

**C237071 Framework Agreement Relating to:  
Delivery of General Practice Level Support as outlined in the Primary  
Care Access Recovery Plan (PCARP)**

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**NHS ENGLAND  
AND  
ROYAL COLLEGE OF GENERAL PRACTITIONERS**

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## NHS FRAMEWORK AGREEMENT FOR THE PROVISION OF SERVICES

<b>The Authority</b>	<b>NHS England, Wellington House, 133-155 Waterloo Road, London, SE1 8UG</b>
<b>The Supplier</b>	<b>Royal College of General Practitioners, 30 Euston Square, London, NW1 2FB (Registered number: 3896012)</b>
<b>Date</b>	<b>As per signatures</b>
<b>Type of Services</b>	<b>Delivery of General Practice Level Support as outlined in the Primary Care Access Recovery Plan (PCARP)</b>

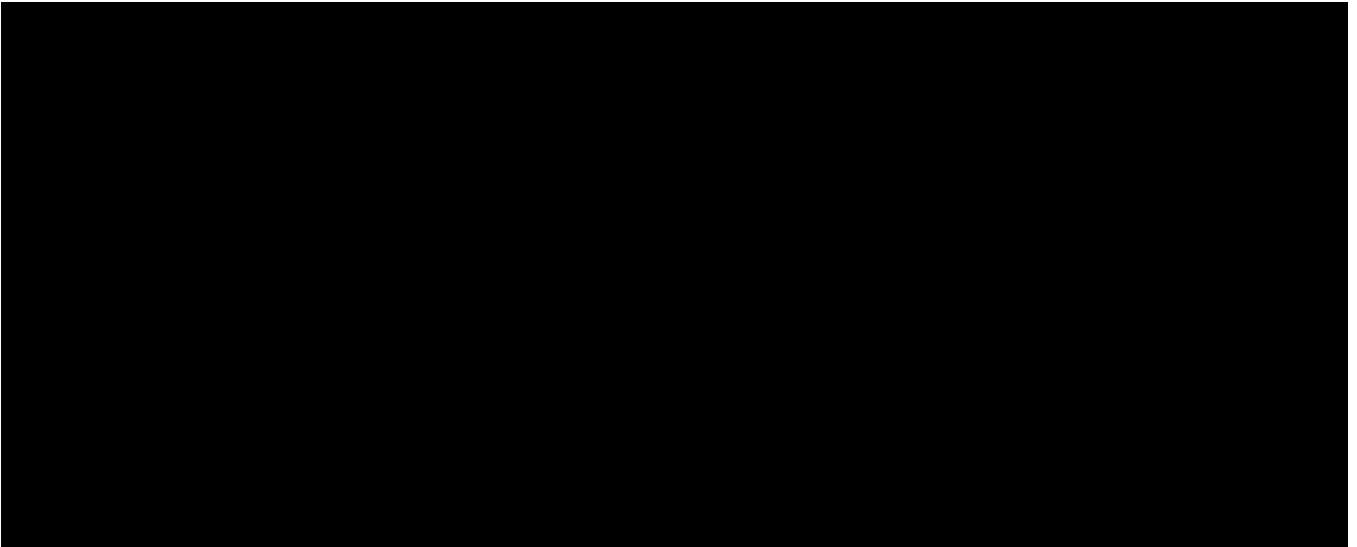
This Framework Agreement is made on the date set out above subject to the terms set out in the schedules and appendix listed below ("**Schedules**"). The Authority and the Supplier undertake to comply with the provisions of the Schedules in the performance of this Framework Agreement.

The Definitions in Schedule 4 apply to the use of all capitalised terms in this Framework Agreement.

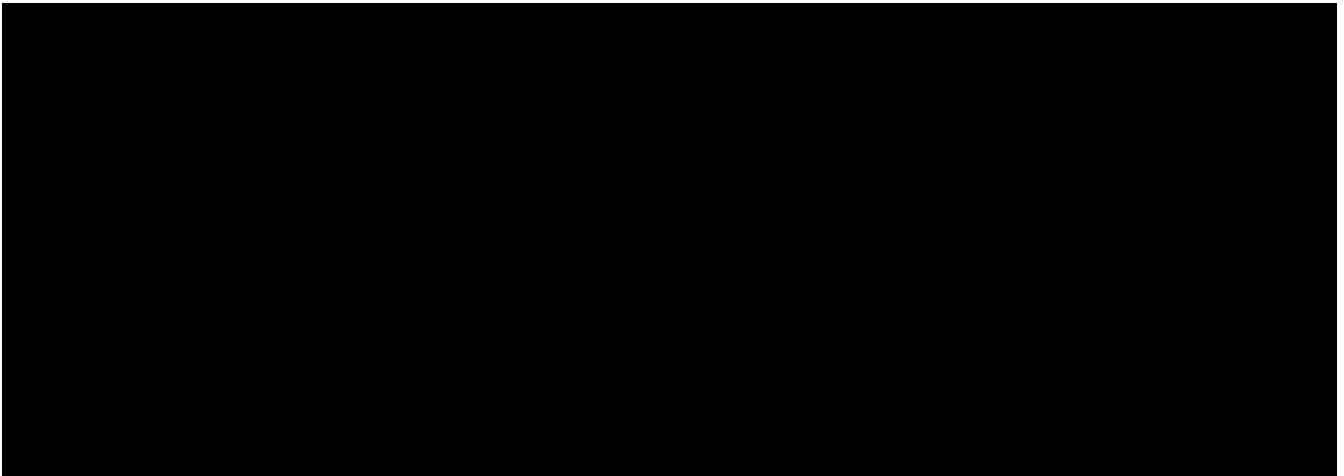
### **Schedules**

<b>Schedule 1</b>	Key Provisions
<b>Schedule 2</b>	General Terms and Conditions
<b>Schedule 3</b>	Information and Data Provisions
<b>Schedule 4</b>	Definitions and Interpretations
<b>Schedule 5</b>	Specification and Tender Response Document
<b>Schedule 6</b>	Commercial Schedule
<b>Schedule 7</b>	Ordering Procedure
<b>Appendix A</b>	Call-off Terms and Conditions for the Provision of Services

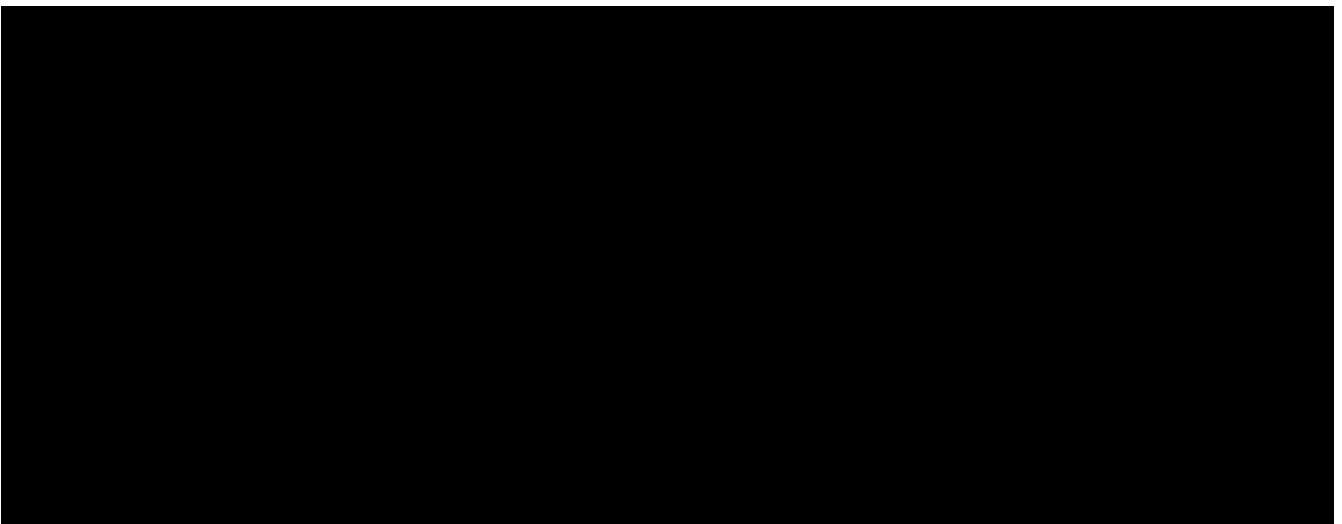
**Signed by the authorised representative of THE AUTHORITY**



**Signed by [REDACTED] on behalf of THE SUPPLIER**



**Signed by [REDACTED] on behalf of THE SUPPLIER**



## **Schedule 1**

### **Key Provisions**

#### **Standard Key Provisions**

##### **1 Application of the Key Provisions**

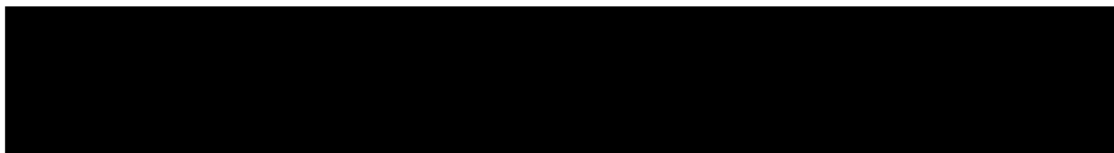
- 1.1 The standard Key Provisions at Clauses 1 to 8 of this Schedule 1 shall apply to this Framework Agreement.
- 1.2 The optional Key Provisions at Clauses 9 to 11 of this Schedule 1 shall only apply to this Framework Agreement where they have been checked and information completed as applicable.
- 1.3 Extra Key Provisions shall only apply to this Framework Agreement where such provisions are set out at the end of this Schedule 1.

##### **2 Term**

- 2.1 The Term of this Framework Agreement shall be **12 months** from the Commencement Date and may be extended in accordance with Clause 15.2 of Schedule 2 provided that the duration of this Framework Agreement shall be no longer than **24 months** in total.

##### **3 Contract Managers**

- 3.1 The Contract Managers at the commencement of this Framework Agreement are:
  - 3.1.1 for the Authority:

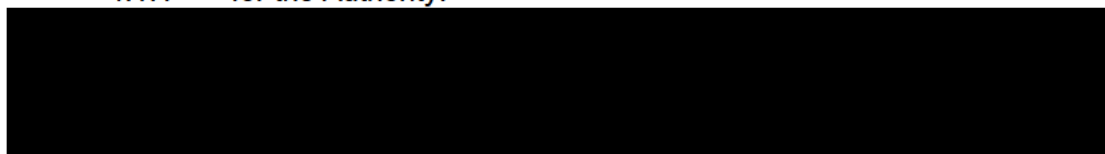


- 3.1.2 for the Supplier:



##### **4 Names and addresses for notices**

- 4.1 Notices served under this Framework Agreement are to be delivered to:
  - 4.1.1 for the Authority:



- 4.1.2 for the Supplier:



## **5 Management levels for escalation and dispute resolution**

5.1 The management levels at which a Dispute will be dealt with are as follows:

<b>Level</b>	<b>Authority representative</b>	<b>Supplier representative</b>
<b>1</b>	<b>Contract Manager</b>	<b>Contract Manager</b>
<b>2</b>	<b>Deputy Director or equivalent</b>	<b>Deputy Director or equivalent</b>

## **6 Order of precedence**

6.1 Subject always to Clause 1.10 of Schedule 4, should there be a conflict between any other parts of this Framework Agreement the order of priority for construction purposes shall be:

- 6.1.1 the provisions on the front page of this NHS Framework Agreement for the Provision of Services;
- 6.1.2 Schedule 1: Key Provisions;
- 6.1.3 Schedule 5: Specification and Tender Response Document (but only in respect of the Authority's requirements);
- 6.1.4 Schedule 2: General Terms and Conditions;
- 6.1.5 Schedule 6: Commercial Schedule;
- 6.1.6 Schedule 3: Information Governance Provisions;
- 6.1.7 Schedule 4: Definitions and Interpretations;
- 6.1.8 the order in which all subsequent schedules, if any, appear; and
- 6.1.9 any other documentation forming part of the Framework Agreement 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.

6.2 For the avoidance of doubt, the Specification and Tender Response Document shall include, without limitation, the Authority's requirements in the form of its specification and other statements and requirements, the Supplier's responses, proposals and/or method statements to meet those requirements, and any clarifications to the Supplier's responses, proposals and/or method statements as included as part of Schedule 5. Should there be a conflict between these parts of the Specification and Tender Response Document, the order of priority for construction purposes shall be (1) the Authority's requirements; (2) any clarification to the Supplier's responses, proposals and/or method statements, and (3) the Supplier's responses, proposals and/or method statements.

## **7 Participating Authorities**

7.1 The following Contracting Authorities are entitled to place Orders:

- 7.1.1 NHS England

For the avoidance of doubt, any successor bodies of any of the above entities shall be entitled to place Orders and shall be deemed Participating Authorities for the purposes of this Framework Agreement.

## 8 Net Zero and Social Value Commitments

### Supplier carbon reduction plans and reporting

- 8.1 The Supplier shall put in place, maintain and implement a board approved, publicly available, carbon reduction plan in accordance with the requirements and timescales set out in the NHS Net Zero Supplier Roadmap (see [Greener NHS »Suppliers \(england.nhs.uk\)](https://www.england.nhs.uk/greenernhs/get-involved/suppliers/) (<https://www.england.nhs.uk/greenernhs/get-involved/suppliers/>)), as may be updated from time to time.
- 8.2 A supplier assessment for benchmarking and reporting progress against the requirements detailed in the Net Zero Supplier Roadmap will be available in 2023 ("**Evergreen Supplier Assessment**"). The Supplier shall report its progress through published progress reports and continued carbon emissions reporting through the Evergreen Supplier Assessment once this becomes available and as may be updated from time to time.
- 8.3 The Supplier has appointed [REDACTED] ("**Supplier Net Zero Corporate Champion**") who shall be responsible for overseeing the Supplier's compliance with Clauses 8.1 and 8.2 of this Schedule 1 and any net zero requirements forming part of any Contracts. Without prejudice to the Authority's other rights and remedies under this Framework Agreement, if the Supplier fails to comply with Clauses 8.1 and 8.2 of this Schedule 1, the Authority may escalate such failure to the Supplier Net Zero Corporate Champion who shall within ten (10) Business Days of such escalation confirm in writing to the Authority the steps (with associated timescales) that the Supplier will be taking to remedy such failure. The Supplier shall then remedy such failure by taking such confirmed steps by such timescales (and by taking any other reasonable additional steps that may become necessary) to ensure that such failure is remedied by the earliest date reasonably possible.

### Net zero and social value in the delivery of the contract

- 8.4 The Supplier shall deliver its net zero and social value contract commitments in accordance with the requirements and timescales set out in the Specification and Tender Response Document forming part of this Framework Agreement and any Contracts ("**Net Zero and Social Value Contract Commitments**").
- 8.5 The Supplier shall report its progress on delivering its Net Zero and Social Value Contract Commitments through progress reports, as set out in the Specification and Tender Response Document forming part of this Framework Agreement and any Contracts.
- 8.6 The Supplier has appointed [REDACTED] ("**Supplier Net Zero and Social Value Contract Champion**") who shall be responsible for overseeing the Supplier's compliance with Clauses 8.4 and 8.5 of this Schedule 1 and any net zero and social value requirements forming part of any Contracts. Without prejudice to the Authority's other rights and remedies under this Framework Agreement, if the Supplier fails to comply with Clauses 8.4 and 8.5 of this Schedule 1, the Authority may escalate such failure to the Supplier Net Zero and Social Value Contract Champion who shall within ten (10) Business Days of such escalation confirm in writing to the Authority the steps (with associated timescales) that the Supplier will be taking to remedy such failure. The Supplier shall then remedy such failure by taking such confirmed steps by such timescales (and by taking any other reasonable additional steps that may become

necessary) to ensure that such failure is remedied by the earliest date reasonably possible.

### **Optional Key Provisions**

- 9 **Quality assurance standards** ☐ (only applicable to the Framework Agreement if this box is checked and the standards are listed)

9.1 The following quality assurance standards shall apply, as appropriate, to the provision of the Services: ***[insert standards]***.

- 10 **Different levels and/or types of insurance** ☒ (only applicable to the Framework Agreement if this box is checked and the table sets out the requirements)

10.1 The Supplier shall put in place and maintain in force the following insurances with the following minimum cover per claim:

Type of insurance required	Minimum cover
Employer's liability insurance	£5,000,000
Public liability insurance	£2,000,000
Professional indemnity insurance	£2,000,000

- 11 **Guarantee** ☐ (only applicable to the Framework Agreement if this box is checked)

11.1 Promptly following the execution of this Framework Agreement, the Supplier shall, if it has not already delivered an executed deed of guarantee to the Authority, deliver the executed deed of guarantee to the Authority as required by the procurement process followed by the Authority. Failure to comply with this Key Provision shall be an irremediable breach of this Framework Agreement.

### **Extra Key Provisions**

- 12 **Implementation phase** ☒ (only applicable to the Framework Agreement if this box is checked)

12.1 Prior to commencement of delivery of the Services, there is an implementation phase and therefore all references in Schedule 2 to the Implementation Plan shall apply and the Implementation Plan is set out in Schedule 5.

- 13 **Service Commencement Date (where the Services are to start at a date after the Commencement Date** ☒ (only applicable to the Framework Agreement if this box is checked and the dates are inserted in Clause 9.1 of this Schedule 1)

- 13.1 The Services Commencement Date shall be 1 July 2024 and the Long Stop Date referred to in Clause 15.5.1 of Schedule 2 shall be 1 July 2024.
- 14 **Assignment of Intellectual Property Rights in deliverables, materials and outputs** ☒ (only applicable to the Framework Agreement if this box is checked)
- 14.1 The Supplier confirms and agrees that all Intellectual Property Rights in and to the deliverables, material and any other output developed by the Supplier as part of the Services in accordance with the Specification and Tender Response Document, shall be owned by the Authority. The Supplier hereby assigns with full title guarantee by way of present and future assignment all Intellectual Property Rights in and to such deliverables, material and other outputs. The Supplier shall ensure that all Staff assign any Intellectual Property Rights they may have in and to such deliverables, material and other outputs to the Supplier to give effect to Clause 14 of this Schedule 1 and that such Staff absolutely and irrevocably waive their moral rights in relation to such deliverables, material and other outputs. Clause 14 of this Schedule 1 shall continue notwithstanding the expiry or earlier termination of this Framework Agreement.
- 15 **Authority step-in rights** ☐ (only applicable to the Framework Agreement if this box is checked)
- 16 **Supplier as Data Processor** ☒ (only applicable to the Framework Agreement if this box is checked)
- 16.1 The Parties acknowledge that the Authority is the Controller and the Supplier is the Processor in respect of Personal Data Processed under this Framework Agreement and that paragraph 2.2 of Schedule 3 and the provisions of the Data Protection Protocol must be complied with by the Parties as a term of this Framework Agreement.
- 17 **Purchase Orders** ☒ (only applicable to the Framework Agreement if this box is checked)
- 17.1 The Authority shall issue a Purchase Order to the Supplier in respect of any Services to be supplied to the Authority under this Framework Agreement. The Supplier shall comply with the terms of such Purchase Order as a term of this Framework Agreement. For the avoidance of doubt, any actions or work undertaken by the Supplier under this Framework Agreement prior to the receipt of a Purchase Order covering the relevant Services shall be undertaken at the Supplier's risk and expense and the Supplier shall only be entitled to invoice for Services covered by a valid Purchase Order.



- 18 **Monthly payment profile ☒ (only applicable to the Framework Agreement if this box is checked)**
- 18.1 The payment profile for call-offs under this Framework Agreement shall be monthly in arrears.
- 19 **Right to terminate following a specified number of material breaches ☒ (only applicable to the Framework Agreement if this box is checked and Clause 19.1 of this Schedule 1 is completed)**
- 19.1 Either Party may terminate this Framework Agreement by issuing a Termination Notice to the other Party if such other Party commits a material breach of this Framework Agreement in circumstances where it is served with a valid Breach Notice having already been served with at least two (2) previous valid Breach Notices within the last twelve (12) calendar month rolling period as a result of any previous material breaches of this Framework Agreement which are capable of remedy (whether or not the Party in breach has remedied the breach in accordance with a Remedial Proposal). The twelve (12) month rolling period is the twelve (12) months immediately preceding the date of the third Breach Notice.
- 19.2 A material breach of this Framework by the Supplier shall include but not be limited to that Supplier persistently failing to accept Orders under this is Framework Agreement.
- 19.3 Where the Supplier:
- 19.3.1 declines an offer of an Order for a reasons that the Authority (acting reasonably) does not consider legitimate, or
- 19.3.2 declines an offer of an Order but provides no reasons; or
- 19.3.3 an Order lapses;
- then the Authority shall be entitled to serve a Breach Notice on the Supplier.
- 20 **Expert Determination ☐ (only applicable to the Framework Agreement if this box is checked)**

## **Schedule 2**

### **General Terms and Conditions**

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2. Authority commitments
3. Ordering procedures
4. Reasonable assistance
5. Supplier Performance and Lifescience Industry Accredited Credentialing Register
6. Business continuity
7. The Authority's obligations
8. Contract management
9. Price and payment
10. Warranties
11. Statutory compliance
12. Independence of Participating Authorities
13. Limitation of liability
14. Insurance
15. Term and termination
16. Consequences of expiry or early termination of this Framework Agreement
17. Suspension of Supplier's appointment
18. Complaints
19. Modern slavery and environmental, social and labour laws
20. Electronic services information
21. Change management
22. Dispute resolution
23. Force majeure
24. Records retention and right of audit
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26. Equality and human rights
27. Notice
28. Assignment, novation and subcontracting
29. Prohibited Acts
30. General

## **1 Supplier's appointment**

- 1.1 The Authority appoints the Supplier as a potential provider of the Services and the Supplier shall be eligible to be considered for the award of Orders during the Term.
- 1.2 In consideration of the Authority agreeing to appoint the Supplier to this Framework Agreement in accordance with Clause 1.1 of this Schedule 2 and the mutual exchange of promises and obligations under this Framework Agreement, the Supplier undertakes to provide the Services under Orders placed with the Supplier:
  - 1.2.1 of the exact quality, type and as otherwise specified in the Specification and Tender Response Document;
  - 1.2.2 at the Contract Price calculated in accordance with the Commercial Schedule; and
  - 1.2.3 to such extent and at such times and at such locations as may be specified in an Order.
- 1.3 The Supplier agrees that the Call-off Terms and Conditions for the Provision of Services shall apply to all Services provided by the Supplier to a Participating Authority pursuant to this Framework Agreement. The Supplier agrees that it will not in its dealings with a Participating Authority seek to impose or rely on any other contractual terms which in any way vary or contradict the relevant Contract.
- 1.4 The Supplier shall comply fully with its obligations set out in this Framework Agreement, the Specification and Tender Response Document, the Call-off Terms and Conditions for the Provision of Services and any other provisions of Contracts entered into under and in accordance with this Framework Agreement (to include, without limitation, the KPIs).
- 1.5 In complying with its obligations under this Framework Agreement, the Supplier shall, and shall procure that all Staff shall, act in accordance with the NHS values as set out in the NHS Constitution from time to time.

## **2 Authority commitments**

- 2.1 Unless otherwise set out in the Commercial Schedule, the Supplier acknowledges that:
  - 2.1.1 there is no obligation on the Authority or on any other Participating Authority to purchase any Services from the Supplier during the Term;
  - 2.1.2 no undertaking or any form of statement, promise, representation or obligation has been made by the Authority and/or any other Participating Authority in respect of the total volumes or value of the Services to be ordered by them pursuant to this Framework Agreement and the Supplier acknowledges and agrees that it has not entered into this Framework Agreement on the basis of any such undertaking, statement, promise or representation;
  - 2.1.3 in entering this Framework Agreement, no form of exclusivity has been granted by the Authority and/or other Participating Authority; and
  - 2.1.4 the Authority and/or other Participating Authorities are at all times entitled to enter into other contracts and agreements with other suppliers for the provision of any or all services which are the same as or similar to the Services.

3 **Ordering procedure**

- 3.1 Any Participating Authority may enter into Contracts by placing an Order in accordance with the Ordering Procedure.

4 **Reasonable assistance**

- 4.1 Upon the written request of any Participating Authority, the Supplier shall provide such Participating Authority with any reasonable and proportionate information that it holds about the Services it supplies under this Framework Agreement including, without limitation, alongside other related services, to enable the Participating Authority to complete any necessary due diligence before purchasing such Services, or any connected or replacement Services.

