how to establish cohesive working relationships.
<b>Introduction to Procurement</b>	An understanding of the basics of NHS procurement and your role within that, and the part procurement plays in the NHS.	No	formal outcome	Virtual	This	course is primarily designed for those who are new to NHS procurement who want a general overview of NHS procurement, or perhaps simply want a refresher.
<b>Evaluation Techniques</b>	A robust evaluation process fulfils several critical needs: Help define the range of options to be considered Provide the basis for selecting the competing organisations	No	formal outcome	Virtual	Any procurement practitioner	



	Allows objective evaluation of options Provide the basis for on-going performance measurement						
<b>Effective Negotiations 2 day</b>	Understand how good planning and preparation impacts on negotiations Identify why sellers are keen to supply to us Understand the importance of setting clear objectives Identify the process of conditioning Learn how to control a negotiation session by using body language, questioning skills and active listening Have the opportunity to practice key negotiation skills with other delegates and tutors in a safe environment Have the opportunity to work with other delegates, sharing experiences	No	formal outcome	Face to Face	Any procurement practitioner		



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<b>Value</b>	<b>Based</b>	In the introductory	No	formal	Virtual	Do	you	lead
<b>Procurement</b>	<b>Procurement</b>	module,		outco				procurem
<b>(2 sessions)</b>	<b>(2 sessions)</b>	you will		me				ent
		learn						projects?
		about the						Or are
		similaritie						you
		s and						responsi
		difference						ble for
		s between						managin
		VBP and						g costs in
		Value-						your part
		Based-						of the
		Healthcar						organisat
		e and						ion? If so,
		understan						this
		d the						course
		context of						will
		VBP						provide
		within the						the
		NHS. This						essential
		stage will						learning
		also						required.
		explain						
		how VBP						
		has been						
		used in						
		global						
		healthcar						
		e and						
		enable						
		you to						
		understan						
		d how						
		VBP can						
		be used in						
		practice						
		within						
		your own						
		NHS						
		Trusts.						
		The final						
		stage of						
		the						
		journey						
		explains						
		the						
		complex						

stakeholder relationships within healthcare. By evaluating opportunities to apply VBP in your own categories of spend, you will be able to apply the tangible and measurable benefits of VBP in your own Trusts.						
<b>Legitimate Leadership (2 days) Pilot in September</b>	The Legitimate Leadership model addresses the following question – What Accounts for Trust in Management? Trust is critical for any organisation principally for three reasons: 1. High levels of trust equate to high levels of willingness. 2. When people trust their leaders, transformative change can take place.	No	formal outcome	Face	to Face	Future Leaders



## Shared Business Services

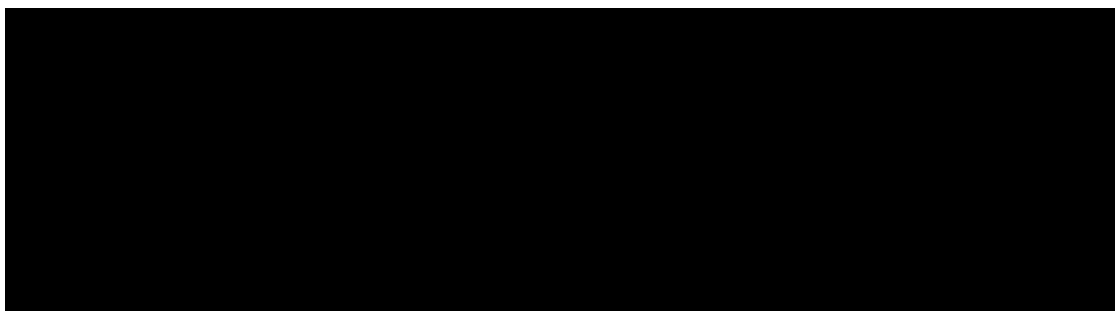
	3. Where there is trust there is collaboration – people help each other.				
<b>Procurement Development Programme</b>	Residential 5 days Programme will vary	No	formal outcome	Residential	Future Leaders
<b>Change Management (HPCA) Pilot</b>	Gain insights into the dynamics of organisational change and learn strategies for effective change management that can be applied within the procurement function, in this comprehensive one-day online course.	No	formal outcome	Virtual	Any procurement practitioner
<b>Project Management (HPCA) Pilot</b>	This one-day online course introduces procurement professionals to the fundamentals of project management, including planning, execution, and monitoring, to ensure project success from start to finish.	No	formal outcome	Virtual	Any procurement practitioner
<b>Introduction to Benefits/Contracts Management Course (HPCA) Pilot</b>	Learn to identify, plan, and realise benefits from project and change contract KPIs and quality assurance measures and	No	formal outcome	Virtual	Any procurement practitioner



## Shared Business Services

		metrics in contract management, in this online course, enhancing your ability to ensure outcomes are achieved.					
<b>Leadership Projects Change Course (HPCA) Pilot</b>	<b>- &amp;</b>	This course focuses on developing leadership skills for engaging in strategic projects and change portfolio development, offering practical tools and strategies to inspire and guide your teams successfully, and engage and influence senior leadership.	No	formal outcome	Virtual		Any procurement practitioner
<b>Introduction to Risk Management Course (HPCA) Pilot</b>		Discover the key concepts of risk management in this online course, learning how to identify, analyse, and mitigate risks in procurement and project environments.	No	formal outcome	Virtual		Any procurement practitioner
<b>The Head Gardener (3 modules) Pilot</b>		Knowledge, skill and experience developed in 3 modules: · Building and maintaining successful and effective teams	No	formal outcome	Face to Face	Band 7 and above	

· Growing confidence in having 'difficult conversations'.  
· Understanding leadership styles and their impact on the team / stakeholders  
Each module builds upon the one before to 'cultivate success'. To grow effective teams, takes effective leadership and teaming, which begins with the self. The programme uses the model of The HEAD Gardener (based on behavioural and neuroscience) and gives the individual and team the tools to apply as circumstances change and develop.

**Bid**



**Schedule 6**

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Commercial Schedule – Core requirements

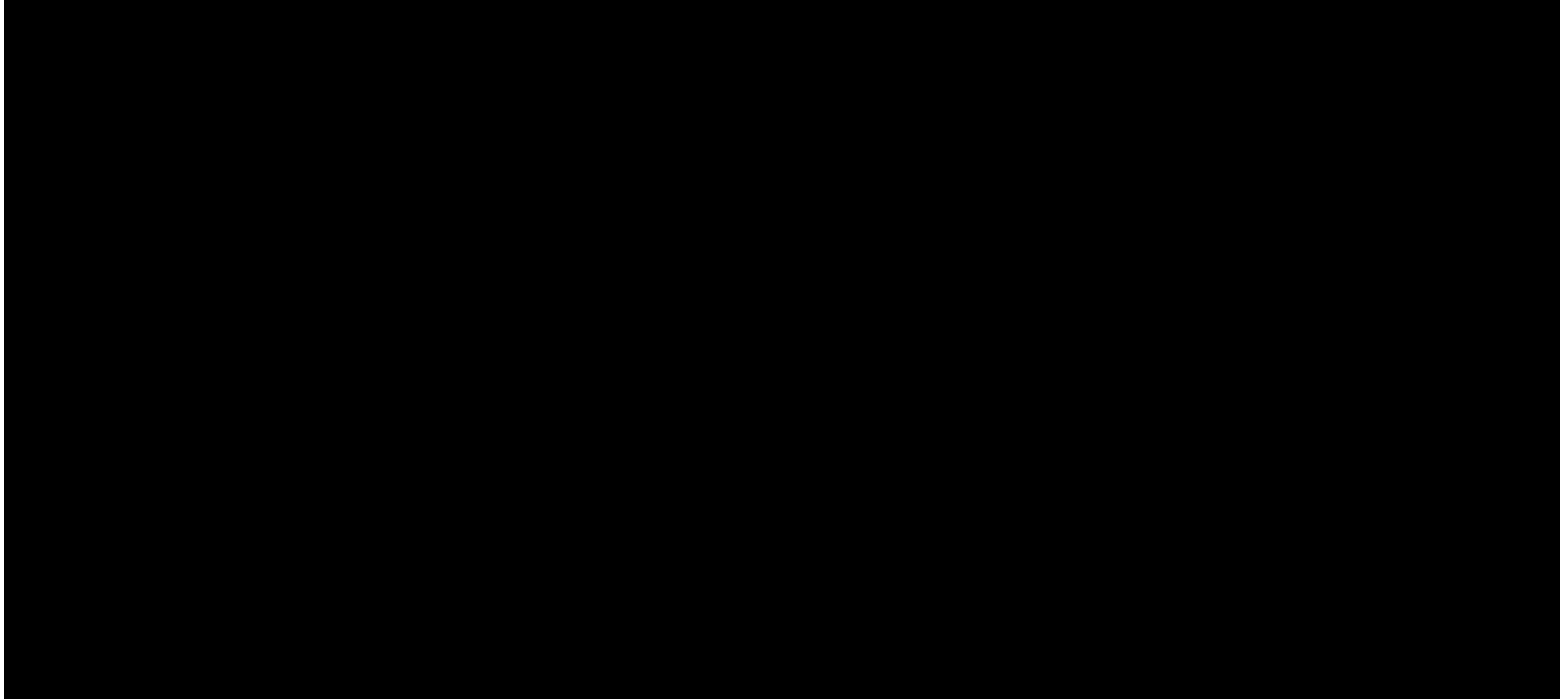
Milestone Name	Brief Description of Milestone <i>(please correlate to your response to Technical Question 5)</i>	Week No. After Contract Commencement	Total (£)