5 **Supplier Performance and Lifescience Industry Accredited Credentialing Register**

- 5.1 The Supplier shall perform all Contracts entered into under this Framework Agreement by the Authority or any other Participating Authority in accordance with:

5.1.1 the requirements of this Framework Agreement; and

5.1.2 the provisions of the respective Contracts.

- 5.2 Unless otherwise confirmed by the Authority 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 Authority (to include as may be set out as part of any procurement documents leading to the award of this Framework Agreement) 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.

6 **Business continuity**

- 6.1 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:

6.1.1 the criticality of this Framework Agreement to the Participating Authorities;  
and

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

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

- 6.2 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 Framework Agreement to Participating Authorities and the size and scope of the Supplier's business operations. The Supplier shall promptly provide to the Authority, at the Authority'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 6.2 of this Schedule 2 and reasonable and proportionate information regarding the outcome of such tests. The Supplier shall provide to the Authority a copy of any updated or revised Business

Continuity Plan within fourteen (14) Business Days of any material update or revision to the Business Continuity Plan.

- 6.3 The Authority may suggest reasonable and proportionate amendments to the Supplier regarding the Business Continuity Plan at any time. Where the Supplier, acting reasonably, deems such suggestions made by the Authority to be relevant and appropriate, the Supplier will incorporate into the Business Continuity Plan all such suggestions made by the Authority in respect of such Business Continuity Plan. Should the Supplier not incorporate any suggestion made by the Authority into such Business Continuity Plan it will explain the reasons for not doing so to the Authority.
- 6.4 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 Authority on such implementation.
- 6.5 During and following a Business Continuity Event, the Supplier shall use reasonable endeavours to continue to fulfil its obligations in accordance with this Framework Agreement.

## **7 The Authority's obligations**

- 7.1 The Authority shall provide reasonable cooperation to the Supplier and shall, as appropriate, provide copies of or give the Supplier access to such of the Policies that are relevant to the Supplier complying with its obligations under this Framework Agreement.
- 7.2 The Authority shall comply with the Authority's Obligations, if any.

## **8 Contract management**

- 8.1 Each Party shall appoint and retain a Contract Manager who shall be the primary point of contact for the other Party in relation to matters arising from this Framework Agreement. Should the Contract Manager be replaced, the Party replacing the Contract Manager shall promptly inform the other Party in writing of the name and contact details for the new Contract Manager. Any Contract Manager appointed shall be of sufficient seniority and experience to be able to make decisions on the day to day operation of the Framework Agreement. The Supplier confirms and agrees that it will be expected to work closely and cooperate fully with the Authority's Contract Manager.
- 8.2 Each Party shall ensure that its representatives (to include, without limitation, its Contract Manager) shall attend review meetings on a regular basis to review the performance of the Supplier under this Framework Agreement and to discuss matters arising generally under this Framework Agreement. Each Party shall ensure that those attending such meetings have the authority to make decisions regarding the day to day operation of the Framework Agreement. Review meetings shall take place at the frequency specified in the Specification and Tender Response Document. Should the Specification and Tender Response Document 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 quarterly intervals or as may otherwise be agreed in writing between the Parties.
- 8.3 Two weeks prior to each review meeting (or at such time and frequency as may be specified in the Specification and Tender Response Document) the Supplier shall provide a written contract management report to the Authority regarding the provision of the Services and the operation of this Framework Agreement. Unless otherwise agreed by the Parties in writing, such contract management report shall contain:

- 8.3.1 details of the performance of the Supplier under this Framework Agreement and any Contracts when assessed in accordance with the KPIs, as relevant to the Framework Agreement and any Contracts, since the last such performance report;
  - 8.3.2 details of any complaints by Participating Authorities in relation to the provision of the Services, their nature and the way in which the Supplier has responded to such complaints since the last review meeting written report;
  - 8.3.3 the information specified in the Specification and Tender Response Document as being relevant to the operation of this Framework Agreement;
  - 8.3.4 a status report in relation to the implementation of any current Remedial Proposals by either Party; and
  - 8.3.5 such other information as reasonably required by the Authority.
- 8.4 Unless specified otherwise in the Specification and Tender Response Document, the Authority shall take minutes of each review meeting and shall circulate draft minutes to the Supplier within a reasonable time following such review meeting. The Supplier shall inform the Authority in writing of any suggested amendments to the minutes within five (5) Business Days of receipt of the draft minutes. If the Supplier does not respond to the Authority within such five (5) Business Days the minutes will be deemed to be approved. Where there are any differences in interpretation of the minutes, 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 0 of the Key Provisions and Clause 22.3 of this Schedule 2.
- 8.5 The Supplier shall provide such management information as the Authority may request from time to time within seven (7) Business Days of the date of the request. The Supplier shall supply the management information to the Authority in such form as may be specified by the Authority and, where requested to do so, the Supplier shall also provide such management information to another Contracting Authority, whose role it is to analyse such 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) ("**Third Party Body**"). The Supplier confirms and agrees that the Authority may itself provide the Third Party Body with management information relating to the Services ordered and any payments made under this Framework Agreement or any Contracts and any other information relevant to the operation of this Framework Agreement.
- 8.6 Upon receipt of management information supplied by the Supplier to the Authority and/or the Third Party Body, or by the Authority to the Third Party Body, the Parties hereby consent to the Third Party Body and the Authority:
- 8.6.1 storing and analysing the management information and producing statistics; and
  - 8.6.2 sharing the management information, or any statistics produced using the management information with any other Contracting Authority.
- 8.7 If the Third Party Body and/or the Authority shares the management information or any other information provided under Clause 8.6 of this Schedule 2, any Contracting Authority receiving the management information shall, where such management information is subject to obligations of confidence under this Framework Agreement and such management information is provided direct by the Authority to such



Contracting Authority, be informed of the confidential nature of that information by the Authority and shall be requested by the Authority not to disclose it to any body that is not a Contracting Authority (unless required to do so by Law).

- 8.8 The Authority may make changes to the type of 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 Price and payment**

- 9.1 The Contract Price for all Contracts shall be calculated as set out in the Commercial Schedule and the payment provisions for all Contracts shall be as set out in the Call-off Terms and Conditions for the Provision of Services.
- 9.2 Where any payments are to be made under this Framework Agreement by either Party in addition to any payments to be made by Participating Authorities under any Contracts, the details of such payments and the invoicing arrangements shall be set out in the Commercial Schedule.
- 9.3 Where the Authority is entitled to receive any sums (including, without limitation, any costs, charges or expenses) from the Supplier under this Framework Agreement, the Authority may invoice the Supplier for such sums. Such invoices shall be paid by the Supplier within 30 days of the date of such invoice.
- 9.4 If a Party fails to pay any undisputed sum properly due to the other Party under this Framework Agreement, 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 Warranties**

- 10.1 The Supplier warrants and undertakes that:
- 10.1.1 it will comply with the terms of all Contracts entered into by Participating Authorities under this Framework Agreement;
  - 10.1.2 it will fully and promptly respond to all requests for information and/or requests for answers to questions regarding this Framework Agreement, any Contracts, the provision of the Services, any complaints and any Disputes at the frequency, in the timeframes and in the format as requested by the Authority from time to time (acting reasonably);
  - 10.1.3 all information included within the Supplier's responses to any documents issued by the Authority as part of the procurement relating to the award of this Framework Agreement (to include, without limitation, as referred to in the Specification Document and Commercial Schedule) and all accompanying materials is accurate;
  - 10.1.4 it has and shall as relevant maintain all rights, consents, authorisations, licences and accreditations required to enter into and comply with its obligations under this Framework Agreement;
  - 10.1.5 it has the right and authority to enter into this Framework Agreement and that it has the capability and capacity to fulfil its obligations under this Framework Agreement;
  - 10.1.6 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 Framework Agreement and the documents referred to in this Framework Agreement;

- 10.1.7 all necessary actions to authorise the execution of and performance of its obligations under this Framework Agreement have been taken before such execution;
- 10.1.8 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;
- 10.1.9 there are no material agreements existing to which the Supplier is a party which prevent the Supplier from entering into or complying with this Framework Agreement;
- 10.1.10 it has and will continue to have the capacity, funding and cash flow to meet all its obligations under this Framework Agreement;
- 10.1.11 it has satisfied itself as to the nature and extent of the risks assumed by it under this Framework Agreement and has gathered all information necessary to perform its obligations under this Framework Agreement and all other obligations assumed by it;
- 10.1.12 it shall comply with its Net Zero and Social Value Commitments; and
- 10.1.13 it shall provide to the Authority any information that the Authority may request as evidence of the Supplier's compliance with Clause 10.1.12 of this Schedule 2.
- 10.2 The Supplier warrants that all information, data and other records and documents required by the Authority as set out in the Specification and Tender Response Document shall be submitted to the Authority in the format and in accordance with any timescales set out in the Specification and Tender Response Document.
- 10.3 The Supplier warrants and undertakes to the Authority 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 Authority to comply with such eProcurement Guidance.
- 10.4 The Supplier warrants and undertakes to the Authority that, as at the Commencement Date, it has notified the Authority 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:
  - 10.4.1 notify the Authority in writing of such fact within five (5) Business Days of its occurrence; and
  - 10.4.2 promptly provide to the Authority:
    - (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 Authority may reasonably require.
- 10.5 The Supplier further warrants and undertakes to the Authority that it will inform the Authority in writing immediately upon becoming aware that any of the warranties set out in Clause 10 of this Schedule 2 have been breached or there is a risk that any warranties may be breached.



- 10.6 Any warranties provided under this Framework Agreement are both independent and cumulative and may be enforced independently or collectively at the sole discretion of the enforcing Party.

11 **Statutory compliance**

- 11.1 The Supplier shall comply with all Law and Guidance relevant to its obligations under this Framework Agreement and any Contracts.
- 11.2 Without limitation to Clause 11.1 of this Schedule 2, the Supplier shall be responsible for obtaining any statutory licences, authorisations, consents or permits required in connection with its performance of its obligations under this Framework Agreement and any Contracts.

12 **Independence of Participating Authorities**

- 12.1 The Supplier acknowledges that each Participating Authority is independently responsible for the conduct of its award of Contracts under this Framework Agreement and that the Authority is not responsible or accountable for and shall have no liability whatsoever in relation to:
- 12.1.1 the conduct of Participating Authorities other than the Authority in relation to the operation of this Framework Agreement; or
- 12.1.2 the performance or non-performance of any Participating Authorities other than the Authority under any Contracts between the Supplier and such other Participating Authorities entered into under this Framework Agreement.

13 **Limitation of liability**

- 13.1 Nothing in this Framework Agreement shall exclude or restrict the liability of either Party:
- 13.1.1 for death or personal injury resulting from its negligence;
- 13.1.2 for fraud or fraudulent misrepresentation;
- 13.1.3 in any other circumstances where liability may not be limited or excluded under any applicable law;
- 13.1.4 to make any payments agreed in accordance with Clause 9.2 of this Schedule 2; or
- 13.1.5 pursuant to Clause 2.5 of Schedule 3.
- 13.2 Subject to Clause 13.1, 13.3 and 13.5 of this Schedule 2, the total liability of each Party to the other under or in connection with this Framework Agreement whether arising in contract, tort, negligence, breach of statutory duty or otherwise shall be limited in aggregate to five hundred thousand GBP (£500,000).
- 13.3 There shall be no right to claim losses, damages and/or other costs and expenses under or in connection with this Framework Agreement 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.
- 13.4 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 Framework Agreement.

- 13.5 The liability of the Supplier and any Participating Authorities under any Contracts entered into pursuant to this Framework Agreement shall be as set out in the Call-off Terms and Conditions for the Provision of Services forming part of such Contracts.

#### **14 Insurance**

- 14.1 Subject to Clauses 14.2 and 14.3 of this Schedule 2 and unless otherwise confirmed in writing by the Authority, 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 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 Authority 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 the NHS Litigation Authority.
- 14.2 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 Authority, if specified in the Key Provisions.
- 14.3 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 14.1 and 14.2 of this Schedule 2 on condition that such self insurance arrangements offer the appropriate levels of protection and are approved by the Authority in writing prior to the Commencement Date.
- 14.4 The amount of any indemnity cover and/or self insurance arrangements shall not relieve the Supplier of any liabilities under this Framework Agreement. 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 Framework Agreement. 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.
- 14.5 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.
- 14.6 The Supplier shall from time to time and in any event within five (5) Business Days of written demand provide documentary evidence to the Authority that insurance arrangements taken out by the Supplier pursuant to Clause 14 of this Schedule 2 and the Key Provisions are fully maintained and that any premiums on them and/or contributions in respect of them (if any) are fully paid.
- 14.7 Upon the expiry or earlier termination of this Framework Agreement, the Supplier shall ensure that any ongoing liability it has or may have arising out of this Framework Agreement shall continue to be the subject of appropriate indemnity arrangements for the period of twenty one (21) years from termination or expiry of this Framework Agreement or until such earlier date as that liability may reasonably be considered to have ceased to exist.

#### **15 Term and termination**

- 15.1 This Framework Agreement shall commence on the Commencement Date and, unless terminated earlier in accordance with the terms of this Framework Agreement or the general law, shall continue until the end of the Term.

- 15.2 The Authority 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 Framework Agreement would otherwise have expired, provided that the duration of this Framework Agreement shall be no longer than the total term specified in the Key Provisions.
- 15.3 In the case of a breach of any of the terms of this Framework Agreement by either Party that is capable of remedy (including any failure to pay sums due under this Framework Agreement), the non-breaching Party may, without prejudice to its other rights and remedies under this Framework Agreement, 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 Framework Agreement in accordance with Clause 15.4.2 of this Schedule 2. 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:
- 15.3.1 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;
  - 15.3.2 comply with such Remedial Proposal (including, without limitation, as to its timescales for implementation, which shall be thirty (30) days unless otherwise agreed between the Parties); and/or
  - 15.3.3 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 15.4.2 of this Schedule 2, a material breach of this Framework Agreement by the Party in breach not remedied in accordance with an agreed Remedial Proposal.
- 15.4 Either Party may terminate this Framework Agreement by issuing a Termination Notice to the other Party if such other Party commits a material breach of any of the terms of this Framework Agreement which is:
- 15.4.1 not capable of remedy; or
  - 15.4.2 in the case of a breach capable of remedy, which is not remedied in accordance with a Remedial Proposal.
- 15.5 The Authority may terminate this Framework Agreement by issuing a Termination Notice to the Supplier:
- 15.5.1 if the Supplier, or any third party guaranteeing the obligations of the Supplier under this Framework Agreement, 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;
- 15.5.2 if 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 Authority and the Authority shall be entitled to withhold such consent if, in the reasonable opinion of the Authority, the proposed change of control will have a material impact on the performance of this Framework Agreement or the reputation of the Authority;
  - 15.5.3 if the Supplier purports to assign, Sub-contract, novate, create a trust in or otherwise transfer or dispose of this Framework Agreement in breach of Clause 28.1 of this Schedule 2;
  - 15.5.4 pursuant to and in accordance with the Key Provisions and Clauses 15.6, 19.7.2, 23.8, 25.2, 25.4 and 29.2 of this Schedule 2;
  - 15.5.5 if the warranty given by the Supplier pursuant to Clause 10.4 of this Schedule 2 is materially untrue, the Supplier commits a material breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance as required by Clause 10.4 of this Schedule 2, or the Supplier fails to provide details of proposed mitigating factors as required by Clause 10.4 of this Schedule 2 that in the reasonable opinion of the Authority are acceptable; or
  - 15.5.6 pursuant to and in accordance with any termination rights set out in the Data Protection Protocol, as applicable to this Framework Agreement.
- 15.6 If the Authority, 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 Framework Agreement and/or any material Sub-contractor of the Supplier when compared to any information provided to and/or assessed by the Authority as part of any procurement process or other due diligence leading to the award of this Framework Agreement to the Supplier or the entering into a Sub-contract by the Supplier, the following process shall apply:
- 15.6.1 the Authority 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 Framework Agreement on such reasonable and proportionate terms as the Authority may require within a reasonable time period as specified in such notice;
  - 15.6.2 a failure or refusal by the Supplier to provide the financial or other security and/or assurances requested in accordance with Clause 15.6 of this Schedule 2 in accordance with any reasonable timescales specified in any such notice issued by the Authority shall be deemed a breach of this Framework Agreement by the Supplier and shall be referred to and resolved in accordance with the Dispute Resolution Procedure; and
  - 15.6.3 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 22.3 of this Schedule 2) shall entitle, but shall not

compel, the Authority to terminate this Framework Agreement in accordance with Clause 15.4.1 of this Schedule 2.

In order that the Authority may act reasonably in exercising its discretion in accordance with this Clause 15.6 of this Schedule 2, the Supplier shall provide the Authority with such reasonable and proportionate up-to-date financial or other information relating to the Supplier or any relevant third party entity upon request.

- 15.7 The Authority may terminate this Framework Agreement by issuing a Termination Notice to the Supplier where:
- 15.7.1 the Framework Agreement has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure;
  - 15.7.2 the Authority 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 Framework Agreement; or
  - 15.7.3 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 Sub-contractors, the Authority may request the replacement of such Sub-contractor and the Supplier shall comply with such request as an alternative to the Authority terminating this Framework Agreement under this Clause 15.7.3
- 15.8 If the Authority novates this Framework Agreement to any body that is not a Contracting Authority, from the effective date of such novation, the rights of the Authority to terminate this Framework Agreement in accordance with Clause 15.5.1 to Clause 15.5.3 of this Schedule 2 shall be deemed mutual termination rights and the Supplier may terminate this Framework Agreement by issuing a Termination Notice to the entity assuming the position of the Authority if any of the circumstances referred to in such Clauses apply to the entity assuming the position of the Authority.
- 16 **Consequences of expiry or early termination of this Framework Agreement**
- 16.1 Upon expiry or earlier termination of this Framework Agreement, the Authority and the Supplier agree that all Contracts entered into under this Framework Agreement will continue in full force and effect unless otherwise terminated under the terms and conditions of such Contracts.
- 16.2 The Supplier shall cooperate fully with the Authority 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 Framework Agreement. This cooperation shall extend to providing access to all information relevant to the operation of this Framework Agreement, as reasonably required by the Authority to achieve a fair and transparent re-procurement and/or an effective transition without disruption to routine operational requirements. Any Personal Data Processed by the Supplier on behalf of the Authority shall be returned to the Authority or destroyed in accordance with the relevant provisions of the Data Protection Protocol.
- 16.3 The expiry or earlier termination of this Framework Agreement for whatever reason shall not affect any rights or obligations of either Party which accrued prior to such expiry or earlier termination.



- 16.4 The expiry or earlier termination of this Framework Agreement 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 Suspension of Supplier's appointment**

- 17.1 Without prejudice to the Authority's rights to terminate this Framework Agreement, if a right for the Authority to terminate this Framework Agreement arises (irrespective of whether the circumstances leading to such right are capable of remedy) in accordance with Clause 15 of this Schedule 2, the Authority may suspend the Supplier's appointment to receive new Orders under this Framework Agreement by giving notice in writing to the Supplier and all Participating Authorities.
- 17.2 If the Authority provides notice to the Supplier in accordance with Clause 17.1 of this Schedule 2, the Supplier's appointment shall be suspended for the period set out in the notice or such other period notified to the Supplier by the Authority in writing from time to time provided that such suspension shall be lifted where:
- 17.2.1 the circumstances leading to the Authority's right to terminate this Framework Agreement have been remedied;
  - 17.2.2 the Authority has satisfied itself that the risk and/or impact of the circumstances giving rise to the Authority's right to terminate this Framework Agreement no longer requires such suspension; or
  - 17.2.3 the Authority exercises its rights to terminate this Framework Agreement in accordance with Clause 15 of this Schedule 2.

**18 Complaints**

- 18.1 The Supplier shall notify the Authority of any formal written complaints made by other Participating Authorities relating to the Supplier's noncompliance with any of its obligations under any Contract within two (2) Business Days of the Supplier becoming aware of such complaints.
- 18.2 Without prejudice to any rights and remedies that the Participating Authority may have under the relevant Contract and/or the Authority may have under this Framework Agreement, the Supplier shall use its reasonable endeavours to resolve such complaint within ten (10) Business Days and in so doing, shall deal with the complaint fully, expeditiously and fairly.
- 18.3 Within two (2) Business Days of a written request by the Authority, the Supplier shall provide further reasonable details of the complaint to the Authority, including details of the steps being taken to progress its resolution and, following its resolution, details of how and when the complaint was resolved.

**19 Modern slavery and environmental, social, and labour laws**

**Environmental, social and labour law requirements**

- 19.1 The Supplier shall comply in all material respects with applicable environmental and social and labour Law requirements in force from time to time in relation to the 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 Tender Response Document. Without prejudice to the generality of the foregoing, the Supplier shall:
- 19.1.1 comply with all Policies and/or procedures and requirements set out in the Specification and Tender Response Document in relation to any

stated environmental, social and labour requirements, characteristics and impacts of the Services and the Supplier's supply chain;

19.1.2 maintain relevant policy statements documenting the Supplier's significant labour, social, and environmental aspects as relevant to the Services being provided and as proportionate to the nature and scale of the Supplier's business operations; and

19.1.3 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 19.1.2 of this Schedule 2.

***Modern slavery***

19.2 The Supplier shall, and shall procure that each of its Sub-contractors shall, comply with:

19.2.1 the Modern Slavery Act 2015 ("Slavery Act"); and

19.2.2 the Authority's anti-slavery policy as provided to the Supplier by the Authority from time to time ("Anti-Slavery Policy").

19.3 The Supplier shall:

19.3.1 implement due diligence procedures for its Sub-contractors and other participants in its supply chains in accordance with Good Industry Practice with the aim of avoiding slavery or trafficking in its supply chains;

19.3.2 respond promptly to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time and shall ensure that its responses to all such questionnaires are complete and accurate;

19.3.3 upon request from the Authority, prepare and deliver to the Authority each year, an annual slavery and trafficking report setting out the steps it has taken to ensure that slavery and trafficking is not taking place in any of its supply chains or in any part of its business;

19.3.4 maintain a complete set of records to trace the supply chain of all goods and services purchased and/or supplied by the Supplier in connection with all contracts or framework agreements with the Authority;

19.3.5 implement a system of training for its employees to ensure compliance with the Slavery Act; and

19.3.6 ensure that any Sub-contracts contain anti-slavery provisions consistent with the Supplier's obligations under Clause 19 of Schedule 2.

19.4 The Supplier undertakes on an ongoing basis that:

19.4.1 it conducts its business in a manner consistent with all applicable Laws including the Slavery Act and all analogous legislation in place in any part of the world in which its supply chain operates;

19.4.2 its responses to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time are complete and accurate; and

19.4.3 neither the Supplier nor any of its Sub-contractors, nor any other persons associated with it (including any Staff):

- (i) has been convicted of any offence involving slavery or trafficking; or
- (ii) has been, or is currently, the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body relating to any offence committed regarding slavery or trafficking,

not already notified to the Authority in writing in accordance with Clause 19.5 of this Schedule 2.

19.5 The Supplier shall notify the Authority as soon as it becomes aware of:

- 19.5.1 any breach, or potential breach, of the Anti-Slavery Policy; or
- 19.5.2 any actual or suspected slavery or trafficking in its supply chain.

19.6 If the Supplier notifies the Authority pursuant to Clause 19.5 of this Schedule 2, it shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, premises, facilities, records and/or any other relevant documentation in accordance with this Framework Agreement.

19.7 If the Supplier is in breach of Clause 19.3 of this Schedule 2 or the undertaking at Clause 19.4 of this Schedule 2 in addition to its other rights and remedies provided under this Framework Agreement, the Authority may:

- 19.7.1 19.7.1 by written notice require the Supplier to remove from performance of any contract or framework agreement with the Authority (including this Framework Agreement) any Sub-contractor, Staff or other persons associated with it whose acts or omissions have caused the breach; or
- 19.7.2 19.7.2 terminate this Framework Agreement by issuing a Termination Notice to the Supplier.

#### ***Further corporate social responsibility requirements***

19.8 The Supplier shall comply with any further corporate social responsibility requirements set out in the Specification and Tender Response Document.

#### ***Provision of further information***

19.9 The Supplier shall meet reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of Clause 19 of this Schedule 2. For the avoidance of doubt, the Authority may audit the Supplier's compliance with this Clause 19 of this Schedule 2 in accordance with Clause 24 of this Schedule 2.

#### **20 Electronic services information**

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

20.2 The Supplier warrants that the Services Information is complete and accurate as at the date upon which it is delivered to the Authority and that the Services Information shall not contain any data or statement which gives rise to any liability on the part of the Authority following publication of the same in accordance with Clause 20 of this Schedule 2.