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Commercial Schedule - Additional Commercial and Materials Management Teams added to scope



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## **Schedule 7**

### **Corporate Social Responsibility**

#### **1. What we expect from our Suppliers**

- 1.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of Suppliers who work with government  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779660/20190220-Supplier\\_Code\\_of\\_Conduct.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf)
- 1.2 The Suppliers and Sub-contractors shall:
  - 1.2.1 meet the standards set out in the Supplier Code of Conduct ; and
  - 1.2.2 comply with the standards set out in this Schedule 7.
- 1.3 The Supplier acknowledges that the Approved Organisation may have additional requirements in relation to corporate social responsibility. The Approved Organisation expects that the Supplier and its Sub-contractors shall comply with such corporate social responsibility requirements as the Approved Organisation may notify the Supplier from time to time.
- 1.4 Notwithstanding Clause 23 (Change Management) of Schedule 2, the Approved Organisation reserves the right to update the Supplier Code of Conduct from time to time.

#### **2. Equality and Accessibility**

- 2.1 In addition to legal obligations, the Supplier shall support the Approved Organisation in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under this Framework Agreement in a way that seeks to:
  - 2.1.1 eliminate discrimination, harassment or victimisation of any kind; and
  - 2.1.2 advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

#### **3. Modern Slavery, Child Labour and Inhumane Treatment**

**"Modern Slavery Helpline"** means the mechanism for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online

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at <https://www.modernslaveryhelpline.org/report> or by telephone on 08000 121 700.

**3.1 The Supplier:**

- 3.1.1 shall not use, nor allow its Sub-Contractors to use forced, bonded or involuntary prison labour;
- 3.1.2 shall not require any Supplier Staff or Sub-contractor Staff to lodge deposits or identify papers with their employer and shall be free to leave their employer after reasonable notice;
- 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;
- 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world;
- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Sub-Contractors have not been convicted of slavery or human trafficking offenses anywhere around the world;
- 3.1.6 shall have and maintain throughout the Term of the Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act and include in its contracts with its Sub-Contractors anti-slavery and human trafficking provisions;
- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract;
- 3.1.8 shall prepare and deliver to the Approved Organisation, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with this paragraph 3 of this Schedule 7;
- 3.1.9 shall not use, nor allow its employees or Sub-Contractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Sub-contractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;



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3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Sub-Contractors to the Approved Organisation and Modern Slavery Helpline.

### 4. Sustainability

4.1 The Supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-governmentbuying-standards-gbs>

#### Schedule 8

#### Contract Change Notice

Contract Details	
This variation is between:	NHS England ("the <b>Approved Organisation</b> ") And Moorhouse Consulting Ltd ("the <b>Supplier</b> ")
Contract name:	Commercial Training Needs Analysis ("the <b>Contract</b> ")
Contract reference number:	C320444
Details of Proposed Variation	
Variation initiated by:	[delete] as applicable: Approved Organisation/Supplier]
Variation number:	[insert] variation number]
Date variation is raised:	[insert] date]
Proposed variation	
Reason for the variation:	[insert] reason]
An Impact Assessment shall be provided within:	[insert] number] days
Impact of Variation	



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Likely impact of the proposed variation:	[Supplier to insert] assessment of impact]	
<b>Outcome of Variation</b>		
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"> <li>• [Approved Organisation to insert] original Clauses or Paragraphs to be varied and the changed clause]</li> </ul>	
Financial variation:	Original Contract Value:	£ [insert] amount]
	Additional cost due to variation:	£ [insert] amount]
	New Contract value:	£ [insert] amount]

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by the Approved Organisation.
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Approved Organisation

Signature	
Date	
Name (in Capitals)	
Address	

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature	
Date	



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Name (in Capitals)	
Address	