20.3 If the Services Information ceases to be complete and accurate, the Supplier shall promptly notify the Authority in writing of any modification or addition to or any inaccuracy or omission in the Services Information.



- 20.4 The Supplier grants the Authority a perpetual, non-exclusive, royalty free licence to use and exploit the Services Information and any Intellectual Property Rights in the Services Information for the purpose of illustrating the range of goods and services (including, without limitation, the Services) available pursuant to the Authority's contracts from time to time. Subject to Clause 20.5 of this Schedule 2, no obligation to illustrate or advertise the Services Information is imposed on the Authority, as a consequence of the licence conferred by this Clause 20.4 of this Schedule 2.
- 20.5 The Authority may reproduce for its sole use the Services Information provided by the Supplier in the Authority's services catalogue from time to time which may be made available on any NHS communications networks in electronic format and/or made available on the Authority's external website and/or made available on other digital media from time to time.
- 20.6 Before any publication of the Services Information (electronic or otherwise) is made by the Authority, the Authority will submit a copy of the relevant sections of the Authority's services catalogue 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 Authority to exhibit the Services Information in any services catalogue as a result of the approval given by it pursuant to this Clause 20.6 of this Schedule 2 or otherwise under the terms of this Framework Agreement.
- 20.7 If requested in writing by the Authority, and to the extent not already agreed as part of the Specification and Tender Response Document, the Supplier and the Authority shall discuss and seek to agree in good faith arrangements to use any Electronic Trading System.

## **21 Change management**

- 21.1 The Supplier acknowledges to the Authority that the requirements for the 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 Tender Response Document, as may be requested by the Authority from time to time.
- 21.2 Subject to Clause 21.3 of this Schedule 2, any change to the Services or other variation to this Framework Agreement shall only be binding once it has been agreed in writing and signed by an authorised representative of both Parties.
- 21.3 Any change to the Data Protection Protocol shall be made in accordance with the relevant provisions of that protocol.
- 21.4 The Supplier shall neither be relieved of its obligations to provide the Services in accordance with the terms and conditions of this Framework Agreement nor be entitled to an increase in the Contract Price as the result of:
- 21.4.1 a General Change in Law; or
  - 21.4.2 a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Commencement Date.

## **22 Dispute resolution**

- 22.1 During any Dispute, including a Dispute as to the validity of this Framework Agreement, it is agreed that the Supplier shall continue its performance of the provisions of the Framework Agreement (unless the Authority requests in writing that the Supplier does not do so).
- 22.2 In the case of a Dispute arising out of or in connection with this Framework Agreement the Supplier and the Authority 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 22.3 of this Schedule 2 as the first stage in the Dispute Resolution Procedure.

- 22.3 If any Dispute arises out of the Framework Agreement 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 0 of the Key Provisions. Respective representatives at each level, as set out in Clause 0 of the Key Provisions, 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.
- 22.4 If the procedure set out in Clause 22.3 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 22.3 of this Schedule 2, the mediator shall be nominated and confirmed by the Centre for Effective Dispute Resolution, London.
- 22.5 The mediation shall commence within twenty eight (28) days of the confirmation of the mediator in accordance with Clause 22.4 of this Schedule 2 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 Authority 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.
- 22.6 Nothing in this Framework Agreement shall prevent:
- 22.6.1 the Authority taking action in any court in relation to any death or personal injury arising or allegedly arising in connection with the provision of the Services; or
  - 22.6.2 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 or the security of Confidential Information, pending resolution of the relevant Dispute in accordance with the Dispute Resolution Procedure.
- 22.7 Clause 22 of this Schedule 2 shall survive the expiry of or earlier termination of this Framework Agreement for any reason.
- 23 **Force majeure**
- 23.1 Subject to Clause 23.2 of this Schedule 2 neither Party shall be liable to the other for any failure to perform all or any of its obligations under this Framework Agreement 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.

- 23.2 The Supplier shall only be entitled to rely on a Force Majeure Event and the relief set out in Clause 23 of this Schedule 2 and will not be considered to be in default or liable for breach of any obligations under this Framework Agreement if:
- 23.2.1 the Supplier has fulfilled its obligations pursuant to Clause 6 of this Schedule 2;
  - 23.2.2 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
  - 23.2.3 the Supplier has complied with the procedural requirements set out in Clause 23 of this Schedule 2.
- 23.3 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 Framework Agreement and to resume the performance of its obligations affected by the Force Majeure Event as soon as practicable.
- 23.4 Where the Force Majeure Event affects the Supplier's ability to perform part of its obligations under the Framework Agreement the Supplier shall fulfil all such contractual obligations that are not so affected and shall not be relieved from its liability to do so.
- 23.5 If either Party is prevented or delayed in the performance of its obligations under this Framework Agreement 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.
- 23.6 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.
- 23.7 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.
- 23.8 If the Supplier is prevented from performance of its obligations as a result of a Force Majeure Event, the Authority may at any time, if the Force Majeure Event subsists for thirty (30) days or more, terminate this Framework Agreement by issuing a Termination Notice to the Supplier.
- 23.9 Following such termination in accordance with Clause 23.8 of this Schedule 2 and subject to Clause 23.10 of this Schedule 2, neither Party shall have any liability to the other.
- 23.10 Any rights and liabilities of either Party which have accrued prior to such termination in accordance with Clause 23.8 of this Schedule 2 shall continue in full force and effect unless otherwise specified in this Framework Agreement.
- 24 **Records retention and right of audit**
- 24.1 Subject to any statutory requirement and Clause 24.2 of this Schedule 2, 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 Framework Agreement.

- 24.2 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 Framework Agreement.
- 24.3 The Authority shall have the right to audit the Supplier's compliance with this Framework Agreement. The Supplier shall permit or procure permission for the Authority 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 Framework Agreement.
- 24.4 Should the Supplier Sub-contract any of its obligations under this Framework Agreement, the Authority shall have the right to audit and inspect such third party. The Supplier shall procure permission for the Authority 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 Framework Agreement that are Sub-contracted to such third party. The Supplier shall cooperate with such audit and inspection and accompany the Authority or its authorised representative if requested.
- 24.5 The Supplier shall grant to the Authority or its authorised representative, such access to those records as they may reasonably require in order to check the Supplier's compliance with this Framework Agreement for the purposes of:
- 24.5.1 the examination and certification of the Authority's accounts; or
  - 24.5.2 any examination pursuant to section 6(1) of the National Audit Act 1983 of the economic efficiency and effectiveness with which the Authority has used its resources.
- 24.6 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 24 of this Schedule 2 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.
- 24.7 The Supplier shall provide reasonable cooperation to the Authority, 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 Framework Agreement.
- 24.8 The Supplier shall provide all reasonable information as may be reasonably requested by the Authority to evidence the Supplier's compliance with the requirements of this Framework Agreement.

## **25 Conflicts of interest and the prevention of fraud**

- 25.1 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 Authority, 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 Authority under the provisions of this Framework Agreement. The Supplier will disclose to the Authority full particulars of any such conflict of interest which may arise.
- 25.2 The Authority reserves the right to terminate this Framework Agreement immediately by notice in writing and/or to take such other steps it deems necessary where, in the

reasonable opinion of the Authority, 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 Authority under the provisions of this Framework Agreement. The actions of the Authority pursuant to this Clause 25.2 of this Schedule 2 shall not prejudice or affect any right of action or remedy which shall have accrued or shall subsequently accrue to the Authority.

- 25.3 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 Authority immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- 25.4 If the Supplier or its Staff commits Fraud the Authority may terminate this Framework Agreement and recover from the Supplier the amount of any direct loss suffered by the Authority resulting from the termination.

## 26 **Equality and human rights**

- 26.1 The Supplier shall:

26.1.1 ensure that (a) it does not, whether as employer or as a provider of Services, engage in any act or omission that would contravene the Equality Legislation, and (b) it complies with all its obligations as an employer or provider of the Services and any associated 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;

26.1.2 in the management of its affairs and the development of its equality and diversity policies, cooperate with the Authority in light of the Authority'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 Authority 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

26.1.3 the Supplier shall impose on all its Sub-contractors and suppliers, obligations substantially similar to those imposed on the Supplier by Clause 26 of this Schedule 2.

- 26.2 The Supplier shall meet reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of Clause 26 of this Schedule 2.

## 27 **Notice**

- 27.1 Subject to Clause 22.6 of this Schedule 2, any notice required to be given by either Party under this Framework Agreement shall be in writing quoting the date of the Framework Agreement and shall be delivered by hand or sent by prepaid first class recorded delivery or by email to the person referred to in the Key Provisions or such other person as one Party may inform the other Party in writing from time to time.

- 27.2 A notice shall be treated as having been received:

27.2.1 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



- 27.2.2 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
- 27.2.3 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.

## 28 **Assignment, novation and subcontracting**

- 28.1 The Supplier shall not assign, Sub-contract, novate, create a trust in, or in any other way dispose of the whole or any part of this Framework Agreement without the prior consent in writing of the Authority, such consent not to be unreasonably withheld or delayed. If the Supplier Sub-contracts any of its obligations under this Framework Agreement, every act or omission of the Sub-contractor shall for the purposes of this Framework Agreement be deemed to be the act or omission of the Supplier and the Supplier shall be liable to the Authority as if such act or omission had been committed or omitted by the Supplier itself.
- 28.2 Any authority given by the Authority for the Supplier to Sub-contract any of its obligations under this Framework Agreement shall not impose any duty on the Authority to enquire as to the competency of any authorised Sub-contractor. 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 Framework Agreement.
- 28.3 Where the Authority considers that the grounds for exclusion under Regulation 57 of the Public Contracts Regulations 2015 apply to any Sub-contractor, then:
  - 28.3.1 if the Authority finds there are compulsory grounds for exclusion, the Supplier shall ensure, or shall procure, that such Sub-contractor is replaced or not appointed; or
  - 28.3.2 if the Authority finds there are non-compulsory grounds for exclusion, the Authority 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. The Authority shall upon written request have the right to review any Sub-contract entered into by the Supplier in respect of the provision of the Services and the Supplier shall provide a certified copy of any Sub-contract within five (5) Business Days of the date of a written request from the Authority. For the avoidance of doubt, the Supplier shall have the right to redact any confidential pricing information in relation to such copies of Sub-contract.
- 28.4 The Authority shall upon written request have the right to review any Sub-contract entered into by the Supplier in respect of the provision of the Services and the Supplier shall provide a certified copy of any Sub-contract within five (5) Business Days of the date of a written request from the Authority. For the avoidance of doubt, the Supplier shall have the right to redact any confidential pricing information in relation to such copies of Sub-contracts.
- 28.5 The Authority may at any time transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Framework Agreement or any part of this Framework Agreement 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 Authority novates this Framework Agreement to any body that is not a Contracting Authority, from the effective date of such novation, the party assuming the position of the Authority shall not further transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Framework Agreement or any part of this Framework Agreement without the prior written consent of the Supplier, such consent not to be unreasonably withheld or delayed by the Supplier.

29 **Prohibited Acts**

29.1 The Supplier warrants and represents that:

29.1.1 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 Authority 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 Authority or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the Authority; or
- (ii) in connection with this Framework Agreement 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 Authority; and

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

29.2 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 Authority:

29.2.1 the Authority shall be entitled:

- (i) to terminate this Framework Agreement 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;

29.2.2 any termination under Clause 29.2.1 of this Schedule 2 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Authority; and

29.2.3 notwithstanding Clause 22 of this Schedule 2, any Dispute relating to:

- (i) the interpretation of Clause 29 of this Schedule 2; or
- (ii) the amount or value of any gift, consideration or commission,

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

30 **General**

- 30.1 Each of the Parties is independent of the other and nothing contained in this Framework Agreement 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 authority to act on behalf of the other nor to bind the other by agreement or otherwise, unless expressly permitted by the terms of this Framework Agreement.
- 30.2 Failure or delay by either Party to exercise an option or right conferred by this Framework Agreement shall not of itself constitute a waiver of such option or right.
- 30.3 The delay or failure by either Party to insist upon the strict performance of any provision, term or condition of this Framework Agreement 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.
- 30.4 Any provision of this Framework Agreement 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 Framework Agreement and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.
- 30.5 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 Framework Agreement 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 Framework Agreement or unless such representation, undertaking or warranty was made fraudulently.
- 30.6 Each Party shall bear its own expenses in relation to the preparation and execution of this Framework Agreement including all costs, legal fees and other expenses so incurred.
- 30.7 The rights and remedies provided in this Framework Agreement are independent, cumulative and not exclusive of any rights or remedies provided by general law, any rights or remedies provided elsewhere under this Framework Agreement or by any other contract or document. In this Clause 30.7 of this Schedule 2, right includes any power, privilege, remedy, or proprietary or security interest.
- 30.8 A person who is not a party to this Framework Agreement shall have no right to enforce any terms of it which confer a benefit on such person. No such person shall be entitled to object to or be required to consent to any amendment to the provisions of this Framework Agreement.
- 30.9 This Framework Agreement, any variation in writing signed by an authorised representative of each Party and any document referred to (explicitly or by implication) in this Framework Agreement or any variation to this Framework Agreement, contain the entire understanding between the Supplier and the Authority relating to the operation of this Framework Agreement 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 Framework Agreement. Nothing in this Framework Agreement seeks to exclude either Party's liability for Fraud. Any tender conditions and/or disclaimers



set out in the Authority's procurement documentation leading to the award of this Framework Agreement shall form part of this Framework Agreement.

- 30.10 This Framework Agreement, 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.
- 30.11 Subject to Clause 22 of this Schedule 2, the Parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any Dispute or claim that arises out of or in connection with this Framework Agreement or its subject matter.
- 30.12 All written and oral communications and all written material referred to under this Framework Agreement 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, 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 shall not apply to any Confidential Information:
- (i) which is in or enters the public domain other than by breach of this Framework Agreement 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 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 Authority 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 Authority 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 Authority'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 Authority 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 Framework Agreement;

and for the purposes of this Framework Agreement, references to disclosure "on a confidential basis" shall mean the Authority 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.

1.4 The Supplier may only disclose the Authority's Confidential Information, and any other information provided to the Supplier by the Authority in relation to the operation of this Framework Agreement, 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 Framework Agreement. 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 as to confidentiality and that all information, including Confidential Information, is held securely, protected against unauthorised use or loss and, at the Authority's written discretion, destroyed securely or returned to the Authority when it is no longer required. The Supplier shall not, and shall ensure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of performing the Supplier's obligations in this Framework Agreement.

1.5 For the avoidance of doubt, save as required by Law or as otherwise set out in this Schedule 3, the Supplier shall not, without the prior written consent of the Authority (such consent not to be unreasonably withheld or delayed), announce that it has entered into this Framework Agreement and/or that it has been appointed as a Supplier to the Authority and/or make any other announcements about this Framework Agreement.

1.6 Clause 1 of this Schedule 3 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 Framework Agreement 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 and/or the Parties are otherwise sharing Personal Data under or in connection with this Framework Agreement, the Parties shall comply with the Data Protection Protocol in respect of such matters.

2.3 The Supplier and the Authority shall ensure that patient related Personal Data is safeguarded at all times in accordance with the Law, and this obligation will include (if transferred electronically) only transferring patient related 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 Authority 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 any Personal Data is Processed by any Sub-contractor of the Supplier in connection with this Framework Agreement, the Supplier shall procure that such Sub-contractor shall comply with the relevant obligations set out in Clause 2 of this Schedule 3 and any relevant Data Protection Protocol, as if such Sub-contractor were the Supplier.
- 2.5 The Supplier shall indemnify and keep the Authority 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 Framework Agreement.

### **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 Authority 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 Framework Agreement and any recorded information held by the Supplier on the Authority's behalf for the purposes of this Framework Agreement are subject to the obligations and commitments of the Authority 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 Authority;
  - 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 Authority 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 Authority;
  - 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 Authority) and will promptly (and in any event within two (2) Business Days) transfer the request to the Authority;
  - 3.2.5 that the Authority, 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 Framework Agreement; and

- 3.2.6 to assist the Authority 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 Authority 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 Framework Agreement is not Confidential Information.
- 3.4 Notwithstanding any other term of this Framework Agreement, the Supplier consents to the publication of this Framework Agreement 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 Framework Agreement for publication under Clause 3.4 of this Schedule 3, the Authority 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 Authority's absolute discretion.
- 3.6 The Supplier shall assist and cooperate with the Authority to enable the Authority to publish this Framework Agreement.
- 3.7 Where any information is held by any Sub-contractor of the Supplier in connection with this Framework Agreement, the Supplier shall procure that such Sub-contractor shall comply with the relevant obligations set out in Clause 3 of this Schedule 3, 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, the Supplier shall:
- 4.1.1 notify the Authority 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 Authority'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 Authority and shall provide full information as may be reasonably requested by the Authority in relation to such audits, investigations and assessments.
- 4.2 Where required in accordance with the Specification and Tender Response Document, the Supplier shall obtain and maintain certification under the HM Government Cyber Essentials Scheme at the level set out in the Specification and Tender Response Document.

## **Schedule 4**

### **Definitions and Interpretations**

#### **1 Definitions**

- 1.1 In this Framework Agreement the following words shall have the following meanings unless the context requires otherwise, other than in relation to the Call-off Terms and Conditions for the Provision of Services at Appendix A of this Framework Agreement. The definitions and Interpretations that apply to the Call-off Terms and Conditions for the Provision of Services are as set out at Appendix A of this Framework Agreement.

<b>“Anti-Slavery Policy”</b>	has the meaning given under clause 19.2 of Schedule 2;
<b>“Authority”</b>	means the authority named on the form of Framework Agreement on the first page;
<b>“Authority’s Obligations”</b>	means the Authority’s further obligations, if any, referred to in the Specification and Tender Response Document;
<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 Framework Agreement;
<b>“Business Continuity Event”</b>	means any event or issue that could impact on the operations of the Supplier and its ability to fulfil its obligations under this Framework Agreement including a 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 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>“Call-off Terms and Conditions for the Provision of Services”</b>	means the call-off terms and conditions for Contracts as set out at Appendix A of this Framework Agreement forming part of the Contracts placed under this Framework Agreement;
<b>“Change in Law”</b>	means any change in Law which impacts on the provision of the Services which comes into force after the Commencement Date;
<b>“Codes of Practice”</b>	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
<b>“Commencement Date”</b>	means the date of this Framework Agreement;
<b>“Commercial Schedule”</b>	means the document set out at Schedule 6;

<b>“Comparable Supply”</b>	means the supply of services to another customer of the Supplier that are the same or similar to any of the Services;
<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 Framework Agreement 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 Authority’s intranet;</li> </ul>
<b>“Contract”</b>	means any contract entered into under this Framework Agreement with the Supplier by any Participating Authority as further defined in the Call-off Terms and Conditions for the Provision of Services;
<b>“Contracting Authority”</b>	means any contracting authority as defined in Regulation 2(1) of the Public Contracts Regulations 2015 (SI 2015/102) (as amended), other than the Authority;
<b>“Contract Manager”</b>	means for the Authority and for the Supplier the individuals specified in the Key Provisions or such other person notified by a Party to the other Party from time to time in accordance with Clause 8.1 of Schedule 2;
<b>“Contract Price”</b>	means the price exclusive of VAT that is payable to the Supplier by a Participating Authority under any Contract for the full and proper performance by the Supplier of its obligations under such Contracts (as calculated in accordance with the provisions of the Commercial Schedule) and as confirmed in the relevant Purchase Order relating to the particular Contract;
<b>“Controller”</b>	shall have the same meaning as set out in the UK GDPR;
<b>“Data Protection Legislation”</b>	means the Data Protection Act 2018 and the UK GDPR and any other applicable laws of England and Wales relating to the protection of Personal Data and the privacy of individuals (all as amended, updated, replaced or re-enacted from time to time);
<b>“Data Protection Protocol”</b>	means any document of that name as provided to the Supplier by the Authority (as amended from time to time in accordance with its terms), which shall include, without limitation, any such document appended to Schedule 3 (Information and Data Provisions) of this Framework Agreement;



<b>“Dispute(s)”</b>	means any dispute, difference or question of interpretation or construction arising out of or in connection with this Framework Agreement, any matters of contractual construction and interpretation relating to the Framework Agreement, or any matter where this Framework Agreement 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 22 of Schedule 2;
<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 Authority may specify from time to time;
<b>“Environmental Regulations”</b>	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
<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 and Social Care in connection with it;
<b>“Equality Legislation”</b>	means any and all legislation, applicable guidance and statutory codes of practice relating to equality, diversity, non-discrimination 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>“EU References”</b>	shall have the meaning given to the term in Clause 1.16 of Schedule 4;



<b>“Evergreen Supplier Assessment”</b>	shall have the meaning given to the term in Clause 8.2 of Schedule 1;
<b>“Exit Day”</b>	shall have the meaning in the European Union (Withdrawal) Act 2018;
<b>“FOIA”</b>	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
<b>“Force Majeure Event”</b>	<p>means any event beyond the reasonable control of the Party in question to include, without limitation:</p> <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 Framework Agreement;</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 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 Authority’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> <p>but excluding, for the avoidance of doubt, any event or other consequence arising as a result of or in connection with the withdrawal of the United Kingdom from the European Union;</p>

<b>“Framework Agreement”</b>	means the form of framework agreement at the front of this document and all schedules and appendices attached to the form of framework agreement;
<b>“Fraud”</b>	means any offence under any law in respect of fraud in relation to this Framework Agreement or defrauding or attempting to defraud or conspiring to defraud the government, parliament or any Contracting Authority;
<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>“General Change in Law”</b>	means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
<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 service provider engaged in the provision of services similar to the Services under the same or similar circumstances as those applicable to this Framework Agreement, including in accordance with any codes of practice published by relevant trade associations;
<b>“Guidance”</b>	means any applicable guidance, supplier code of conduct, direction or determination and any policies, advice or industry alerts which apply to the 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 Authority and/or have been published and/or notified to the Supplier by the Department of Health and Social Care, NHS England and NHS Improvement, the Medicines and Healthcare products Regulatory Agency, the European Medicines Agency the European Commission, the Care Quality Commission, the National Institute for Health and Care Excellence 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-essentials-scheme-overview">https://www.gov.uk/government/publications/cyber-essentials-scheme-overview</a>

<b>“Intellectual Property Rights”</b>	means all patents, copyright, design rights, registered designs, trademarks, know-how, database rights, confidential formulae and any other intellectual property rights and the rights to apply for patents and trademarks and registered designs;
<b>“Key Provisions”</b>	means the key provisions set out in Schedule 1;
<b>“KPI”</b>	means the key performance indicators as set out in Schedule 5;
<b>“Law”</b>	<p>means any applicable legal requirements including, without limitation:</p> <ul style="list-style-type: none"> <li>(a) any applicable statute or proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument as applicable in England and Wales;</li> <li>(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 applicable statute, proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument);</li> <li>(c) any enforceable community right within the meaning of section 2(1) European Communities Act 1972;</li> <li>(d) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales;</li> <li>(e) requirements set by any regulatory body as applicable in England and Wales;</li> <li>(f) any relevant code of practice as applicable in England and Wales; and</li> <li>(g) any relevant collective agreement and/or international law provisions (to include, without limitation, as referred to in (a) to (f) above);</li> </ul>
<b>“Net Zero and Social Value Commitments”</b>	means the Supplier’s net zero and social value commitments, each as set out in the Key Provisions and/or the Specification and Tender Response Document;
<b>“Net Zero and Social Value Contract Commitments”</b>	shall have the meaning given to the term in Clause 8.4 of Schedule 1;
<b>“NHS”</b>	means the National Health Service;
<b>“Occasion of Tax Non-Compliance”</b>	means:

	<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> <ul style="list-style-type: none"> <li>(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 legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</li> <li>(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</li> </ul> <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 Effective Date or to a civil penalty for fraud or evasion;</p>
<b>“Ordering Procedure”</b>	means the procedure enabling Participating Authorities to call-off Services and enter into Contracts under this Framework Agreement, as set out in Schedule 7;
<b>“Orders”</b>	means orders for Services placed under this Framework Agreement by Participating Authorities;
<b>“Participating Authority”</b>	means a Contracting Authority entitled to place Orders under this Framework Agreement including the Authority and any other Contracting Authority as set out in the Key Provisions;
<b>“Party”</b>	means the Authority or the Supplier as appropriate and Parties means both the Authority and the Supplier;
<b>“Personal Data”</b>	shall have the same meaning as set out in the UK GDPR;
<b>“Policies”</b>	means the policies, rules and procedures of the Authority as notified to the Supplier from time to time;
<b>“Process”</b>	shall have the same meaning as set out in the UK GDPR. Processing and Processed shall be construed accordingly;
<b>“Prohibited Acts”</b>	has the meaning given under 29.1.1 of Schedule 2;
<b>“Purchase Order”</b>	Has the meaning given at Clause 3.1 of Schedule 7
<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 15.3 of Schedule 2;
<b>“Services”</b>	means the services that the Supplier is required to provide to Participating Authorities under Contracts placed under this Framework Agreement, details of such Services being set out in the Specification and Tender Response Document and any Order;
<b>“Services Information”</b>	means information concerning the Services as may be reasonably requested by the Authority and supplied by the Supplier to the Authority in accordance with Clause 20 of Schedule 2 for inclusion in the Authority's services catalogue from time to time;
<b>“Slavery Act”</b>	has the meaning given in Clause 19.2.1 of Schedule 2;
<b>“Specification and Tender Response Document”</b>	means the document set out in Schedule 5 as amended and/or updated in accordance with this Framework Agreement;
<b>“Specific Change in Law”</b>	means a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply;
<b>“Staff”</b>	means all persons employed or engaged by the Supplier to perform its obligations under this Framework Agreement including any Sub-contractors and person employed or engaged by such Sub-contractors;
<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 Framework Agreement;
<b>“Sub-contractor”</b>	means a party to a Sub-contract other than the Supplier;
<b>“Supplier”</b>	means the supplier named on the form of Framework Agreement on the first page;
<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 Net Zero Corporate Champion”</b>	shall have the meaning given to the term in Clause 8.3 of Schedule 1;
<b>“Supplier Net Zero and Social</b>	shall have the meaning given to the term in Clause 8.6 of Schedule 1;

<b>Value Contract Champion</b>	
<b>“Term”</b>	means the term as set out in the Key Provisions;
<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 Framework Agreement on a specified date and setting out the grounds for termination;
<b>“Third Party Body”</b>	has the meaning given under Clause 8.5 of Schedule 2;
<b>“UK GDPR”</b>	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018; 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 Framework Agreement to a “Schedule”, “Appendix”, “Paragraph” or to a “Clause” are to schedules, appendices, paragraphs and clauses of this Framework Agreement.
- 1.5 References in this Framework Agreement 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 Unless set out in the Commercial Schedule as a chargeable item and subject to Clause 30.6 of Schedule 2, the Supplier shall bear the cost of complying with its obligations under this Framework Agreement.
- 1.7 The headings are for convenience only and shall not affect the interpretation of this Framework Agreement.
- 1.8 Words denoting the singular shall include the plural and vice versa.
- 1.9 Where a term of this Framework Agreement 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.
- 1.10 Where there is a conflict between the Supplier’s responses to the Authority’s requirements (the Supplier’s responses being set out in Schedule 5) and any other part of this Framework Agreement, such other part of this Framework Agreement shall prevail.
- 1.11 Where a document is required under this Framework Agreement, the Parties may agree in writing that this shall be in electronic format only.
- 1.12 Any guidance notes in grey text do not form part of this Framework Agreement.



- 1.13 Any Breach Notice issued by a Party in connection with this Framework Agreement 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 as referred to above as may be requested by the Receiving Party but no such withholding or delay shall invalidate the Breach Notice.
- 1.14 Any terms defined as part of a Schedule or other document forming part of this Framework Agreement shall have the meaning as defined in such Schedule or document.
- 1.15 For the avoidance of doubt, and to the extent not prohibited by any Law, the term "expenses" (as referred to under any indemnity provisions forming part of this Framework Agreement) shall be deemed to include any fine and any related costs imposed by a commissioner, regulator or other competent body.
- 1.16 Any reference in this Framework Agreement which immediately before Exit Day was a reference to (as it has effect from time to time):
- (i) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
  - (ii) any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred.

## **Schedule 5**

### **Specification and Tender Response Document**

## Specification and Tender Response Document

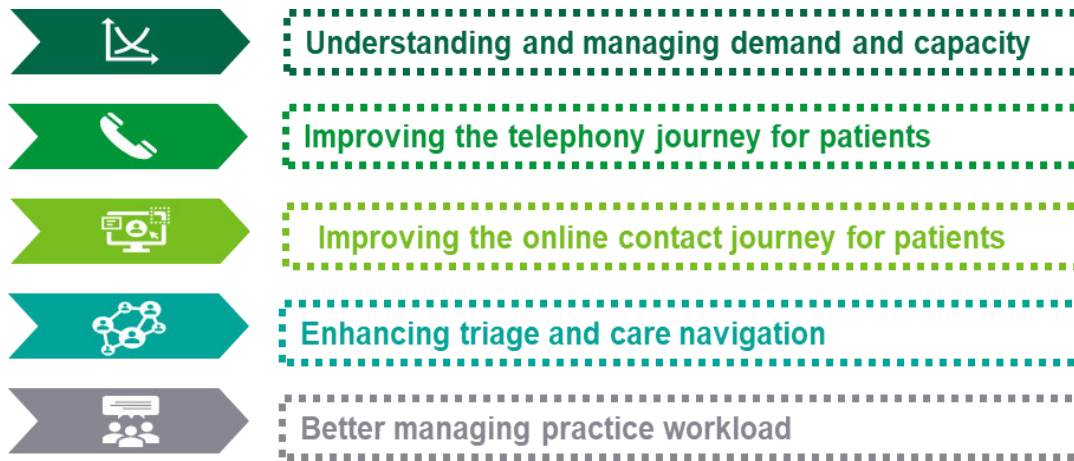
### Definitions

<b>Delivery Partners (DPs)</b>	means the Suppliers
<b>General Practice</b>	means the service provided by General Practitioners
<b>NHS England</b>	means the Authority
<b>Support Package</b>	Means Practice Level Support Package

## 1 Background to the Requirement

### 1.1 Overview

- 1.1.1 Delivery Partners (DPs) are sought to deliver the Practice Level Support Package. This is an on-site, hands-on, support package for General Practice in England. It forms part of the General Practice Improvement Programme (GPIP) part of the Delivery Plan for Recovering Access to Primary Care (DPRAPC).
- 1.1.2 The support consists of the Access Model Diagnostic (AMD), other Standardised Improvement Modules (SIM) including Productive General Practice Quick Starts (PGPQS). These elements will be referred to as 'the support package'.
- 1.1.3 We refer to those experienced quality improvement practitioners who actually work with specific practices as 'facilitators'.
- 1.1.4 Through hands-on support, the support package aims to engage multi-disciplinary practice teams to undertake patient-focused improvement. This starts with profiling patient demand across contact modes, improving patient experience of access across telephony and online journeys, embedding clinical triage and care navigation to the right clinical professional or service, plus addressing wider practice workload including high-volume clinical processes.
- 1.1.5 Support is usually given over a 13- or 26-week period and includes group sessions with other practice teams to share improvements, plans and ideas. These group sessions are currently delivered virtually but delivery could be changed to face to face.
- 1.1.6 The overall aim is to help move the practice towards a more effective model of 'Modern General Practice Access'. This requires a focus on each of the following five areas.



### 1.2 What is the Modern General Practice Model?

The [Delivery Plan for Recovering Access to Primary Care](https://www.england.nhs.uk/gp/national-general-practice-improvement-programme/modern-general-practice-model/) references Modern General Practice as “a modern approach to general practice that makes it easier for patients to contact their practices by phone or online and supports practices to rapidly assess the nature and urgency of requests by involving the whole practice team”. <https://www.england.nhs.uk/gp/national-general-practice-improvement-programme/modern-general-practice-model/>

This model is a way of organising work in general practice to help enable practices to provide fair and safe care, while also supporting the sustainability of services and an improved experience for both patients and staff.

The model involves practices:

- having a full understanding of demand and available capacity.
- providing easy to use access routes to patients.
- collecting consistent information from the patient at the point of contact.
- using this information to give the most appropriate help to patients based on need and
- improving management of non-patient facing workload to help release capacity.

The support package should help the practice make progress towards a model that results in the following:

1. **Seeing all expressed demand**; *by providing high quality access journeys for patients by phone, online and in person.*
2. **Understanding the nature of that expressed need**; *by consistently collecting structured information from the patient at the point of contact.*
3. **Navigation of patients to the right healthcare professional (including continuity of care), within an appropriate time and using an appropriate consultation format**; *by implementing and continually improving a care navigation model.*
4. **Better alignment of capacity to demand**; *by making full use of a multi-professional general practice team and wider primary and community care teams.*
5. **Improved efficiency of practice workload processes**; *by utilising technology, process change and improvement methods.*
6. **Increased ability for data led problem solving and effective change**; *by developing capabilities and shared learning.*

### **Understanding demand and capacity**

To establish a Modern General Practice model, it is essential for practices to have as complete a view as possible of all demand coming into the practice by all routes and to understand the nature and pattern of this demand, e.g. across different days of the week and at different times of year. It is also important for practices to understand the capacity available in terms of staff time and skills. It is then possible to design and implement processes to match capacity to demand more effectively.

### **Improving the experience of telephoning the practice and using online access routes**

The Modern General Practice model involves providing a smooth experience of access to patients across phone, online and walk-in routes. Supporting practices to move to cloud-based telephony is essential to help provide a better experience for patients (e.g. so patients can be provided with queue lengths and call back options) and to enable practices to understand demand.

Practice websites are also critical and need to give clear information on how to request help and what steps patients can take for themselves. Online forms (provided via 'online consultation tools') should be available via the practice website and via tools like the NHS App to provide an easy route for patients to explain what they need and to request support. Improvements to other tools and integration of digital services are also important to the model to allow increased self-service and more streamlined flows between different services.

### **Enhancing navigation and triage processes**

The Modern General Practice model moves away from 8am phone call queue and 'first come first served' process for allocating appointments. Instead, the model requires consistent structured information to be collected at the point of contact – with patients either providing information via an online form or to reception staff about their needs. Patient needs can then be consistently assessed and prioritised (triaged), allowing practices to provide patients with the most appropriate care or other response, from the right member of staff, including signposting or referring patients to other appropriate services (navigation).

The ability to better allocate patients to the right health professional or service supports effective use of all staff time and skills, including staff employed through the Additional Roles Reimbursement Scheme (ARRS). The use of different consultation modalities, including SMS or online messages, is also important to facilitate flexible working for staff (which supports retention) and provides a variety of options for patients to receive care and advice in the most effective way depending on their needs.

### **Management of non-patient-facing practice workload**

The Modern General Practice model gives practice staff better control over their work with demand more consistently understood and managed, and the consistency of processes and workflows improved. Alongside these changes, other improvements can also be made to streamline processes in the practice, increase efficiency and reduce burden on staff.

The general practice improvement programme helps practices and PCNs to implement the modern general practice model by supporting practice teams to make changes and by providing tools, guidance and resources to make the change easier – building on what other practices have learnt and developed.

### 1.3 Under the predecessor scheme Practices have reported:

- 1.3.1 Significant time savings for clinical and administrative staff;
- 1.3.2 Improved skills in managing change and quality improvement meaning change can happen at a greater pace;
- 1.3.3 Positive changes in team dynamics, how teams see their problem areas and how they work together to overcome them; and
- 1.3.4 The General Practice Improvement Programme [NHS England » National General Practice Improvement Programme](#). provides three tiers of support. The **Universal** offer is available to all practices. The **Intermediate** and **Intensive** offers are only available to selected practices.
- 1.3.5 This hands-on support package forms part of the Intermediate and Intensive offers. Although many different types of practices will be supported, this support package is likely to be focused on practices delivering care and treatment in areas of higher deprivation with greatest health needs locally, or practices with little bandwidth to transition to a 'modern general practice access model'.
- 1.3.6 The support package has been available since May 2023. The expectation is that around 1000 - 1150 practices will have received the support package from May 2023 to March 2024.
- 1.3.7 From service commencement in July 2024 and up to March 2025 the current aim is to provide the support package to 1250 more English practices (out of a total of circa 6,500). This target is subject to review in early 2024 based on demand to date. (As of August 2023, over 600 practices have signed up for support to be delivered in the 23/24 financial year).

## 1.2 Current Arrangements / Context

- 1.2.1 The Primary and Community Transformation and Improvement team (PCTI team) part of Primary Care and Community Services, NHS England, has been commissioned to deliver GPIP over a two-year period (23/24 to 24/25) as part of the Delivery Plan for Recovering Access to Primary Care (DPRAPC).
- 1.2.2 The PCTI team has been delivering the General Practice Improvement Programme since May 2023.
- 1.2.3 All elements of GPIP are focused on supporting practices in moving to a 'modern general practice access model'.
- 1.2.4 GPIP also includes the following elements (These are not part of the



specification)

- an improvement capability building offer to general practice including the 'General Practice Improvement Leads programme' 'Digital and Transformation Leads Development programme' and 'Fundamentals of changes and improvement'. [NHS England » Universal general practice improvement support](#)
- an Intermediate support offer to PCNs <https://www.england.nhs.uk/gp/national-general-practice-improvement-programme/intermediate-and-intensive-general-practice-improvement-support/>
- collation of best practice guidance and resources
- a range of webinars in key areas

- 1.2.5 The elements of GPIP listed above are delivered by a 'Faculty' made up of people with a combination of Primary Care and improvement experience, including working GPs, Practice Managers, and Improvement Facilitators. This 'Faculty' is managed by the PCTI Team. DPs could be asked to contribute to delivery in these areas, by agreement.
- 1.2.6 Specific information about the GPIP can be accessed at [NHS England » National General Practice Improvement Programme](#):
- 1.2.7 Support for practices is usually delivered in several phases across the course of the year. The number of practices to be supported during each phase and each year is dictated by the funding made available from our sponsors in NHS England. It is also affected by demand from Primary Care Organisations (PCO) and their Practices. In 2023/24 there were 4 phases of 'Intermediate support' (lasting 13 weeks) starting in May, July, September and December 2023, and 3 phases of Intensive support (over 26 weeks) starting in June, July and October 2023. These dates ensured delivered was completed by March 2024. Several phases of activity overlap creating peaks in activity.
- 1.2.8 Although no guarantees can be made, we estimate around 1250 practices would receive the Support Package in 24/25 (provisionally 750 'Intensive' and 500 'Intermediate' support'). Activity is not equally distributed across each phase as work is demand led.
- 1.2.9 During peak delivery times the DPs collectively may require over 150 whole time equivalent facilitators actively providing hands on support to practices. (The exact number will depend on how much activity is allocated to a specific DP and their own approach to allocation of work to facilitators).
- 1.2.10 The GPIP is planned to run for two years from April 2023 to March 2025. It includes planned funding and activity levels. The Supplier should however be aware that NHS England business planning and budget allocation processes must be confirmed annually in order for actual delivery plans to be finalised and expenditure take place. For any potential service provider this may see a delay to confirmation of expected delivery and resource requirements until close to or even beyond the start of a financial year.

## 2 Scope of the procurement

### 2.1 Aims & Objectives

- 2.1.1 In order to service the new requirement for GPIIP, NHS England is looking to appoint up to 5 DPs to deliver the 'support package' (initially 1<sup>st</sup> April 2024 to 31<sup>st</sup> March 2025).
- 2.1.2 A key driver of this programme is for NHS England to ensure that all practices receive a similar quality of support from their DPs.
- 2.1.3 The Practice level support package (AMD, SIMs and PGPQS) is focused on delivering practical, hands-on support to enable practice teams to make changes during the delivery period that helps them progress towards their 'modern general practice access model'.
- 2.1.4 The appointed DPs will:
  - 2.1.4.1 Engage with the core NHSE team to promote the support offer. This is usually done through a series of webinar, or similar events to a group of interested practices.
  - 2.1.4.2 Engage with the NHSE core team as part of the allocation of practices process. The DP receives an allocation of identified practices for a phase and then organises these practices into cohorts of between 4 – 10 practices, usually based on locality).
  - 2.1.4.3 Manage the logistics of engagement and delivery (Agreeing the delivery dates with practices and confirming venues, if required, managing cancellations and rearranging sessions etc.);
  - 2.1.4.4 Organise and deliver hands-on improvement facilitation in practices.
  - 2.1.4.5 Facilitate multi-practice, group-based learning sessions.
  - 2.1.4.6 Run update sessions with ICB / PCN representatives to explain progress and challenges and to hand over responsibility for ongoing improvement.
  - 2.1.4.7 Liaise with other Primary Care Organisations as required;
  - 2.1.4.8 Liaise with other members of the GPIIP team as required including the GPIIP Regional links.
  - 2.1.4.9 Manage delivery logistics.
  - 2.1.4.10 Provide the required reporting and monitoring information to the NHSE team on delivery, progress and impact using a range of methods identified by the NHSE Team.
  - 2.1.4.11 Attend regular contract management meetings.
  - 2.1.4.12 Attend experience sharing sessions with other DPs and members of the wider GPIIP team;
  - 2.1.4.13 Keep abreast of the whole GPIIP support programme and associated national resources. We want the Practice Level Support to be experienced as part of the whole GPIIP support offer and as part of the DPRAPC. Intelligence sharing between DP and the NHSE Core team is mutually beneficial and can help ensure

that the different elements of GPIPSupport are helpfully aligned for the ICBs and local Practices;

- 2.1.5 Our aim is to see a combination of improvements in the following areas
  - 21.5.1 Understanding of demand and capacity
  - 21.5.2 Car navigation and triage
  - 21.5.3 Telephony experience for patients
  - 21.5.4 Online experience for patients
  - 21.5.5 Internal workload and processes
- 2.1.6 By working on these areas, we expect to see the practice team make progress towards a modern general practice access model. In addition, we would hope to see improved staff and patient satisfaction, development of Quality Improvement (QI) skills and confidence, a better appreciation of measurement for improvement and improved practice dynamics.

## **2.2 Term**

- 2.2.1 The fixed term of the framework agreement will run from 1<sup>st</sup> April 2024 to 31<sup>st</sup> March 2025 with NHS England reserving the right to extend the framework agreement, in multiple periods, for up to 12 additional months, subject to appropriate NHS England budget approvals being in place. The service commencement date will be 1 July 2024.
- 2.2.2 Training of DPs will be undertaken from between 1 April to 30 June 2024. This is a mandatory requirement that will be at the DPs cost. Further information regarding the same can be found in section 9 (Mobilisation).
- 2.2.3 Due notice of any extension will be given, dependent upon confirmation of NHS England's business plan.
- 2.2.4 NHS England may elect to extend or request additional deliverables beyond those captured within the original call-off contract, provided that:
  - 22.4.1 The extended and/or additional deliverables are within the statement of requirements scope outlined in section 4 of this document;
  - 22.4.2 The extended and/or additional deliverables are delivered by the DP in accordance with the agreed framework agreement pricing.

## **3 Constraints and Dependencies**

- 3.1 One element of the success of the support package is that it has a strict delivery timetable, a clear focus on the 'general practice access model', a set of standardised improvement modules and a specific approach that must be adhered to. This frame provides clarity for Practices and enables many to sign up for this time limited intervention.
- 3.2 The specific service requirement does not include making any changes to the delivery model without the express permission of the NHSE Team.
- 3.3 It should be noted that the DP will need to use its own IT systems and software to manage the service specified, unless mandated by the NHSE team. The NHSE Team will identify the range of information required and

specify the reporting methods on delivery, impact and quality assurance.

- 3.4 The DP must use the presentational formats as supplied and directed by the NHSE Team (e.g. power point slide templates and use of NHS logos).

## **4 Requirements**

### **4.1 General Requirements**

- 4.1.1 The DPs must be conscious of delivering the support package within the wider context of the GPIIP. This will require an understanding of the other elements of GPIIP in order to maximise uptake in all elements of the programme. The DP will provide insights to the NHSE team relating to the needs of practices and their networks and which parts of the GPIIP will best meet those needs next. The DP is expected to pro-actively liaise with the local PCOs (ICB/PCN/Federation) at the beginning, during and at the end of the support package delivery period. The DP should raise the profile of other elements of GPIIP when opportunities arise in discussion with the PCO, at group-based learning sessions or when visiting individual practices.
- 4.1.2 The DP must be available Monday to Friday between 9am and 5pm and keep in regular contact with the NHSE Team.
- 4.1.3 The DP must be proficient in project management tools and techniques and have the ability to use these techniques to report data in a timely and efficient manner on all aspects of the support package delivery when required by the NHSE Team.
- 4.1.4 The appointed DP will not provide any competing service or undermine the integrity of the GPIIP offer as a whole to primary care in England.
- 4.1.5 Where delivery of the support package leads to discussion of related wider opportunities for the DP with local PCO (ICB, PCN, Federation, Practice etc.), then DPs will notify NHS England of this emerging interest in writing within 3 working days, including an outline scope of work prior to the commencement of this support. NHSE will check and want to ensure the support does not undermine any elements offered as part of GPIIP. This will help NHS England ensure appropriate utilisation of NHS funded support and maintain national, regional and local oversight and co-ordination of support offers.
- 4.1.6 The DP must present themselves as part of NHS England's GPIIP, delivering the Practice Level Support element. They should not promote themselves to the extent that this support is experienced by either practices or PCOs as being delivered by the DP, rather than as part of the national NHSE GPIIP.

### **4.2 Facilitators**

- 4.2.1 DPs must host, manage and maintain a sufficient number of suitably experienced improvement experts ('Facilitators') to deliver the hands-on support and up-front engagement activity with the local scheme (PCO) and practices. This includes:

- 4.2.1.1 Providing both contractual and infrastructure support required to schedule, deploy and manage this delivery capacity;
  - 4.2.1.2 Scheduling the Facilitators in order to deliver the schedule. The exact schedule is agreed with the practices at the beginning of each phase of delivery;
  - 4.2.1.3 Management of all aspects of employment of the Facilitators. This includes recruitment, retention and management, taking into account the phased and cyclical nature of the activity. This also includes responsibility for providing short term cover for absence or illness.
  - 4.2.1.4 Responsibility for the facilitator Skills Assessment, which captures knowledge and experience of the delivery model, content and context, of every Facilitator as part of Quality Assurance on an on-going basis. It includes a development plan section that highlights how any gaps will be filled. Details of the Skills Assessment is provided in Appendix7.
- 4.2.2 Working within General Practice will require flexibility and sensitivity from the DP and facilitators to manage issues and situations when they arise. There is significant variation in practice dynamics, culture and set up.
  - 4.2.3 Facilitators should have demonstrable skills in service improvement facilitation in primary care as well as management of group-based learning and sharing sessions.
  - 4.2.4 Facilitators must be competent at delivering sessions virtually when required.
  - 4.2.5 All new Facilitators must go through a rigorous process of development and quality assurance, led by the DPs Master Trainer. Quality assurance of new and existing Facilitators will continue throughout the programme.
  - 4.2.6 The DP must appoint an experienced Facilitator to be their Master Trainer, able to deliver the necessary training and support in house. A Quality Assurance process must be established in house by the DP to assure the continuation of high-quality delivery.
  - 4.2.7 The DP QA approach should include weekly checks of the practice on-site session ratings, completed by the Practice Lead and also by the Facilitator to provide an early warning system.
  - 4.2.8 The Facilitator must use their experience and judgement to adapt their approach with each team in each Practice depending upon the local dynamics and the specific modules being delivered. Similarly, engagement activity (to engage, inform and sign-up practices) and approach may differ with each PCO. Any adaptation should always be within the overall GPIP / Practice Level Support approach outlined by the NHSE team.

### **4.3 Resource Management**

- 4.3.1 The DP will need to have the capacity and capability to plan and organise from commencement of the framework agreement.



(See 'Mobilisation' Section 9).

- 4.3.2 The demand for Facilitators will fluctuate over the course of each year of the commission. The appointed DP will need to have the infrastructure in place to manage this fluctuation.
- 4.3.3 The DP will deploy and manage their Facilitators to deliver in-practice, hands-on sessions to individual practice teams and to support local cohorts (groups of between 4 to 10 practices usually) at engagement and group learning sessions around England. Therefore, the ability to plan resource responsively and capacity utilisation is imperative.
- 4.3.4 The DP should be able to deliver support to any part of England.

#### **4.4 Delivery Formats**

- 4.4.1 The support package will be delivered in a variety of formats (see Appendix 1 for the full details):
  - 4.4.1.1 Intensive;
  - 4.4.1.2 Intermediate;
  - 4.4.1.3 Intermediate plus
  - 4.4.1.4 Other
- 4.4.2 The appropriate format(s) to be offered in each phase will be decided upon by the NHSE Central Team.
- 4.4.3 Which type of format should be dictated by the practice assessment informed by the 'Support Level Framework' and by guidance or sign off by the relevant ICB.
- 4.4.4 Each cohort (group of practices) is usually between 4 and 10 Practices at the outset, unless authorised by the NHSE Team.

#### **4.5 Delivery Steps**

- 4.5.1 The DP is responsible for total management of delivery of the support to Practices, (engagement, logistics, delivery, trouble shooting, monitoring and reporting) plus liaison with the local PCO (ICB/PCN/Federation etc.) and NHSE team and is required to comply with the delivery process detailed in this section. DPs must also comply with the phase delivery timetable which will be shared in advance of each phase. This approach may be changed based on feedback from practices and ICBs.
  - 4.5.1.1 A series of engagement sessions are advertised by NHSE. Practices register interest. The DP will set up sessions (usually called 'Introductory Webinars') in line with the phase timetable. These could be virtual or face to face and could be for a national audience or focus on a smaller geographical area. The DP will lead these sessions, using standardised materials and messages to encourage practices to sign up for the support offer.
  - 4.5.1.2 DPs are then allocated a share of the practices by the NHSE



team as per the award criteria detailed in Document 1 – Invitation to Tender. The NHSE team attempt to allocate the workload equally across the DPs, however this cannot be guaranteed. Although pragmatic consideration is taken by the NHSE team to consider specific DP circumstances (e.g. the distribution of facilitators across the country) DPs are expected to take all practices allocated. Where a DP has recently worked with a practice, an attempt will be made to support continuity with that DP.

- 4.5.1.3 The DP then organises the practices into proposed cohorts and seeks approval from the NHSE core team. The DP includes additional information about multi-site practices to outline the number and justification for multiple support packages.
- 4.5.1.4 Once the cohorts have been confirmed by the NHSE team, the DP confirms the delivery schedule with each practice.
- 4.5.1.5 The DP will be required to set up and lead an agreed number of 'Progress Calls' with the PCO. The NHSE Team and GPIIP regional link should be invited to the sessions. These calls should take place broadly near the beginning, middle and end of the delivery period. They are an opportunity for DPs to give a high-level overview of progress to date, next steps, emerging issues, and to encourage the PCO to consider wider changes and sustainability once the DP support has ceased.
- 4.5.2 The DP will then organise and deliver the support package, which includes;
  - 4.5.2.1 Facilitation of GBL sessions. These are usually delivered virtually. If delivered face to face the venues are provided by the local PCO, but the DP must ensure that the venue is fit for purpose. Sessions should be 3 hours in duration.
  - 4.5.2.2 Delivery of the required number of on-site visits in line with the Delivery Schedule (see outline of the Practice Level Support Delivery Model in the Appendix 1). These visits should be for a minimum of 3 hours per visit on site.
  - 4.5.2.3 Each set of on-site visits for the Practices in a cohort should be planned to be delivered in the same week (e.g. all Practices in a cohort receive their first on-site visit in the week commencing 1<sup>st</sup> September, then all practices receive their second on-site visit in the week commencing 8<sup>th</sup> September) DPs must also adhere to our 'Practice cancellations' policy. This clarifies expectations on the DP to re-arrange visits cancelled by the Practice. (See Appendix 3)
  - 4.5.2.4 Completion of the following:
    - Session rating by Facilitator and practice representative – required after each on-site visit. The Facilitator must complete the experience rating. The Facilitator must also request that the Practice evaluate the session. The following rating should be used:
      - Did the session go Very Well, Well, Okay or Poor

- Practice GPIIP report - to be completed by the Facilitator to demonstrate progress on a weekly basis. A measures schedule will be shared with the DP outlining the specific information that must be available for each practice at set points in the delivery period. The DP will be expected to:
    - Ensure weekly completion of the GPIIP practice report by the facilitator.
    - Ensure 'Core metrics' are updated by the specified deadline.
    - Internally check reports for completeness and accuracy before the specified deadlines. Reporting completeness and accuracy will form part of the KPIs. This information is available to the DP management team and NHSE Team. It acts as an early warning system on practice experience and progress. The DP is expected to follow up any low ratings, take mitigating action and inform the NHSE team where action is required.
- 4.5.3 DPs tend to organise cohorts of practices in a coterminous geographical area. DPs can usually organise delivery of hands-on sessions so that one practice can be supported in the morning and another in the afternoon.
- 4.5.4 The DP should promote sustainability planning for Practices. This will include asking practices to complete an action and audit plan at the end of the hands-on delivery period. The DP should encourage the PCO to consider how to support practices during progress and hand over calls.
- 4.5.5 The DP is to identify one potential case study per cohort and submit the current version of the case study template (further detail of the case study can be found in the Marketing and Communication Section 10). These should be submitted to the NHSE Team in line with the current delivery and reporting schedule.
- 4.5.6 At the end of the delivery period the DP will submit a verified GPIIP Practice report. This report is required for each Practice. The report should be updated on a weekly basis by the facilitator. Reports should be up to date and internally verified by the DP in line with the 'Reporting and Delivery Schedule', in time for the key milestones when the reports will be periodically uploaded by the NHSE team. It includes a standard report (See appx 6) It is completed by the Facilitator in line with set timescales.

## **4.6 Training and Development**

- 4.6.1 It is expected that DPs comply with the training and development requirements outlined below;
  - 4.6.1.1 Attendance of all relevant Facilitators, management team and back-office staff at mandatory training sessions as identified by the NHSE Team, at the cost of the DP. (The venue cost will be covered

by the NHSE Team). Some training may be directed at a small number of representative facilitators with the expectation that the DP cascades the training to its own facilitators at its own cost.

- 4.6.1.2 Appointment of a DP Master Trainer and deputy within the first 3 months of the framework agreement start date. The specific person must be accredited by the NHSE Team. They will be expected to demonstrate the required knowledge and skills relating to:
- delivery of the support package
  - knowledge of the primary care environment
  - quality improvement
  - the GPIIP
- 4.6.1.3 This person can then become the DPs in-house master trainer of new starters and responsible for cascading developments to content and approach to delivering the support package.
- 4.6.1.4 Running an internal Quality Assurance process including elements identified by the NHSE Team (including the Skills Assessment Framework and Practice Manager session ratings)
- 4.6.1.5 Sharing of experience with the NHSE Team, local PCO and other DPs. The DP must be prepared to share with and learn from other DPs to ensure the support package is continuously improved and all Practices around the country receive a consistent and high standard of support.
- 4.6.1.6 Periodic face to face sessions between the NHSE Team and all DPs, and occasionally with the wider members of the PCTI Team.
- 4.6.2 NHS England will call up to a maximum of 4 full day, face to face developmental / training sessions, with a maximum of 4 representatives from each DP in any 12 months.
- 4.6.3 Plus, NHS England will call up to a maximum of 2 full day developmental / training sessions where all active Facilitators are expected to attend. We will work with the DP to find a time and location that is suitable for both parties. NHS England will fund the cost of the venue only. (These sessions could be set up more flexibly, based on emerging need, such as one full day face to face, and two half day sessions delivered virtually).

#### **4.7 Continuous Improvement**

- 4.7.1 NHS England will seek to learn from feedback from DPs, Practices, PCOs and others. We will need to respond to the changing needs of practices and our NHSE commissioner. DPs will be expected to share their insights and experiences and adapt to any required changes to the development, design and delivery of the support offer.
- 4.7.2 DPs and their facilitators are required to have an ongoing working knowledge of the GPIIP programme and the wider primary Care context and should take appropriate steps to ensure that continuous learning is adopted throughout the delivery period of this Agreement.

4.7.3 DPs will be expected to contribute to learning to improve the design and delivery of the support package to practices and the wider GPIIP, through a variety of forms such as:

- Weekly master trainer feedback sessions on week-to-week delivery challenges and opportunities (including updating the insights capture sheet)
- Insights and comments from facilitators in the GPIIP Practice reports
- End of phase GPIIP learning sessions
- Engagement with independent evaluation of the GPIIP
- DPs may be asked to contribute to the development of materials and resources to supplement delivery, using their front-line experience and knowledge. This could range from a simple tool or guide aimed at supporting facilitators undertake a specific activity, up to a new Standardised Improvement Module in order to adapt to changing practice circumstances. This 'Development of Materials' activity would be agreed between the relevant DP and NHSE and reimbursed at the standard daily rate (£840).

4.7.4 DPs will allow members of the NHSE Team to periodically observe delivery. This will be arranged in advance with the DP to ensure support to practices is not adversely affected.

#### **4.8 Location**

4.8.1 The DPs will be expected to deploy people and schedule practice level support across the whole of England.

4.8.2 The NHSE Team will advertise the GPIIP and encourage practices to join engagement sessions. The DP will ensure improvement facilitators and members of the management and administrative team with appropriate capacity, skills and expertise are deployed to support the range of engagement, delivery and reporting activities. Many engagement sessions are delivered virtually but some may be face to face and could be required in any part of England.

#### **4.9 Allocation of Workload**

4.9.1 The framework call-off award criteria is detailed in section 4.4.5 of Document 1` - Invitation to Tender. Offers of call-off contracts will be made on the basis of a "Taxi Rank" mechanism as more fully described in Schedule 7 of the Framework Agreement.

4.9.2 There is an expectation on all DPs that they will use all reasonable endeavours to accept each call-off contract offered to them and that each DP will use all reasonable endeavours to maintain the capacity and capability to perform at least one fifth of the total potential volume of call-off contracts that could be awarded under all the framework agreements entered into by the Authority with suppliers for this requirement.

4.9.3 No DP is guaranteed to be awarded any or any number of call-off contracts.

#### 4.10 Delivery Timetable

Phase deadlines are set at regular intervals throughout the year and are communicated to DPs in advance. In 2023/24 there were seven phases. There could be more or fewer phases in a year.

- 4.10.1 The timetable can be affected by several factors. These include which delivery models are being offered, delivery deadlines relating to end of year, the impact of holiday periods when practices often struggle to engage, and speed of practice sign up to the different delivery models. The 24/25 timeline has not yet been confirmed but might be as follows.

Phase	In practice support starts	Finish
E Intermediate	April 24	July 24
E Intensive	April 24	September 24
F Intermediate	May 24	September 24
F Intensive	May 24	October 24
G Intermediate	July 24	October 24
G Intensive	July 24	December 24
H Intermediate	October 24	January 25
H Intensive	October 24	March 25
I Intermediate	December 24	March 25

#### 5 Partnership Working

- 5.1 The DP will need to collaborate and work closely with key members of the NHSE Team and the wider GPIP team to ensure the contract runs successfully.
- 5.2 We intend to develop true partnership working, focused on delivering the outcomes identified by our commissioners by providing effective support to local Practices.
- 5.3 DPs are expected to work with other DPs that are appointed under the framework agreement by sharing insights, experiences, challenges, ideas and approaches to ensure that all Practices receive a consistently high-quality level of support.
- 5.4 The NHSE Team administration is currently based in Coventry, but the DP could be hosted from any location within England.

## 6 Governance & Reporting

### 6.1 Overview

- 6.1.1 This section sets out the high-level processes to be followed by the DP in conjunction with NHS England to ensure appropriate governance of the Services and their management during the term of the Agreement.

### 6.2 NHS Roles and Responsibilities

- 6.2.1 The table below shows each role, and their key responsibilities under this Agreement.

Role	Key responsibilities	Name*
GPIP Practice Level Support Work Stream Lead	Overall management of Practice Level Support (AMD, PGPQS and SIMs) including allocation of work, design and development of the support package, performance management of DPs, Quality Assurance, Learning, Reporting and Monitoring.	Sean Manning
Head of PMO	Responsible for framework agreement management and holding DPs to account around contractual and assurance obligations.	Sam Price-Jones
Sponsoring Director or nominated lead	Acts in the role of SRO.	James Raymond
Practice Level Support Co-Ordination	Responsible for monitoring delivery and progress on a weekly basis and management of operational issues.	Jo Careless

\*Subject to change – DPs will be notified of personnel changes.

### 6.3 DP Roles and Responsibilities

Role	Scope/Knowledge	Name*
Operational Lead	Responsibility for the day-to-day operational management of delivery of the call-off contracts.	[TBC through Tender response]
Senior Responsible Officer	Overall responsibility and accountability for full programme delivery.	[TBC through Tender response]



Contract Lead	Oversee the work and liaise with/ report to the nominated NHS England Contract Manager	[TBC through Tender response]
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6.3.1 \*The DP can appoint one named person to more than one role.

#### **6.4 Governance and Quality Assurance Meetings**

6.4.1 This section describes in more detail the regular meetings which will be scheduled as a minimum requirement to ensure strong communication is maintained at all levels of the relationship.

6.4.2 NHS England may convene additional meetings at any time provided that reasonable notice is given to the DP. NHS England may invite additional stakeholders at its discretion.

6.4.3 If a representative identified in column 5 (Attendees) cannot attend the relevant meeting, such representative shall be entitled to (i) provide its decision or approval on any issue raised at the meeting in writing within 2 days following such meeting, or (ii) nominate an alternative representative to attend the meeting by giving not less than 2 days' notice to the other party.

6.4.4 NHS England will endeavour to consolidate governance meetings wherever possible to maximise use of time.

6.4.5 Governance Meetings shall be as follows:

Type	Agenda/Purpose	Frequency / Location	Time	Attendees
<b>Mobilisation</b>	Monitor progress against mobilisation plan agreed milestones and help troubleshoot any risks and issues arising.	Weekly sessions for the mobilisation period. Will be held by Webinar.  Weekly meetings will move to monthly operational meetings once transition is complete.	30 – 60 minutes	<b>NHS England</b> -PLS Work Stream Lead -Head of PMO  <b>DP</b> -Operational Lead / SRO
<b>Operational &amp; Contract Management</b>	Monitor progress against agreed milestones and KPIs and help troubleshoot any arising risk issues. Discuss future phases.	Monthly for the first 6 months to be a mixture of virtual and face-to-face sessions as directed by NHS England.  To be reviewed in month 6 Contract Meeting to agree frequency going forward which will be quarterly as a minimum.	1 to 2 hours	<b>NHS England</b> -PLS Work Stream Lead -Head of PMO -PLS Coordinator  <b>DP</b> -Operational Lead - Contract Lead -SRO

Type	Agenda/Purpose	Frequency / Location	Time	Attendees
Quality Assurance and Improvement	Attendance of all relevant Facilitators, management team and back-office staff at mandatory training sessions as identified by the NHSE Team, at the cost of the DP. (If face to face the venue cost will be covered by the NHSE Team)	NHS England will call up to a maximum of 2 full day 'All Facilitator' developmental sessions where all Facilitators are expected to attend in any financial year. We will work with the DP to find a time and location that is suitable for both parties. NHS England will fund the cost of the venue only.	2 days	<p><b>NHS England</b></p> <ul style="list-style-type: none"> <li>- PLS Work Stream Lead</li> <li>- PLS Coordinator</li> </ul> <p><b>DP</b></p> <p>NHS England will call up to a maximum of 2 developmental sessions where all Facilitators are expected to attend in any financial year. We will work with the DP to find a time and location that is suitable for both parties. NHS England will fund the cost of the venue only</p>
Quality Assurance and Improvement	Sharing of experience with the PC Transformation Team, local PCO representatives, and other DPs. The DP must be prepared to share with and learn from other DPs to ensure the Practice Level Support is continuously improved and all Practices around the country receive a consistent and high standard of support.	NHS England will hold a maximum of 4, full day, face to face developmental sessions, with a maximum of 4 representatives from each DP. These sessions may be delivered virtually. The total time may be split across shorter sessions such as half days or 1-hour sessions.	4 days	<p><b>NHS England</b></p> <ul style="list-style-type: none"> <li>- PLS Work Stream Lead</li> <li>- PLS Coordinator</li> </ul> <p><b>DP</b></p> <p>These sessions are likely to be mainly virtual. Where they are face to face NHSE will work with the DP to find a time and location that is suitable for both parties. NHS England will fund the cost of the venue only</p>
Quality Assurance and Improvement	Periodic face to face sessions between the NHSE team and representatives from all DPs and / or the wider members of the PC Transformation Team.	Included in the box above.	Ad hoc	See above

## 6.5 Reporting

- 6.5.1 NHS England's PCTI Team will be responsible for the contract management of this framework agreement and will require regular assurance updates

from the DP about progress.

- 6.5.2 This section identifies the regular reports required to be produced by the DP to drive the governance meetings and processes.

Report	Content	Frequency
Quarterly contract update	<p>Power point update covering:</p> <p>Review of delivery experience over the past 3 months (or since last report period).</p> <p>Next 3 months delivery - plans issues and challenges.</p> <p>Key issues and risks.</p> <p>KPIs</p> <p>Formal contract submissions (e.g. policy documents)</p>	Quarterly
Weekly Monitoring	<p>Weekly monitoring is to be submitted to the NHSE team on a provided template to demonstrate delivery of practice support. The monitoring is to be submitted by close of play on Tuesday each week and needs to include all delivery from the previous week. DPs may add additional text to supplement the monitoring. The NHSE team will review the weekly monitoring and may ask for clarification. See Appendix 9 for Template.</p>	Weekly
Monthly Invoicing	<p>All invoices are to be uploaded to the NHS England system Tradeshift. Tradeshift is an invoicing tool which allows invoices to be submitted electronically. Invoices are to be submitted monthly to the NHSE team for pre- approval prior to them being uploaded to Tradeshift. Invoices are to be submitted in line with the invoicing template by COP on the 4th of each month and must include all delivery for the previous month. Once the NHSE team have approved the invoices then they are to be uploaded to Tradeshift. DPs will be provided with a purchase order number for each funded cohort prior to delivery starting. DPs must submit a separate invoice for each funded cohort containing the relevant purchase order number.</p>	Monthly
GPIP Practice reports	<p>This includes regular submission of a set of 'Core Metrics' plus an account of the improvements made during the time delivering the Practice Level Support. (See appx 6 GPIP Practice Report including core metrics)</p> <p>See Delivery Steps section</p>	Beginning, middle and end of hands-on delivery support period

Report	Content	Frequency
Session ratings (Practice representative and DP Facilitator)	See Delivery Steps section (4.5)	After each on-site visit
Group Based Learning survey	To administer a short survey during the final GBL session. This is usually done in the form of sharing an QR code taking participants to an online portal.	
Staff surveys	These are administered centrally by the NHS Team. Results are made available to the DP facilitators to provide insight into practice dynamics.	Beginning and end of hands-on delivery.
Skills Assessment	Details of relevant knowledge, skills and experience for each Facilitator including a development plan where required. (Appx 7)	At outset of framework agreement and thereafter six monthly
Delivery learning capture	Weekly Master Trainer update of the top tips, quick wins, challenges and opportunities to improve delivery.	Weekly

## 6.6 Escalation Procedure

- 6.6.1 DPs will contact the NHSE Team if there are emerging issues that cannot wait until the next regular review meeting. (Operational issues should be raised with the NHSE Team on a daily basis to seek a speedy resolution).
- 6.6.2 There is an expectation that DPs manage their workforce and delivery. They are also expected to manage the local relationship with practices and where required PCOs, ICBs and other members of the PCTI team. However, if there is a significant concern about resource allocation, progress, impact or reputational effect on the GPIP programme, these should be escalated in writing (e-mail) to the NHSE GPIP PLS Workstream Lead and NHSE PLS Co-ordinator within 24 hours.

## 7 Service Levels

- 7.1 The DP will be responsible for:
  - 7.1.2 complying with all performance management requests from NHS England.
  - 7.1.3 monitoring of delivery and impact in line with the systems, processes and tools identified by the NHSE Team. The DP may be mandated to use a specific monitoring system or may be asked to provide a data set to specific deadlines but be allowed to use its own system.
  - 7.1.4 adherence to the financial monitoring requirements outlined by the NHSE Team.
- 7.2 Although there is variation in practice conditions and special circumstances can sometimes affect a facilitator's ability to work with a practice team, there is an expectation that changes are implemented by a practice, core metrics are reported, and progress is made in line with the aims and objectives of the GPIIP. A GPIIP practice report should be completed for all practices that progress beyond the first set of 'diagnostic' on site sessions.
- 7.3 KPIs are defined against set Tiers:
  - 7.3.1. Tier 1 – Failure of Material KPI for consecutive phases and resulting in a Breach Notice being issued by the Authority.
  - 7.3.2. Tier 2 – Failure to remedy, or to have a suitable plan to remedy, any Tier 3 failure.
  - 7.3.3. Tier 3 – A Material KPI set out within the table below. In the event of a failure of any Material KPI, the KPI becomes a Tier 3 KPI upon which the Authority and the Supplier shall work together to understand the reasons for failure and the intended remedy.



## 8 Key Performance Indicators

These may be periodically reviewed and applied to the next delivery phase.

Ref	Services that KPI relates	Description of KPI	Measurement	KPI Tolerances (Percentage tolerance)	Tier 1/2 or 3
1	Practice Level Support Delivery	Call waiting time reduction - GPIP impact capture	Proportion of practices reporting a reduction in call waiting times	85% of practices report a reduction, where data available, from 'Baseline' to 'Final' report.	Material
2	Practice Level Support Delivery	Reporting Avoidable Appointments audit %	Proportion of practices completing Avoidable Appointment audit	95% of all practices completing the AMD element of support, report baseline Avoidable Appointments %  95% of intensive practices completing the final GBL session report follow up Avoidable Appointments %	Material
3	Practice Level Support Delivery	GPIP practice reports completed on time	Number of GPIP practice reports available by submission deadlines  <i>Deadlines are currently set for 'Baseline', 'Interim' (intensive only) and 'Completion' stages.</i>	95% of end of GPIP Practice reports in a phase available on the submission deadlines.	Material
4	Practice Level Support Delivery	Proportion of GPIP Practice reports completed adequately.	Proportion of reports reviewed by NHSE verifiers returned to DP for re-submission.	Less than 15% of reviewed reports are returned to DP for resubmission	Material
5	Practice Level Support Delivery	Practice Manager session ratings	No more than 3% of practice manager ratings reported in a phase to be rated as 'poor'.  Plus, no more than 10% of practice manager ratings reported in a phase to be categorised as 'poor' or 'ok'	3% or above 'poor' ratings in a phase  And  10% 'poor' or 'ok' ratings in a phase	Material

6	Practice Level Support Delivery	Completion rate by phase	Proportion of practices that receive 90% of their visits after attending GBL1 (e.g. if the delivery model is for 15 on site visits we would expect 90% to have received 13 of the 15 on site visits. If the delivery model is for 9 on site visits, we would expect 90% to have received 8 of the 9 on site visits)	Over 90% of practices receive 90% of on-site visits in a particular phase.	Material
7	Practice Level Support Delivery	Withdrawal rate by phase	<ul style="list-style-type: none"> <li>Proportion of practices withdrawing (including deferrals) after GBL1 per phase.</li> </ul>	Less than 15% withdrawal rate after GBL1 attendance.	Material
8	Practice Level Support Delivery	Administrative performance	<p>Significant and consistent poor performance in back office functions such as availability, responsiveness, reporting timeliness and stakeholder relationships.</p>	<p>1. Monthly invoices</p> <p>- submission within 4 working days of month end – 100% and</p> <p>2. Responsiveness to questions from the NHSE Team, PCO and Practices - within one working Day (100%) and</p> <p>3 Weekly monitoring submitted by COP each Tuesday – 100%</p>	Material



9	Practice Level Support Delivery	Complaints	Number of complaints raised by  Practices or PCOs in any one phase, in relation to DP delivery or support.	More than 2  written complaints to NHS England in the course of a phase.	Material
10	Practice Level Support Delivery	Mobilisation Plan	Delivery against key milestones in delivery plan.		Material

## 9. Mobilisation & Implementation

### 9.1 Timetable

9.1.1 The below milestones are based on the provisional phase dates planned for 24/25. These are subject to change before April 2024.

<b>Interest phase</b>	<p>Promotion of GPIP and specifically the Practice Level Support offer.</p> <p>DPs to contribute to delivery of 'Introductory Webinar' sessions, which provide an overview of the support offer. These are usually virtually delivered, but could be face to face, and around 60-90 minutes long. These could be to a national audience or delivered regionally. Usually up to 20 events for each phase shared equally across DPs.</p> <p>Practice sign up deadline</p>	<p>Ongoing to March 2024</p> <p>Dates in January / February / early March 2024</p> <p>Early March 2024</p>
<b>Allocation phase</b>	<p>Practices allocated to delivery partners:</p> <p>Delivery Partners organize practices into groups (known as cohorts)</p> <p>Cohort confirmation signed off by NHSE Team</p>	<p>Early / Mid-March 2024</p> <p>Mid-March</p> <p>End of March 2024</p>
<b>Implementation phase</b>	<p>Delivery starts:</p> <p>Delivery finishes: (see section</p>	<p>From 2<sup>nd</sup> April 2024</p>

## 4.10 Delivery Timetable)

9.1.2 The timetable for mobilisation of this framework agreement is set out below:

Ref	Milestone/Task	Date
1.	DPs are required to have sufficient number of back-office staff with an ability to manage the DP elements of the first phase of delivery in April 2024 interest and allocation phases. This will include staff with ability and experience to present overview of support at the 'Introductory webinars'. NHSE will provide training.	First week in January 2024
2.	DPs must ensure that a minimum of 15 suitably experienced individuals attend the Facilitator Delivery Training in January 2024. (Failure to attend links to the Long Stop Date.) Provide details and biographies/CV of each individual potential facilitator along with the 'Skills Assessment'	January 2024
3.	Back-office staff and management representatives would need to attend the <b>Support and Management training</b> delivered by the NHSE Team in January.  This would cover: <ul style="list-style-type: none"> <li>• A brief overview of the programme and context.</li> <li>• Engagement activity and delivery schedule.</li> <li>• Back-office requirements – engagement activity, cohort confirmation process, scheduling of facilitators, regular monitoring, financial models and monitoring, case studies, GPIIP Practice reporting, Skills assessment, contribution to learning and programme escalation, contract management, quality assurance etc.</li> <li>• (Focused on the management and administration team, those involved in engagement activity, scheduling activity, management, contract monitoring, and back office functions)</li> </ul> Up to 2 days in total. (One day face to face and one day virtual delivery). Only venue costs to be covered by NHS.	January 2024
4.	Complete and submit the PGPQS Skills Assessment Checklist for each potential facilitator. (See appx 7) This shows the current level of knowledge, skills and experience of each of the facilitators and a development plan, where required.  The skills assessment of their facilitator workforce and associated development plan must be signed off by the NHSE Team before a facilitator can deliver Practice Level Support.  Allowance will be made in the early months for Delivery Partners where the facilitators have no practical experience of delivering elements of the PLS (Access Model Diagnostic, PGPQS modules and other Standardised Improvement Modules).  If the collective facilitator skill set is not suitably developed, the DP may not	February 2024

	be awarded engagement and delivery activity in April 2024, but be allocated activity in the next phase, subject to demonstrating readiness.	
5.	<p>Become fully operational in terms of internal systems and processes, back-office functions and ability to deploy a sufficient number of suitably experienced client managers to undertake engagement phase activities.</p> <p>Provide a plan to demonstrate what is in place within two weeks of the Support and Management Team training.</p>	February 2024
6.	<p>Facilitators, would need to attend <b>the Delivery training</b> organised by the NHSE Team in January 2024. This covers:</p> <ul style="list-style-type: none"> <li>• Delivery of the support package – the modules, associated resources, facilitation approach and content.</li> <li>• Reporting on progress and impact.</li> <li>• The role and expectations of the NHSE Team.</li> <li>• Wider NHS context including working with General Practices and PCOs.</li> <li>• The General Practice Improvement Programme.</li> <li>• Engagement activities and monitoring requirements of facilitators.</li> </ul> <p>(This will be focused on facilitators but should also be attended by management team representatives.)</p> <p>Up to 5 days in total. (4 days face to face, possibly overnight and one day virtual delivery). Only venue costs to be covered by NHS.</p>	February to March 2024
7.	<p>Management Team availability for engagement activity from January to March 2024. This activity is likely to include virtual engagement events (1 to 2 hours) with practice representatives. Face to face, locality focused sessions may also be requested by ICBs.</p>	January to March 2024
8.	<p>Ensure all monitoring systems are in place to track progress, experience and outcomes.</p>	March 2024
9.	<p>Facilitators available to start delivering hands on support. Initial group-based learning sessions may be scheduled to start in the first week of April 2024. On site visits would also commence in April 2024.</p>	April 2024

9.1.3 The provider will provide a detailed mobilisation and implementation plan as part of the tender exercise and will be expected to adhere to the submitted plan.

## **10. Marketing and Communications**

### **10.1 Case Studies**

- 10.1.1 NHSE MarComms team will work with DPs and a small number of Practices to develop case studies (in different media formats) to promote the benefits of the Practice Level Support as part of the General Practice Improvement Programme.
- 10.1.2 DPs are expected to identify at least five Practices per phase as a potential case study. They are expected to complete a case study template (see appx 4 Case Study Template) and return it to the NHSE after the AMD period. This allows time for the NHSE MarComms lead to contact the Practice while they are still engaged in the Practice Level Support and capture real time insights.
- 10.1.3 DPs may also be asked to introduce the NHSE MarComms lead (by phone or e mail) to a Practice or PCO. Where appropriate we may wish to attend a GBL session in order to take notes, photos or videos, or to interview some of the participants and DP Facilitators. The DP is expected to help ensure the MarComms team can create an effective case study.

### **10.2 Branding**

- 10.2.1 Materials should be branded as directed by the NHSE Team using authorised NHSE templates. The support package should not be promoted or seen as being delivered by the DP organisation, but as part of GPIIP and part of the national NHS support package for primary care.
- 10.2.2 If there is a change of branding, programme name etc. NHS England will provide the appropriate materials (such as slide templates).

## **11. Invoicing**

### **11.1 Invoicing**

- 11.1.1 All invoices must be uploaded to the NHS England invoicing system Tradeshift.
- 11.1.2 Tradeshift is an invoicing tool which allows invoices to be submitted electronically. Invoices are to be submitted monthly to the Central NHSE team for pre-approval prior to them being uploaded to Tradeshift.
- 11.1.3 Invoices are to be submitted in line with the invoicing template by close play on the 4th of each month and must include all delivery for the previous month.
- 11.1.4 Once the Central NHSE team have approved the invoices then they are to be uploaded to Tradeshift. DPs will be provided with a purchase order number for each funded cohort prior to delivery starting. DPs must submit a separate invoice for each funded cohort containing the relevant purchase order number.

## 12. Charges/Pricing

### 12.1 Maximum Available Budget for PLS Pricing

- 12.1.1 The maximum available total budget for the PLS Services shall be on a cohort basis detailed in the Tables below. This represents an all-inclusive price for the Services that are specified in this framework agreement.
- 12.1.2 The Charges for the Services will be dependent on the number of Practices per cohort, the level of support delivered and the number of cohorts delivered. (A larger cohort requires more on-site visits and therefore attracts more payment).
- 12.1.3 The Tenderers' Charges/Pricing must be below the maximum available total budget shown below, and shall apply to both the initial Term and any extensions of the framework agreement, subject to amendment from time to time in accordance with the Charges Variation Procedure below.

#### Intensive – 16 OSV and 5 GBL

Cohort size	Base cost	Expenses	20% VAT	Total Payable
4	£61,320	£2,688	£12,264	£76,272
5	£76,200	£3,360	£15,240	£94,800
6	£91,440	£4,032	£18,288	£113,760
7	£106,680	£4,704	£21,336	£132,720
8	£121,920	£5,376	£24,384	£151,680
9	£135,360	£6,048	£27,072	£168,480
10	£148,800	£6,720	£29,760	£185,280

#### Intermediate - 10 OSV and 3 GBL

Cohort size	Base cost	Expenses	20% VAT	Total Payable
4	£37,920	£1,680	£7,584	£47,184
5	£47,400	£2,100	£9,480	£58,980
6	£56,880	£2,520	£11,376	£70,776
7	£66,000	£2,940	£13,200	£82,140
8	£75,840	£3,360	£15,168	£94,368
9	£84,230	£3,780	£16,848	£104,868
10	£92,640	£4,200	£18,528	£115,368

**Intermediate Plus – 6 OSV and 1 GBL \* this is to be offered to those practices completing the Intermediate support package to provide additional support if required**

Cohort size	Base cost	Expenses	20% VAT	Total Payable
4	£21,600	£1,008	£4,320	£26,928
5	£27,000	£1,260	£5,400	£33,660
6	£32,400	£1,764	£6,480	£40,392
7	£37,800	£1,764	£7,560	£47,124
8	£43,200	£2,016	£8,640	£53,856
9	£48,240	£2,268	£9,648	£60,156
10	£53,280	£2,520	£10,565	£66,456

- 12.1.4 If there are more than 8 Practices then there is a payment to reflect the additional hands on visits for each Practice. Payment of £840 plus expenses and vat per on-site visit, as reflected in the table above. (GBL sessions delivered virtually do not attract expenses)
- 12.1.5 If an on-site session does not take place (in line with the cancellation policy) then £840 (plus expenses and VAT) will be deducted from the amount DPs will receive.
- 12.1.6 If only one Facilitator delivers a group-based learning session, then £840 (plus expenses and VAT) will be deducted from the amount DPs will receive.
- 12.1.7 If the delivery model changes then the amount paid will be adjusted according to how many GBL sessions or on-site visits are being delivered.
- 12.1.8 If a practice withdraws from the support package, the payment to the DP is reduced by the number of non-delivered on-site sessions. GBL session payments are not affected as long as these continue to be delivered to the remaining practices in the cohort.

## **12.2 Charges Variation Procedure**

- 12.2.1 NHS England shall have the right from time to time during the Term to give notice to the DP to request a review of the Charges.
- 12.2.2 As soon as reasonably practicable after the date of the notice, the DP shall meet with NHS England to discuss in good faith the variation of the Charges. Any variation in the Charges agreed shall be recorded in writing and shall take effect on the date agreed between the parties.
- 12.2.3 Where it is agreed that the DP is to provide new or additional services the parties shall agree the Charges payable.



### 13. Appendix 1: GPIP Practice Level Support Delivery Model

PLS can be delivered in a variety of formats.:

- Intensive (26 weeks)
- Intermediate (13 weeks)
- Intermediate plus (6 OSVs and 1 GBL as a build on the Intermediate package)

These formats may change based on evidence of impact and demand.

Units of delivery are On-site visits (OSV) and Group Based Learning (GBL) sessions. Each session should be for a minimum of 3 hours.

**OSV.** These are hands-on sessions delivered by a single Facilitator in a practice with the relevant practice team. The number of OSVs depends upon the delivery format. The focus is on helping the practice team make progress towards a 'modern general practice access' model. Practices are supported in diagnosing issues, prioritising and planning action, implementing changes in the 5 key areas, demonstrating impact and planning for sustainability. A practice usually works on diagnosis and quick wins during the first 6 OSVs and implementing changes in the remaining OSVs.

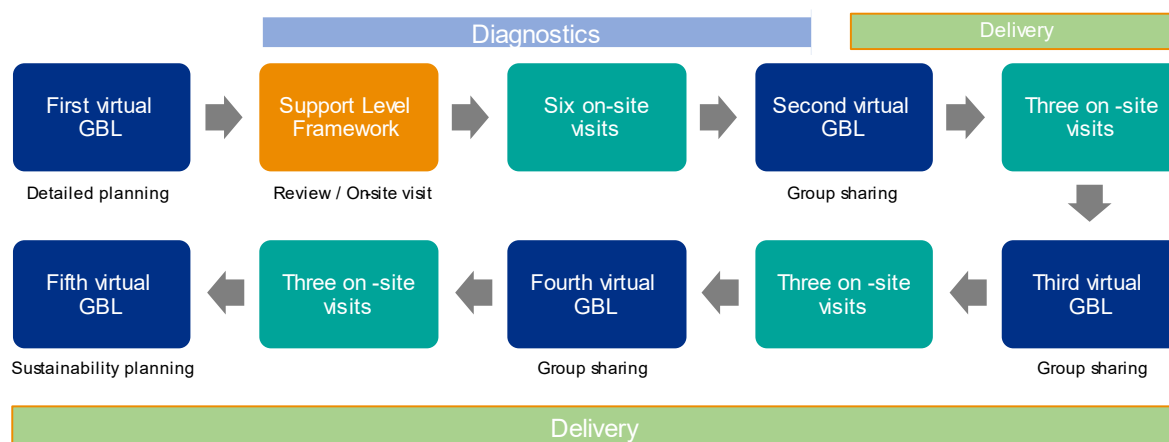
**GBLs.** Group Based Learning sessions are usually virtual sessions held with representatives from all the practices in a cohort. The aim is to provide an opportunity for practices to share experiences and learn from other practices. The GBL sessions should be for a minimum of 3 hours. These sessions are expected to be delivered by two Facilitators. The sessions have a different focus as practices progress through the programme, from preparation, to progress to celebration and next steps.



## Delivery model – INTENSIVE



The intensive offer for in -practice support takes place over 26 weeks. It comprises of 16 on -site visits and five virtual ' group based learning' (GBL) sessions.



2 |

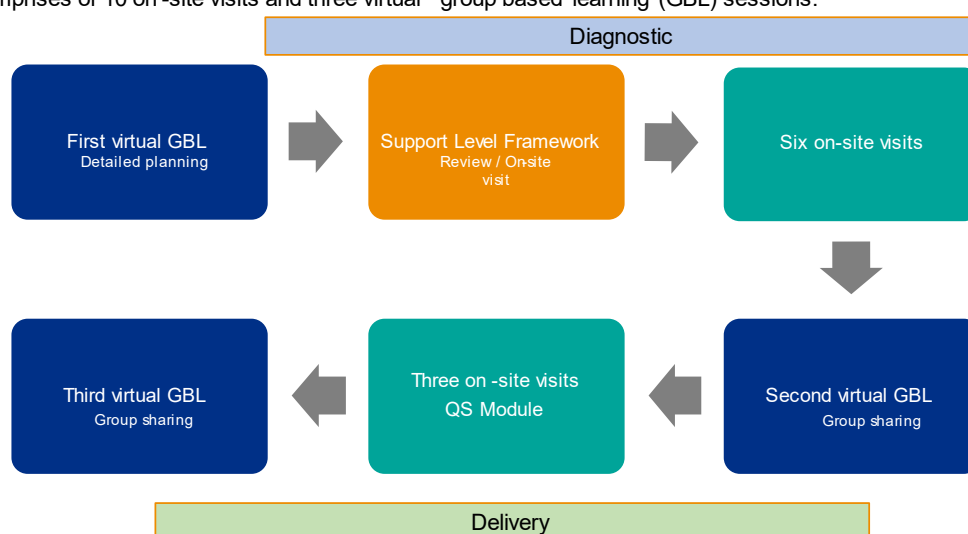
The **Support Level Framework** is a self-assessment of practice maturity and identification of areas where they require support. In 2024 these should be undertaken by an ICB. The SLF gives an indication to an ICB of which practices would benefit from PLS. (See appx 5)

A session is built into the delivery schedule so that the DP can either:

- 13.1.1 Review the completed SLF and discuss implications with the practice in advance of the OSVs, or
- 13.1.2 Facilitate the SLF through an onsite visit if this has not already been undertaken by the ICB

## Delivery model – Intermediate

The Intermediate offer for in -practice support takes place over 13 weeks. It comprises of 10 on -site visits and three virtual ' group based learning' (GBL) sessions.



3 |

## Delivery Model - Intermediate plus

As above plus an additional 6 OSVs per practice and a final GBL.

This option may be offered to Intermediate practices who have the will and capacity to make further progress. The additional 6 OSVs are usually offered around the period of GBL2. This offer is not automatically available to practices. The NHSE Team will decide whether to make this offer available at the start of each phase.

These OSVs are delivered soon after GBL3, to be experienced as a continuation of support. Exact delivery schedule is decided by the NHSE Team for each phase.

See the Commercial Schedule for Intermediate plus costings.

## 14. Appendix 2: Module Overview

Practices currently progress through the following standardised modules. (By module we refer to a collection of OSVs focused on a specific area).

### Access Model Diagnostic

The aim is to engage practices in moving towards an improved general practice access model that is safer, more efficient and more inclusive.

There is a lot of variation in practices. This can relate to skills, experience, capacity, previous QI projects, in practice systems, use of technology, culture, dynamics etc. Part of the success of the Support Package will be the facilitator's skill and experience in adapting delivery to match practice conditions.

This 'module' relates to the first 6 OSVs following the SLF. It focuses on gathering data and gaining insights into the following five priority areas:

- Understanding and managing demand and capacity
- Enhancing care navigation and triage processes
- Improving the experience for patients of telephoning their practice ('the telephony journey')
- Improving the experience for patients of contacting their practice and managing their care online (focusing on practice websites, online consultation tools, messaging systems and appointment booking tools)
- Management of non-patient-facing practice workload.

The AMD helps practices to be motivated to explore these areas and to begin to capture relevant data. This PLS emphasises the importance of a data driven approach, either through extraction from in house systems (e.g. telephone data) or by collecting data and analysis it for insights (e.g. avoidable appointments).

Alongside the diagnostic activity, the Facilitator will also support the practice in implementing quick wins. This will help keep energy and engagement in the early stages of support.

By OSV 6 all the data and insights gathered can be used to create a short, medium and long term action plan. The DP facilitator will be able to support prioritised short and medium term actions where maximum benefit can be achieved as the practice moves towards a modern general practice access model. The practice will need to seek additional support, perhaps through the PCN, ICB or other providers for elements not covered by the PLS.

A DP Facilitator Guide to delivery will be available to guide hands-on support and enable sign posting to other helpful resources (e.g. national NHS care navigation training, development opportunities or website guidance).

### Productive General Practice Quick Start Modules

Once priorities have been established the practice will implement improvements using modules from the PGPQS suite. The focus will be on making improvements that help a practice progress towards a modern general practice access model based on the prioritisation exercise at the end of the Access Model Diagnostic phase.

- **Efficient Processes** - redesign everyday high-volume processes that underpin an effective access model.
- **Common Approach** – expose unhelpful variation in approach that causes extra effort. Helps develop a common approach to service delivery.
- **Frequent Attenders** - set up a focused, speedy, regular review of high attenders. Leads to different approaches for the individual patient and also for the practice in general.
- **Clear Job Standards** - use visual management techniques to ensure regular activities are completed on time, every time. Identify team training needs.

Less likely to be used but also available:

- **Team Planning** - high level assessment of peaks and troughs in practice capacity and in activity. The practice looks at the profile of holidays, training and external meetings to reduce stress on the practice at peak times.
- **Appropriate Appointments** - explores what opportunities there are to ensure the patient sees the right person, first time. Links to the 'Appropriate Appointments Online audit tool'.
- **Well Organised Practice** - save time by creating a more efficient working environment. A place for everything and everything in its place.
- **Effective Communication** - save time by reviewing how effectively you communicate in the practice. How effective are those meetings? Do we all need to see those messages and emails? Why am I interrupted so often by people and tasks?

### Other Standardised Improvement Modules (SIMs)

In line with practice needs and delivery experience we may design additional SIMs to aid either the diagnostic or delivery elements of the PLS.

Such SIMs are likely to be based on a 3 OSV delivery model and could include subject areas such as:

- Enhancing care navigation – a systematic approach to effective navigation, sign posting and triage.
- Knowing How We Are Doing – capture, display and use of key data on a regular basis.
- Working with partners – making best use of community assets and service providers.
- Effective websites – making effective use of your website.
- LTC management – a proactive approach.

If additional SIMs are developed, DPs will have the opportunity to contribute to the development of these modules. DPs would be expected to make facilitators available for training. (See section 6.4 regarding total time availability). If additional time is required, facilitator attendance will be paid for at the daily rate of £840 (plus 5% expenses if face to face delivery).

## 15. Appendix 3: Practice Cancellation and Withdrawal Policy

This document explains the approach to dealing with cancellations and practice withdrawals.

### 15.1 Context

The Intensive/Intermediate Support Packager relies on a pre-planned delivery schedule. In the majority of cases a facilitator provides support to two practices on the same day, one practice in the morning session and one practice in the afternoon session.

Support is delivered over a period of 26 or 13 weeks; some flexibility is built into the delivery schedule to help with delivery partner allocation of facilitators and also instances where Practices need to cancel or alter on-site visits.

Practices will be asked to sign up to specific dates in advance. The expectation is that the practices will maintain the agreed schedule of visits.

Over this period of time, it is understandable that a practice may want to reschedule some of the visits due to unforeseen operational pressures.

Delivery Partners will be scheduling their facilitators in advance. We understand that short notice cancellations might mean that the facilitator cannot be reallocated, and costs incurred by the DP.

### 15.2 Cancellations

#### Cancellations – less than one week's notice

- Practice cancellations within a week of delivery can result in the forfeit of the session.
  - The DP will still be paid unless the session can be re-allocated or re-arranged without additional cost to the DP.
  - NHS England will not pay for a short notice cancelled session when the facilitator is re-allocated to a paid for session on the same day.
- For 'Intensive', only 3 cancelled sessions in total will be paid for. If a practice cancels a third session with less than a week's notice, the Delivery Partner will check practice commitment. NHS England will not pay for any further cancelled sessions from that practice, irrespective of the period of notice.
  - The Deliver Partner therefore proceeds at risk if it agrees to provide additional sessions to that practice. (Sessions will only be paid for if they go ahead).
  - Alternatively, the Delivery Partner will be supported in pausing or stopping support to the practice and all future on site sessions will be cancelled and the relevant ICB informed. The appropriate adjustment will be made to the funding schedule.
- For 'Intermediate', only 2 cancelled sessions in total will be paid for. If a practice cancels a second session with less than a week's notice, the Delivery Partner will check practice commitment. NHS England will not pay for any further cancelled sessions from that practice, irrespective of the period of notice.
  - The Deliver Partner therefore proceeds at risk if it agrees to provide additional sessions to that practice. (Sessions will only be paid for if they go ahead).
  - Alternatively, the Delivery Partner will be supported in pausing or stopping support to the practice and all future on site sessions will be cancelled and the relevant ICB informed. The appropriate adjustment will be made to the funding schedule.

- Any additional practice cancellations will result in the loss of the delivery session.
  - The delivery partner has discretion to reschedule a session in exceptional circumstances.
  - The session must be delivered before the end of the original final GBL week.

### **Cancellations – more than one week’s notice**

- The Delivery Partner will re-book up to two of the on-site delivery sessions as long as at least one week’s notice is given.
- A practice will only be able to cancel two sessions, with a week’s notice and expect to be able to re-book the session.
- If a practice cancels a third session, more than a week in advance, the DP can decide whether to reschedule. If the DP decides not to reschedule it, the practice will receive one less session. The payment schedule will be reduced by the agreed amount for that session. (E.g. the DP will get paid for 9 on-site sessions rather than the originally planned 10)

### **Cancellations - General**

- The Delivery Partner must advise the NHSE team on the weekly monitoring sheet of any cancellation or withdrawal.
- The re-booked sessions must be delivered before the end of the final GBL week.
- Any Delivery Partner cancellations must be re-delivered before the end of the final GBL week.

## **15.3 Practice withdrawal or termination**

If a practice decides not to proceed with the programme or the agreement is cancelled, the following applies:

- the GBL sessions will continue to be funded in full as long as they are delivered. (The same costs are incurred by the DP).
- there will be no payment for future planned on-site sessions for that practice. The day rate for subsequent on-site visits to that practice will be deducted from the cohort payment schedule by the OSV rate.
  - if withdrawal occurs within a week of the delivery of an on-site visit, that visit can still be charged in full, as long as it is the first, second or (in the case of Intensive practices) third cancellation for that practice, and the facilitator is not re-allocated to a paid for session.

## **15.4 Re-allocated sessions.**

15.4.1 Following a practice cancellation (or withdrawal from the programme) the Delivery Partner can **propose to re-allocate** the session(s) to a practice or practices from the same cohort or same Phase. (This assumes payment is not being claimed by the DP for the original on site visit). This proposal must be made to the NHSE Team (Practice Level Support) team within a week of the cancellation decision and before any commitment or delivery of the

sessions. No commitment should be made until permission has been granted to reallocate.

### 15.5 *Merger of cohorts*

15.5.1 If cohorts share GBL sessions, payment will only be made for delivery of one GBL session. A financial adjustment will be deducted from the cohort payment schedule.

### 15.6 Keeping the NHSE Team at NHS England informed

The Delivery Partner must inform the NHS England team within the weekly monitoring sheet of cancellations or withdrawal so that central monitoring can be maintained. This will also help ensure that invoices are matched appropriately with activity and avoid unnecessary challenges and investigations at payment stage.

<b>Cancellation – Practice name / cohort</b>
On site session number X on dd/mm cancelled with <u>more than</u> one week's notice
On site session number X on dd/mm cancelled with <u>less than</u> one week's notice
Advised initially on (cancellation notification date) dd/mm
<b>Action</b>
Will attempt to persuade practice to keep session in diary
Will attempt to re-book the session
Persuaded practice to keep session in diary
Persuaded practice to re-book the session for dd/mm
Session has been cancelled with no plan to re-book
Practice has dropped out of programme.
Red – practice has definitely left the programme.
Amber – attempts being made to keep practice in the programme.
Green – practice is back on track in the programme.

### Notification of cancellation date

The date of notification of cancellation is the initial day on which the practice suggested the session would be cancelled. If the practice advised the facilitator on the 1<sup>st</sup> that the session on the 10<sup>th</sup> might not go ahead, the 1<sup>st</sup> is the cancellation notification date. If the Delivery Partner chose to talk to the practice on the 5<sup>th</sup> to try to keep the visit in their diary, but was unsuccessful, the cancellation notification date is still the 1<sup>st</sup>, not the 5<sup>th</sup>.



## 16. Appendix 4: Case study template

### Practice Level Support (GPIP) Case Study Identification Template for completion by Delivery Partners (v1)

This template is to identify potential case studies that can be put forward to the Primary Care Transformation Team's Communications Manager, Yesret Bi [yesret.bi@nhs.net](mailto:yesret.bi@nhs.net)

**Delivery Partners do not need to write the case study**, you just need to use the boxes below to summarise briefly (in three or four sentences/bullet points in each box) what the key points are. The aim of this is to provide us with enough information to assess if this case study will add value to our library of case studies and will work well as an example of the impact the programme can have and that we can then share more widely with others.

You do not have to complete every section of this template, but the more insight you can provide the easier it will be for us to build up a great story with the practice when we talk to them.

**If the case study is progressed the practice will be contacted for a short call to get their insight into the work done. A draft copy of the case study will then be sent to the practice for approval and a final copy sent to the Delivery Partner.**

#### What makes a good case study?

A good case study is when a story can be clearly told. Showing the challenge faced and the area of improvement identified, through to clearly outlining the solution and the actions taken to make the changes and ending with some clear outcomes demonstrating the positive impact of the intervention and the changes made.

**Put a cross next to the reasons why you think this practice's story will make a good case study. You can mark all that apply:**

Shows the value of the NHSE GPIP PLS offer and what can be achieved with facilitator support (helps to champion the programme to our internal audiences and other practices thinking of signing up)	
Shows the changes and improvements a practice can make in a relatively short space of time and/or that changes are possible (providing hope and encouragement to others)	
Provides a good example to other practices of the changes a practice has made to improve access for patients (Giving others' ideas for potential improvements)	
Shows the value of insight the practice gained from accessing and using their data to inform and monitor their improvements (Evidence of the power of a data driven approach)	
Other reasons- Please summarise briefly:	

## Outcomes

Please indicate which of the following GPIIP improvement areas this case study relates to **by deleting those that don't apply**.

- Telephony
- The patient's online journey /online consultation
- Demand and Capacity
- Care navigation and triage
- Reducing practice workload (non-patient facing)
- Time savings made for the practice of approx. 1 day/week (7.5hrs). The equivalent of an extra 45 appointments/week (based on 10 min appointments).
- Reduced numbers of avoidable appointments
- Improved staff experience
- Improved patient experience
- Other

**Was the practice on the intermediate or Intensive PLS offer? (Delete those that don't apply below)**

- Intermediate Support (13 weeks)
- Intermediate Plus ( 6 OSVs and 1 GBL as a build on the Intermediate package)
- Intensive support (26 weeks)

**What was the challenge / area of improvement identified?**

**What was the solution and what actions were taken?**

**Outcomes: What did they achieve?**

**Is there any data to evidence the improvement made / impact? Yes\*/No (delete accordingly) \*If yes please provide details.**

**Quotes.**

## Contact details

Contact details will only be used to contact the practice to learn more about the changes made and the impact of the work, **they will not be included in the case study**.

**Facilitator contact details:**

**Practice contact details:**

*This template may be updated periodically.*

## 17. Appendix 5: Support Level Framework

The Support Level Framework (SLF) is a tool intended to support practices in gaining an understanding of what they do well, what they might wish to do better, and where they might benefit from development support to achieve those ends.

Completion of the SLF is designed to be co-ordinated by the ICS and delivered through a facilitated conversation with members of the practice team. The aim is to agree priorities for improvement and develop an action plan through which to address these areas over the forthcoming year.

Co-ownership of the action plan with the ICS enables practices to access the appropriate support required to progress in these areas. Any gaps in provision of support can be identified for future commissioning plans.

The SLF is constructed of six **domains**:

- Supporting Access
- Quality and Safety
- Leadership and Culture
- Stakeholder Engagement
- Workforce,
- Indicative Data

Each domain has several areas. Each area contains a support level descriptor of the type of maturity expected to be seen at four differing support levels (1 to 4, where 1 is the least developed and 4 the most developed). The facilitated assessment should encourage a conversation covering all domains and areas, allowing the practice to determine which support level best reflects their current/starting position for each area. They should then agree which support level they aspire to reach for each area (desired future position). These levels are recorded using the drop-down options and a summary of the conversation explaining the rationale recorded for the practice's benefit.

From this process practices are identified that could benefit from PLS as part of GPIIP.

DPs will be expected to review the SLF to gain an understanding of the practice's assessment. Of particular interest will be section 1 on 'Supporting Access to the right person or service'. (See diagram below).

In some circumstances DPs will be expected to facilitate the assessment. This will be one of the first OSVs. If facilitation of the session is required, either a trained facilitator will be provided to run the session, or training will be provided to the DP. If a trained facilitator is provided by the central NHSE Team, then the payment to the DP will be reduced by £840 plus 5% expenses as the DP will not be deploying their own facilitator.

## Section 1 of SLF – Supporting Access

SUPPORTING ACCESS TO THE RIGHT PERSON OR SERVICE									
Use and Understanding of Demand and Capacity Data	Currently no routine use of data in operational management of practice.	Awareness +/- understanding of GPAD and/or other data sources but not routinely used in operational decisions.	Regular use of GPAD data or demand and capacity data but only single data streams and limited understanding of variation.	Regular use of multiple data streams and daily demand data to inform operational decisions and plan for demand and capacity matching.	Support Level 1		Support Level 4		~Please Choose~
Use of Care Navigation	No care navigation currently in place	Use of care navigation to in house and external services only. Processes in place but not cascaded to all staff. Some in house care navigation training but no process to ensure continuity or spread of learning.	Care navigation in place for all requests to wider practice team and some external services but no Directory of Services available and no use of Community Pharmacy Consultation Service (CPCS). Processes in place and easily available to staff but currently no ongoing process for review and limited clinical leadership. Some staff trained in care navigation with cascade to other staff but no process for ongoing peer to peer learning.	Care navigation in place for all requests to wider practice team and some external services including routine use of CPCS for appropriate need where this is well established locally. Use of navigation to integrated neighbourhood teams and same day access hubs where available. Processes in place and easily available to staff with regular reviews in place and strong clinical leadership.	~Please Choose~		~Please Choose~		~Please Choose~
Use of Clinical Triage	No clinical triage process currently in place	Some clinical triage but not consistent across all clinicians and clear processes not in place. No patient involvement in design and no review against intended goals. No integration of modes of access (online/telephone/face to face)	Clinical triage system in place with clear processes and consistent approach. No/limited patient involvement in design. Some integration of modes of access but not fully integrated. No clear process for ensuring balance of continuity against urgency of need.	Clinical triage system in place with clear and consistent processes and regular review. Designed with patient population to take into account demographic needs and patient involvement in design of service. Consideration for balancing urgency of need with continuity of care. Full integration and parity of all modes of access.	~Please Choose~		~Please Choose~		~Please Choose~
Use of Online Consultation Systems	No online consultation system currently available	Online consultation system availability only in restricted hours and/or short notice closing. Tool poorly integrated into website and not visible alongside other contact options. Mainly used for administration requests	Online consultation system available for full practice opening hours. Clear communication around expected response times. Consideration given to online consultation tool used for particular practice population e.g length of questions, language support, voice to text options	Online consultations fully embedded with single triage workflow from all contact channels and parity of access for all channels. Strategy in place to support patients with low digital confidence and/or vulnerable patients. Consideration given to online consultation tool for particular population with patient engagement in decision making.	~Please Choose~		~Please Choose~		~Please Choose~
Website Maturity	Website using old template from supplier with low usability and accessibility	Website uses latest supplier template. Appointments, Prescriptions and 'Contact Us' all appear in main menu (Primary Navigation) and link to pages using recommended copy template in national guidance. Quick links to the top 7 patient tasks (make/change/cancel appointment, online consultations, prescription ordering, registration, test results, opening hours, sick notes and fit notes) appear on the homepage and visible to patients when they land on the page (especially in mobile).	Website template used is aligned to national standards. Core patient journeys highly accessible and usable.	Core patient journeys highly accessible. Website aligned to care navigation model including self-referral options and active promotion and support for use of digital channels. Skills and processes in test for ongoing testing and improvement and to support others with website improvement.	~Please Choose~		~Please Choose~		~Please Choose~
Use of Digital Patient Facing Services -viewing electronic record -ordering repeat prescriptions -communicating with GP practice -booking GP appointments	Ad hoc approach by practice to using and promoting online channels for key tasks to patients. No specific consideration given to how well they align to practices processes or whether to adjust practice process.	Patient facing services available with simplified channels for requests. Services used to improve efficiencies in practice processes e.g reducing paperwork, direct communication with patients	Patient facing services well promoted to patients with clear, consistent communications. Actively increasing registration with online patient facing services e.g at registration process and strategy in place to support actively migrating patients from using old channels e.g. email	Patient facing services well promoted to patients and full integration with practice processes. Support for patients to use services, in particular those with low digital confidence. Use of data to support decisions.	~Please Choose~		~Please Choose~		~Please Choose~
Patient Communications	Patient contact details and permissions incomplete with no process in place for collecting and maintaining data. No clear understanding of opportunities for communications. Communications ad hoc with no strategy in place.	Process in place for collecting patient permissions at registration but no process for ensuring up to date information. Focus on website and messaging for patient communications but not targeted to specific groups.	Process in place for maintaining patient contact details and permissions with named responsibility within the practice. Targeted communications to specific groups with clear calls to action and information links or booking links where appropriate. Practice is aware of, and uses, NHS content style guide to make sure communications are usable, accessible, targeted and support patients taking appropriate actions	Effective communications strategy including use of most appropriate communication channels for specific populations. Regular measurement of impact and continuous improvement of communications based on data. Communications embedded within practice processes eg direct links to appointment booking with recall messaging.	~Please Choose~		~Please Choose~		~Please Choose~
Use of Cloud Based Telephony	No cloud based telephony service currently in place	Cloud based telephony in place but no use of generated data to guide understanding and management of telephone demand.	Cloud based telephony in place with ad hoc use of generated data to guide understanding and management of telephone demand.	Cloud based telephony in place with regular use of generated data to guide understanding and management of telephone demand and processes in place to manage surge demand.	~Please Choose~		~Please Choose~		~Please Choose~
Management of Non Patient-Facing Workload	No measurement of level of non-patient facing workload with insufficient allocated time to undertake activity within the working day. Inefficient processes in place to manage workload. No review of areas of failure demand.	Intermittent measurement of level of non-patient facing workload with insufficient allocated time to undertake activity within the working day. Efficient processes in place for some, but not all, areas of non-patient facing demand. No review of areas of failure demand.	Regular measurement of level of non-patient facing workload with sufficient allocated time to undertake activity within the working day. Efficient processes in place for all areas of non-patient facing demand. No review of areas of failure demand.	Regular measurement of level of all non-patient facing demand with dedicated time for staff to undertake activity within the working day. Efficient processes in place for all areas of non-patient facing demand with regular review including a focus on improving areas generating failure demand.	~Please Choose~		~Please Choose~		~Please Choose~
Long Term Condition Management	Recall system not currently in place or in place but not used effectively. No current use of digital tools to support management	Recall system in place but minimal/no follow up for those not attending and no auditing process to ensure reliable design of process. Some ad hoc use of digital tools e.g. Floreys to support management but no current consistent process.	Evidence of ways of supporting long term condition management such as support for underserved populations, shared medical appointments. Recall system in place with evidence of regular auditing/use of data to monitor. Regular use of digital tools to support management.	Multi-disciplinary approach to long term condition management with evidence of use of personalised care to ensure appropriately addressing individual's needs. Evidence of consideration of impact of health inequalities and systems in place to support tackling this. Risk stratification processes in place and proactive monitoring through digital tools where appropriate.	~Please Choose~		~Please Choose~		~Please Choose~

## 18. Appendix 6: GPIIP Practice report

Key principles of report:

- Will tell the full story of the practice in one place.
- Will need to be updated regularly (usually weekly) during course of 13 / 26 weeks delivery.
- Will act as a record of the work done within the practice (core metrics, actions completed, early indicative outcomes).
- Will capture some of the learning from the delivery (e.g. ease of the practice collecting the Core measures data at the various stages).
- Allows facilitator to indicate that practice would make a good case study.

DP Facilitators are expected to update this report on a weekly basis to capture progress and impact. DP management teams are expected to internally verify the reports for accuracy and completeness. The reports are then reviewed by the NHSE central team at regular intervals. For Intensive (26 weeks) and Intermediate Plus PLS the reports are reviewed at three stages - baseline, interim and completion. For Intermediate PLS the two stages are baseline and completion. A detailed reporting timeline will be provided in advance.

The precise details of the report are under development and will be confirmed before delivery starts. Content may include the following sections.

Section 1 –Practice Status and Modules

Section 2 – Background on Practice

Section 3 – Access Model Diagnostic

Section 4 – Actions completed during support

Section 5 – Core measures data (for GPIIP practice-level support offer)

Section 5A – Core measures BASELINE data (all practices)

Section 5B – Core measures INTERIM data (Intensive practices only)

Section 5C – Core measures FOLLOW-UP positions (all practices)

Section 6 – Outcomes

Section 6A – Understanding and managing demand and capacity outcomes

Section 6B – Improving the telephony journey for patients' outcomes – Not core metrics

Section 6C – Improving the online contact journey for patients' outcomes – Not core metrics

Section 6D – Enhancing triage and care navigation outcomes

Section 6E – Better managing practice workload outcomes

Section 6F –Standard Actions and Outcomes

Section 7 – Facilitator / Practice Feedback and Next Steps

## Core measures

These are a key data set that must be collected for each practice. The DP Facilitator is responsible for reporting against elements 1 to 7 from the list below. These elements form part of the GPIP Practice Report.

1. Number of phone calls answered (call volumes) per 1,000 registered patient population
  - a. Total daily count of phone calls answered - Mon-Fri
  - b. Daily count of phone calls answered in first hour of phone lines being open - Mon-Fri
2. Call length times
  - a. Daily average of call length – Mon-Fri
  - b. Weekly average call length
3. Call times to answer (wait times)
  - a. Total daily average - Mon-Fri
  - b. Daily average in first hour of phone lines being open - Mon-Fri
4. Number of abandoned calls (dropped calls) per 1,000 registered patient population
  - a. Total daily count of abandoned calls - Mon-Fri
  - b. Daily count of abandoned calls in first hour of phone lines being open - Mon-Fri
5. Online consultation submissions (clinical and administrative) per 1,000 registered patient population
  - a. Total daily count - Mon-Fri
6. Percentage of avoidable appointments
  - a. Total number of appointments assessed
  - b. Total number of appointments deemed avoidable
7. Percentage of patients requiring continuity of care for their appointment where it was not met (as part of avoidable appointments audit)
8. Staff experience (via GPIP staff experience survey and temperature check)
9. Staff feedback on support offer (via GPIP end of module report and practice manager session ratings)
10. Patient experience (via national General Practice Patient Survey (GPPS)) *No programme data collection required*



## **19. Appendix 7: Skills Assessment**

We want to be assured by Delivery Partners that their facilitators have the required:

- Skills
- Experience
- Content Knowledge
- Context understanding

Every six months Delivery Partners update and submit the Skills Assessment form for each of their PLS facilitators.

Where there are facilitators who have gaps in knowledge or experience, Delivery Partners also submit a personalised development plan to explain what training or support has been put in place to help them fill gaps.

Progress will be checked against the next six-monthly submissions. For new facilitators or areas where there is significant concern, Delivery Partners may be asked to provide a 3-month update.

The NHSE Team will raise any specific questions with the Delivery Partner. High level analysis or issues will be discussed at the contract management meetings.

The form is excel based with various drop-down options and is completed for each facilitator that may be used by the Delivery Partner. See current example on following pages.

## Delivery Partner Skills and Experience Self-Assessment

The information collected from the skills and experience self-assessment is for the NHSE core team. It is part of the contractual requirement held with Delivery Partners. This self-assessment questionnaire should be completed by all new Coaches/Facilitators after their first 3 months and thereafter on an annual basis by existing coaches.

The skills and experience self-assessment should take approximately 10 minutes to complete.

The information from this self-assessment will form part of our internal quality assurance processes. It will also be used to help the core NHSE GPIP Practice Level Support team to identify any learning and training needs that could improve and strengthen the delivery offer. The findings will be shared with each of the Delivery Partner management teams

\* Required

1. Please enter your name \*

2. Which Delivery Partner do you work for? \*

- ☐ 1
- ☐ 2
- ☐ 3
- ☐ 4

3. Please indicate how confident you feel in facilitating the Support Level Framework (SLF) discussions.

On a scale of 1-5 (**1 = not confident** and **5 = fully confident**). \*

	1	2	3	4	5
SLF discussions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

*\*Please note – SLF question likely to be altered for 24/25 delivery*

4. Thinking about the Access Model Diagnostic stage of delivery - please indicate how equipped you feel to deliver this.

On a scale of 1-5 (**1 = not equipped** and **5 = fully equipped**). \*

	1	2	3	4	5
Access Model Diagnostic	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

5. What would help you feel more confident in delivering the Access Model Diagnostic stage of delivery? \*

6. Please indicate your level of confidence in delivering each of the programme's improvement modules (PGP QS modules)

On a scale of 1-5 (**1 = not confident and 5 = fully confident**)

	1	2	3	4	5
Appropriate Appointments	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Efficient Processes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Team Planning	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Frequent Attendees	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Common Approach	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Clear Job Standards	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Well Organised Practice	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Effective Communications	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

7. Please indicate how confident you feel in talking to practices about the following.  
On a scale of 1-5 (**1 = not confident** and **5 = fully confident**). \*

	1	2	3	4	5
General Practice Improvement Programme (GPIP)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
General Practice ImprovementLead Training(GPIL)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PCN Support offer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Digital & Transformation Lead training	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Capability Building Webinars	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Primary Care Improvement Community (PCIC)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

8. Please indicate how confident you feel in knowing where to find resources to support your delivery of the Programme.

On a scale of 1-5 (**1 = not confident** and **5 = fully confident**).

\*

	1	2	3	4	5
NHS E MS Teams	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PCIC page on NHS Futures	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
NHS E Knowledge Hub on Futures	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
GPIP Web pages	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

9. Please indicate how confident you feel when leading the Group Based Learning (GBL) sessions.

On a scale of 1-5 (**1 = not confident** and **5 = fully confident**). \*

	1	2	3	4	5
Group Based Learning	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

10. Please indicate how confident you feel in facilitating change using QI tools and techniques.

On a scale of 1-5 (**1 = not confident** and **5 = fully confident**). \*

	1	2	3	4	5
QI tools & techniques	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

11. Please indicate how you would rate your knowledge and understanding of primary care.

On a scale of 1-5 (**1 = low** and **5 = high**). \*

	1	2	3	4	5
Primary care knowledge	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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12. Are there any thoughts or reflections you would like to share with us regarding your skills, experience and support needs? \*

DPs will be expected to submit their first completed skills assessment for their facilitators in February 2024 following initial training.



## 20. Appendix 8: Weekly Monitoring

Weekly monitoring is to be provided weekly to the Central PLS Team and is individual to each Delivery Partner. The format for this monitoring is set by the Central PLS team using a Microsoft Excel document. This monitoring is to be submitted by COP Tuesday each week and needs to include all delivery from the previous week. DP's may add additional text to supplement the monitoring. The Central PLS team will review the weekly monitoring and may ask for clarification.

The weekly monitoring sheet is an overall summary of the schemes, this provides the Central PLS team with a high-level view of the number of practices currently engaged and any practices that have withdrawn and details of the support that each practice will receive. This includes the cohort number, practice name, the status of the practice (Red = Withdrawn, Amber = Risk of withdrawing, Green = On track). The sheet also contains details of the date and times of both the onsite visits and group-based learning sessions. Each week when the monitoring is submitted to the Central PLS team the status of each onsite visit or group-based learning session is to be updated with the status of delivery (Diagram of monitoring sheet is below):

[illegible]

The below key is a descriptor for programme inventions to be used on the monitoring sheet

Intervention Code	Description
OSV	On site visit
SLF	Support Level Framework
GBL	Group Based Learning Session

The Below key is to be used in the status column of the monitoring sheet to indicate the stage of delivery

Not Scheduled	No date or date not agreed
Scheduled	Date agreed
Completed	Session completed to original week
Re-scheduled	Session completed to a re-scheduled week
Cancelled - less than 7 days	Session cancelled by the practice within 7 days and chargeable
Cancelled - more than 7 days	Session cancelled by the practice more than 7 days and not chargeable
Withdrawn	Practice has confirmed they will not take part in the programme

## Commercial schedule

The maximum available budget for the Service Offer Prices are set out within Section 12 of the Specification and are inserted here for reference.

## 21. Charges/Pricing

### 21.1 PLS Pricing

21.1.1 The maximum available total budget for the PLS Services shall be on a cohort basis detailed in the Tables below. This represents an all-inclusive price for the Services that are specified in this framework agreement.

21.1.2 The Charges for the Services will be dependent on the number of Practices per cohort, the level of support delivered, and the number of cohorts delivered. (A larger cohort requires more on-site visits and therefore attracts more payment).

21.1.3 The Tenderers' Charges/Pricing must be below the maximum available total budget shown below and shall apply to both the initial Term and any extensions of the framework agreement, subject to amendment from time to time in accordance with the Charges Variation Procedure below.

### Intensive – 16 OSV and 5 GBL

Cohort size	Base cost	Expenses	20% VAT	Total Payable
4	£61,320	£2,688	£12,264	£76,272
5	£76,200	£3,360	£15,240	£94,800
6	£91,440	£4,032	£18,288	£113,760
7	£106,680	£4,704	£21,336	£132,720
8	£121,920	£5,376	£24,384	£151,680
9	£135,360	£6,048	£27,072	£168,480
10	£148,800	£6,720	£29,760	£185,280

### Intermediate - 10 OSV and 3 GBL

Cohort size	Base cost	Expenses	20% VAT	Total Payable
4	£37,920	£1,680	£7,584	£47,184
5	£47,400	£2,100	£9,480	£58,980
6	£56,880	£2,520	£11,376	£70,776
7	£66,000	£2,940	£13,200	£82,140
8	£75,840	£3,360	£15,168	£94,368
9	£84,230	£3,780	£16,848	£104,868
10	£92,640	£4,200	£18,528	£115,368

**Intermediate Plus – 6 OSV and 1 GBL \* this is to be offered to those practices completing the Intermediate support package to provide additional support if required**

Cohort size	Base cost	Expenses	20% VAT	Total Payable
4	£21,600	£1,008	£4,320	£26,928
5	£27,000	£1,260	£5,400	£33,660
6	£32,400	£1,764	£6,480	£40,392

7	£37,800	£1,764	£7,560	£47,124
8	£43,200	£2,016	£8,640	£53,856
9	£48,240	£2,268	£9,648	£60,156
10	£53,280	£2,520	£10,565	£66,456

21.1.4 If there are more than 8 Practices, then there is a payment to reflect the additional hands on visits for each Practice. Payment of £840 plus expenses and vat per on-site visit, as reflected in the table above. (GBL sessions delivered virtually do not attract expenses)

21.1.5 If an on-site session does not take place (in line with the cancellation policy) then £840 (plus expenses and VAT) will be deducted from the amount DPs will receive.

21.1.6 If only one Facilitator delivers a group-based learning session, then £840 (plus expenses and VAT) will be deducted from the amount DPs will receive.

21.1.7 If the delivery model changes then the amount paid will be adjusted according to how many GBL sessions or on-site visits are being delivered.

21.1.8 If a practice withdraws from the support package, the payment to the DP is reduced by the number of non-delivered on-site sessions. GBL session payments are not affected as long as these continue to be delivered to the remaining practices in the cohort.

## **21.2 Charges Variation Procedure**

21.2.1 NHS England shall have the right from time to time during the Term to give notice to the DP to request a review of the Charges.

21.2.2 As soon as reasonably practicable after the date of the notice, the DP shall meet with NHS England to discuss in good faith the variation of the Charges. Any variation in the Charges agreed shall be recorded in writing and shall take effect on the date agreed between the parties.

21.2.3 Where it is agreed that the DP is to provide new or additional services the parties shall agree the Charges payable.





















































**Schedule 6**

**Commercial Schedule**





## **Schedule 7**

### **Ordering Procedure**

#### **1. Ordering Procedure: Direct Awards Only**

- 1.1 If the Authority wishes to place an Order for any Services through this Framework Agreement, then after defining the scope of any Order in accordance with Clause 5 of this Schedule 7, the Authority shall offer a Purchase Order to the Supplier where that Supplier is indicated as the relevant supplier by the application of the "Taxi Rank Process" set out at Clause 6 of this Schedule 7.
- 1.2 The Supplier is one of up to 5 (five) suppliers who have been awarded framework agreements in the form of this Framework Agreement (subject to the terms of their commercial offers).
- 1.3 Each supplier will have been awarded a rank based upon the scores achieved by that supplier in the competition for a place on the framework (with the highest scoring supplier ranked 1)
- 1.4 Such ranks shall be used for the sole purpose of determining the order in which Orders are placed under the the "Taxi Rank Process" set out at Clause 6 of this Schedule 7, with the supplier ranked 1 being offered the first Order.
- 1.5 The Supplier is not guaranteed to receive any Orders or any number of Orders under this Framework Agreement.

#### **2. Form of Order**

- 2.1 Having followed the process set out at Clause 1 of this Schedule 7, the Authority may place an Order with the Supplier by serving a purchase order on the Supplier containing the following information as a minimum ("Purchase Order"):
  - 2.1.1 an identifiable reference to the Framework Agreement;
  - 2.1.2 the name of the Supplier;
  - 2.1.3 a description of the scope of the Order, comprising services falling within the scope of the Specification and Tender Response Document and to be delivered in the manner set out in the Specification and Tender Response Document set out at Schedule 5 (and which level of support is required);
  - 2.1.4 the cohort size;
  - 2.1.5 the Contract Price as determined by and in accordance with the Commercial Schedule and the Specification and Tender Response Document set out at Schedule 5 and confirmation of any payment profile;
  - 2.1.6 the timescales within which delivery is required including the term of the Contract, and any applicable service commencement and/or longstop dates;
  - 2.1.7 the application of any applicable implementation plan



- 2.1.8 the identity of contract managers of both parties and the names and address applicable for the service of notices;
  - 2.1.9 the location for the performance of all or part of the Services; and
  - 2.1.10 the identities of any supplier key staff.
- 2.2 A Purchase Order shall be deemed to have been served on the Supplier:
- 2.2.1 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
  - 2.2.2 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
  - 2.2.3 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.
- 2.3 The Parties agree that any document or communication which is not in the form prescribed by this Schedule 7 shall not constitute an Order for the purposes of this Framework Agreement or result in a valid Order being placed with the Supplier.

### **3. Accepting and declining Orders and formation of Contract**

- 3.1 Following the service on them of an Order, the Supplier shall promptly and in any event within a reasonable period determined by the Authority and notified to the Supplier in writing at the same time as the service of the Order (which in any event shall not exceed three (3) Business Days), acknowledge receipt of the Order and either:
- 3.1.1 notify the Authority in writing that it is unable to fulfil the Order and provide the reason(s) for its inability to do so; or
  - 3.1.2 notify the Authority in writing that it is able to fulfil the Order (with the capacity to deliver within the stated timescales).
- 3.2 If the Supplier:
- 3.2.1 notify the Authority that they are unable to fulfil an Order; or
  - 3.2.2 the time limit referred to in Clause 3.1 has expired;
- then the Order shall lapse.
- 3.3 If the Supplier seek to modify or impose conditions on the fulfilment of an Order, then the Authority may either:
- 3.3.1 reissue the Order incorporating the modifications or conditions (provided that such modifications or conditions do not cause the provisions of the revised

Order to breach the requirements of the Regulations or of EU procurement Law); or

- 3.3.2 deem the Supplier's response as notification of their inability to fulfil the Order and the provisions of Clause 3.4 of this Schedule 7 shall apply.

3.4 Where and on each occasion that:

3.4.1 the Supplier notify the Authority that it is unable to fulfil an Order; or

3.4.2 an Order lapses; or

3.4.3 the Supplier are deemed to have notified the Authority that they are unable to fulfil an Order pursuant to Clause 3.3.2;

then the Authority shall rescind such offer and that Order will be offered to an alternative Supplier as set out at Clause 6 of this Schedule 7 below.

- 3.5 The Parties acknowledge and agree that the placement of an Order is an offer by the Authority. Where the Supplier notifies the Authority in writing that it is able to fulfil the Order this shall constitute acceptance by the Supplier and a contract to perform the Order on the basis set out in the Purchase Order shall be created.

3.6 Following the formation of each Contract the Authority:

3.6.1 may publish a contract award notice as described in the Public Contracts Regulations 2015, but is not required to do so; and/or

3.6.2 may publish information concerning the Contract on Contracts Finder or any successor of Contracts Finder.

#### **4. Further Assessment**

4.1 Before awarding an Order to the Supplier the Authority may require the Supplier to promptly reconfirm their current status, position or data (as applicable) in relation to the information submitted by the Supplier in response to the Framework ITT.

4.2 Where any information supplied to the Authority by the Supplier pursuant to Clause 4.1 of this Schedule 7 would, had it been submitted as part of the Supplier's response to the Framework ITT, have lead to that Supplier:

4.2.1 failing to be appointed to this Framework Agreement; and/or

4.2.2 would justify the termination of this Framework Agreement;

then the Authority shall be entitled to decline to offer an Order to the Supplier until the Supplier can satisfy the Authority that its current status, position or data (as applicable) are such that it would not have failed to be appointed to the Framework Agreement and that grounds to terminate this Framework Agreement no longer exist.

## **5. Defining the Scope of any Order**

- 5.1 The Authority shall have absolute discretion as to the way in which it scopes each Order and the extent of Services and size of cohort included within each order.
- 5.2 To reduce the administrative burden of awarding support to GP practices on a per practice basis, the Authority may amalgamate the requirements of GP practices in batches.
- 5.3 Where the Authority amalgamates the requirements of GP practices in batches then it may do so on any basis it deems appropriate, whether by geography, type of input required, administrative unit, alphabetical designation or any other basis whatsoever.
- 5.4 The Authority has absolute discretion to determine the order in which Orders are called off from the Framework Agreement.

## **6. The Taxi Rank Process**

- 6.1 The Authority shall offer Orders to each of the suppliers who have been awarded framework agreements in the form of this Framework Agreement (subject to the terms of their commercial offers) in rotation starting with the first ranked supplier.
- 6.2 Where a supplier declines an offer of an Order, or is deemed to have so declined an Order in accordance with Clause 3 of this Schedule 7, then the Authority shall offer such Order to the next ranked supplier. Where that next ranked supplier accepts that Order then that supplier will be substituted into the rotation of suppliers in the place of the supplier who declined or was deemed to have declined that Order. The supplier who declined or was deemed to have declined that Order shall adopt the place of the formerly next ranked supplier.
- 6.3 Subject to Clause 6.4 of this Schedule 7 where a Supplier has declined an offer of an Order, or is deemed to have so declined an Order in accordance with Clause 3 of this Schedule 7, then it shall be the first ranked supplier entitled to be offered the next available Order by the Authority.
- 6.4 Where a supplier is offered the next available Order as set out in Clause 6.3 of this Schedule 7 and accepts that Order then, subject to the other provisions of this Clause 6 of this Schedule 7, that Supplier shall remain in that sequence in the rotation of the suppliers.
- 6.5 Where a supplier:
  - 6.5.1 declines an offer of an Order for a reasons that the Authority (acting reasonably) does not consider legitimate, or
  - 6.5.2 declines an offer of an Order but provides no reasons; or
  - 6.5.3 an Order lapses;then that supplier shall forfeit the right to be the first ranked supplier entitled to be offered the next available Order by the Authority and shall remain in the place in the rotation of suppliers that applied prior to the offer of that Order.

6.6 For the purposes of Clause 6.5.1 of this Schedule 7 the Authority shall be acting reasonably where (without limitation to any other determinations it might make in other circumstances) it considers:

6.6.1 a supplier has declined an offer based on the scale and/or monetary value of the Order; or

6.6.2 a supplier has failed to use all reasonable endeavours to maintain the capacity and capability to perform at least one fifth of the total potential volume of call-off contracts that could be awarded under all the framework agreements in the form of this Framework Agreement entered into by the Authority with suppliers

6.7 A worked example of this process is set out below.

**7. The Taxi Rank Process: Worked Example for illustrative purposes**

#### Scenario A

- GP A requires support via the framework agreement.
- Supplier 1, as the highest scoring supplier, is direct awarded to deliver the service to GP A (subject to confirmation that they have the capacity to deliver within the stated timescales and their acceptance)

#### Scenario B

- GPs B, C and D requires support via the framework agreement as part of a linked scope of services to be delivered as a single Order
- Supplier 1, as the highest scoring supplier, has already been awarded the call-off contract for GP A
- Supplier 2, as the second highest scoring supplier, is next in line to deliver as part of the taxi rank system.
- Subject to confirmation of capacity to deliver within the stated timescales and their acceptance, Supplier 2 is direct awarded to deliver the service to GPs B, C and D.

#### Scenario C

- GP E requires support via the framework agreement.
- As the two highest scoring bidders, Supplier 1 and Supplier 2 have already been awarded call-off contracts to deliver services to GP A and GPs B - D respectively.
- Supplier 3, as the third highest scoring supplier, is next in line to deliver as part of the taxi rank system.
- Subject to confirmation of capacity to deliver within the stated timescales and their acceptance, Supplier 3 is direct awarded to deliver the service to GP E

#### Scenario D

- GP F requires support via the framework agreement.
- As the three highest scoring bidders, Supplier 1, Supplier 2, and Supplier 3 have already been awarded call-off contracts to deliver services to GP A, GPs B - D and GP E respectively.
- Supplier 4, as the fourth highest scoring supplier, is next in line to deliver as part of the taxi rank system.
- Supplier 4 confirms that they cannot deliver the specified requirements within the stated timescales. Therefore, they decline the Order, giving reasons, and will forgo that turn on the taxi rank system.
- Supplier 5, as the next ranked supplier, is approached to deliver the service to GP F.
- Supplier 5 confirms that they can deliver the services within the stated timescales and accept the offer and are therefore direct awarded to deliver the service to GP F

### Scenario E

- *As per Scenario D, Supplier 4 was not able to deliver services to GP F, therefore Supplier 5 delivered the services instead.*
- *GP G also requires support via the framework agreement.*
- *The Authority is satisfied that Supplier 4's reasons for declining the offer to deliver services to GP F were legitimate and therefore Supplier 4 is now the first ranked supplier in line for the next order.*
- *Supplier 4 is offered the call-off contract to deliver to GP G.*
- *This time, Supplier 4 confirms that they have the capacity to deliver within the stated timescales and accepts the offer.*
- *A direct award to Supplier 4 is carried out, thereby receiving their first call-off contract under the framework agreement.*
- *Supplier 1 is now next in line to deliver to the next GP practice as per the taxi rank system and the anticipated rotation of offers (assuming all offers are accepted) is now Suppliers 1,2,3,5,4.*

### Scenario F

- *GPs I and J require support via the framework agreement as part of a linked scope of services to be delivered as a single Order.*
- *Supplier 1 is offered the Order/call-off contract to deliver to GPs I and J.*
- *Supplier 1 declines to accept the call-off contract to deliver to GPs I and J*
- *Supplier 2, as the next ranked supplier, is approached to deliver the service to GPs I and J.*
- *Supplier 2 confirms that they can deliver the services within the stated timescales and accept the offer and are therefore direct awarded to deliver the service to GPs I and J.*
- *The Authority is not satisfied that Supplier 1's reasons for declining the offer to deliver services to GPs I and J were legitimate and therefore Supplier 1 is not treated as the first ranked supplier in line for the next order.*
- *Supplier 3 is now next in line to deliver to the next GP practice as per the taxi rank system and the anticipated rotation of offers (assuming all offers are accepted) is now Suppliers,3,5,4, 2, 1.*

- *Supplier 1*

The above scenarios are based on a five-supplier framework agreement. The above Direct Award process will also apply to a framework agreement with less than five suppliers.

## **Appendix A**

### **Call-off Terms and Conditions for the Provision of Services**

Where a Purchase Order is issued by the Authority that refers to the Framework Agreement, the Contract is made between the Authority and the Supplier on the date the Supplier to whom the Purchase Order is issued notifies the Authority in writing that it is able to fulfil the Order. The Contract formed is subject to and incorporates the terms set out in the schedules of these Call-off Terms and Conditions listed below ("**Schedules**").

The Authority and the Supplier undertake to comply with the provisions of the Schedules in the performance of the Contract.

The Supplier shall supply to the Authority, and the Authority shall receive and pay for, the 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 a Purchase Order (and their notification of the Authority in writing that it is able to fulfil the Order) that forms part of the relevant Services shall be undertaken at the Supplier's risk and expense and the Supplier shall only be entitled to invoice for Services covered by a valid Purchase Order.

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 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	Authority Step-In Rights



## **Schedule 1 of these Call-off Terms and Conditions**

### **Key Provisions**

#### **1 Application of the Key Provisions**

- 1.1 The standard Key Provisions at Clauses 1 to 8 of this Schedule 1 of these Call-off Terms and Conditions shall apply to this Contract.
- 1.2 Extra Key Provisions shall only apply to this Contract where such provisions are set out as part of the Purchase Order.

#### **2 Term**

- 2.1 This Contract commences on the Commencement Date.
- 2.2 The Term of this Contract shall be as set out in the Purchase Order.
- 2.3 The Term may be extended in accordance with Clause 15.2 of Schedule 2 of these Call-off Terms and Conditions provided that the duration of this Contract shall be no longer than any maximum duration applicable to the Contract if such maximum duration is set out in the Framework Agreement (including any options to extend).

#### **3 Contract Managers**

- 3.1 The Contract Managers at the commencement of this Contract shall be as set out in the Purchase Order or as otherwise agreed between the Parties in writing.

#### **4 Names and addresses for notices**

- 4.1 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 Purchase Order.

#### **5 Management levels for escalation and dispute resolution**

- 5.1 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>Authority representative</b>	<b>Supplier representative</b>
1	Contract Manager	Contract Manager
2	Assistant Director or equivalent	Assistant Director or equivalent
3	Director or equivalent	Director or equivalent

#### **6 Order of precedence**

- 6.1 Subject always to Clause 1.10 of Schedule 4 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:
- 6.1.1 the Purchase Order;
- 6.1.2 the applicable provisions of the Framework Agreement other than the Specification and Tender Response Document;

- 6.1.3 the provisions on the front page of these Call-off Terms and Conditions for the Provision of Services;
- 6.1.4 Schedule 1 of these Call-off Terms and Conditions: Key Provisions;
- 6.1.5 the Specification and Tender Response Document (but only in respect of the requirements);
- 6.1.6 Schedule 2 of these Call-off Terms and Conditions: General Terms and Conditions;
- 6.1.7 Schedule 3 of these Call-off Terms and Conditions: Information Governance Provisions;
- 6.1.8 Schedule 4 of these Call-off Terms and Conditions: Definitions and Interpretations; and
- 6.1.9 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.

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

- 7.1 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 Authority or a Third Party to the Supplier.
- 7.2 If any person who is an employee of the Authority or a Third Party claims or it is determined that their contract of employment has been transferred from the Authority 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:
  - 7.2.1 the Supplier will, within seven (7) days of becoming aware of that fact, give notice in writing to the Authority;
  - 7.2.2 the Authority or Third Party may offer employment to such person within twenty-eight (28) days of the notification by the Supplier;
  - 7.2.3 if such offer of employment is accepted, the Supplier or a Sub-contractor shall immediately release the person from their employment;
  - 7.2.4 if after that period specified in Clause 7.2.2 of this Schedule 1 of these Call-off Terms and Conditions has elapsed, no offer of employment has been made by the Authority or Third Party, or such offer has been made by the Authority 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).

## **8 Net Zero and Social Value Commitments**

### **Supplier carbon reduction plans and reporting**

- 8.1 The Supplier shall put in place, maintain and implement a board approved, publicly available, carbon reduction plan in accordance with the requirements and timescales set out in the NHS Net Zero Supplier Roadmap (see [Greener NHS »Suppliers](#)

([england.nhs.uk](https://www.england.nhs.uk/greenernhs/get-involved/suppliers/)) (<https://www.england.nhs.uk/greenernhs/get-involved/suppliers/>)), as may be updated from time to time.

- 8.2 A supplier assessment for benchmarking and reporting progress against the requirements detailed in the Net Zero Supplier Roadmap will be available in 2023 ("**Evergreen Supplier Assessment**"). The Supplier shall report its progress through published progress reports and continued carbon emissions reporting through the Evergreen Supplier Assessment once this becomes available and as may be updated from time to time.
- 8.3 The Supplier has appointed [REDACTED] ("**Supplier Net Zero Corporate Champion**") who shall be responsible for overseeing the Supplier's compliance with Clauses 8.1 and 8.2 of this Schedule 1 of these Call-off Terms and Conditions and any net zero requirements forming part of any Contracts. Without prejudice to the Authority's other rights and remedies under this Framework Agreement, if the Supplier fails to comply with Clauses 8.1 and 8.2 of this Schedule 1 of these Call-off Terms and Conditions, the Authority may escalate such failure to the Supplier Net Zero Corporate Champion who shall within ten (10) Business Days of such escalation confirm in writing to the Authority the steps (with associated timescales) that the Supplier will be taking to remedy such failure. The Supplier shall then remedy such failure by taking such confirmed steps by such timescales (and by taking any other reasonable additional steps that may become necessary) to ensure that such failure is remedied by the earliest date reasonably possible.

#### Net zero and social value in the delivery of the contract

- 8.4 The Supplier shall deliver its net zero and social value contract commitments in accordance with the requirements and timescales set out in the Specification and Tender Response Document forming part of these Call-off Terms and Conditions and any Contracts ("**Net Zero and Social Value Contract Commitments**").
- 8.5 The Supplier shall report its progress on delivering its Net Zero and Social Value Contract Commitments through progress reports, as set out in the Specification and Tender Response Document forming part of these Call-off Terms and Conditions and any Contracts.
- 8.6 The Supplier has appointed [REDACTED] ("**Supplier Net Zero and Social Value Contract Champion**") who shall be responsible for overseeing the Supplier's compliance with Clauses 8.4 and 8.5 of this Schedule 1 of these Call-off Terms and Conditions and any net zero and social value requirements forming part of any Contracts. Without prejudice to the Authority's other rights and remedies under this Framework Agreement, if the Supplier fails to comply with Clauses 8.4 and 8.5 of this Schedule 1 of these Call-off Terms and Conditions, the Authority may escalate such failure to the Supplier Net Zero and Social Value Contract Champion who shall within ten (10) Business Days of such escalation confirm in writing to the Authority the steps (with associated timescales) that the Supplier will be taking to remedy such failure. The Supplier shall then remedy such failure by taking such confirmed steps by such timescales (and by taking any other reasonable additional steps that may become necessary) to ensure that such failure is remedied by the earliest date reasonably possible.

## 9 Step In Rights

The Authority shall have the step in rights set out in Schedule 5 of these Call-off Terms and Conditions.

## **Schedule 2 of these Call-off Terms and Conditions**

### **General Terms and Conditions**

#### **Contents**

1. Provision of Services
2. Premises, locations and access
3. Cooperation with third parties
4. Use of Authority equipment
5. Staff and Lifescience Industry Accredited Credentialing Register
6. Business continuity
7. The Authority's obligations
8. Contract management
9. Price and payment
10. Warranties
11. Intellectual property
12. Indemnity
13. Limitation of liability
14. Insurance
15. Term and termination
16. Consequences of expiry or early termination of this Contract
17. Staff information and the application of TUPE at the end of the Contract
18. Complaints
19. Modern slavery and environmental, social and labour laws
20. Electronic services information
21. Change management
22. Dispute resolution
23. Force majeure
24. Records retention and right of audit
25. Conflicts of interest and the prevention of fraud
26. Equality and human rights
27. Notice
28. Assignment, novation and Sub-contracting
29. Prohibited Acts
30. General

## **1 Provision of Services**

- 1.1 The Authority appoints the Supplier and the Supplier agrees to provide the Services:
- 1.1.1 promptly and in any event within any time limits as may be set out in this Contract;
  - 1.1.2 in accordance with all other provisions of this Contract;
  - 1.1.3 with reasonable skill and care and in accordance with the provisions of the Framework Agreement as applicable and/or the provisions of the Purchase Order;
  - 1.1.4 in accordance with the Law and with Guidance;
  - 1.1.5 in accordance with Good Industry Practice;
  - 1.1.6 in accordance with the Policies; and
  - 1.1.7 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 as set out in the NHS Constitution from time to time.

- 1.2 The Supplier shall comply with the Implementation Requirements (if any) in accordance with any timescales as may be set out in the Specification and Tender Response Document., Without limitation to the foregoing provisions of this Clause 1.2 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall if specified in the Purchase Order implement the Services 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 Authority. Once this is agreed, the Supplier shall comply with the full Implementation Plan.
- 1.3 The Supplier shall commence delivery of the Services on the Services Commencement Date.
- 1.4 The Supplier shall comply fully with its obligations set out in the Specification and Tender Response Document and/or the Purchase Order, including without limitation the KPIs.
- 1.5 The Supplier shall ensure that all relevant consents, authorisations, licences and accreditations required to provide the Services are in place at the Actual Services Commencement Date and are maintained throughout the Term.
- 1.6 If the Services, or any part of them, are regulated by any regulatory body, the Supplier shall ensure that at the Actual Services Commencement Date it has in place all relevant registrations and shall maintain such registrations during the Term. The Supplier shall notify the Authority 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.
- 1.7 The Supplier shall notify the Authority forthwith in writing:
- 1.7.1 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
  - 1.7.2 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.

- 1.8 Following any inspection of the Services, or any part of them, by a regulatory body, the Supplier shall provide the Authority 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.
- 1.9 Upon receipt of notice pursuant to Clause 1.7 of this Schedule 2 of these Call-off Terms and Conditions or any report or communication pursuant to Clause 1.8 of this Schedule 2 of these Call-off Terms and Conditions, the Authority 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.
- 1.10 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 Authority's incident and accident forms in accordance with the Policies and provide reasonable support and information as requested by the Authority to help the Authority deal with any incident or accident relevant to the Services. The Supplier shall ensure that its Contract Manager informs the Authority's 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 Contract Manager having reasonable cause to believe any serious incidents and/or notifiable accidents requiring investigation have occurred. The Supplier shall ensure that its Contract Manager informs the Authority's 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.
- 1.11 The Supplier shall be relieved from its obligations under this Contract to the extent that it is prevented from complying with any such obligations due to any acts, omissions or defaults of the Authority. To qualify for such relief, the Supplier must notify the Authority promptly (and in any event within five (5) Business Days) in writing of the occurrence of such act, omission, or default of the Authority together with the potential impact on the Supplier's obligations.

## **2 Premises, locations and access**

- 2.1 The Services shall be provided at such Authority premises and at such locations within those premises, as may be set out in the Purchase Order or as otherwise agreed by the Parties in writing ("**Premises and Locations**").
- 2.2 Subject to the Supplier and its Staff complying with all relevant Policies applicable to such Premises and Locations, the Authority shall grant reasonable access to the Supplier and its Staff to such Premises and Locations to enable the Supplier to provide the Services.
- 2.3 Subject to Clause 2.4 of this Schedule 2 of these Call-off Terms and Conditions, any access granted to the Supplier and its Staff under Clause 2.2 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 2.3 of this Schedule 2 of these Call-off Terms and Conditions.



- 2.4 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 2.2 and Clause 2.3 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 Authority in accordance with any licence and/or lease entered into by the Supplier as referred to in any Purchase Order.
- 2.5 Where it is provided for by a specific mechanism set out in the Specification and Tender Response Document and/or the Purchase Order, the Authority may increase, reduce or otherwise vary the Premises and Locations in accordance with such mechanism subject to the provisions of any licence or lease entered into by the Parties as referred to at Clause 2.4 of this Schedule 2 of these Call-off Terms and Conditions. Where there is no such specific mechanism set out in the Specification and Tender Response Document and/or the Purchase Order, any variations to the Premises and Locations where the Services are to be provided shall be agreed by the Parties in accordance with Clause 21 of this Schedule 2 of these Call-off Terms and Conditions. If agreement cannot be reached the matter shall be referred to, and resolved in accordance with, the dispute resolution process set out in Clause 0 of the Key Provisions and Clause 22.3 of this Schedule 2 of these Call-off Terms and Conditions.

### **3 Cooperation with third parties**

- 3.1 The Supplier shall, as reasonably required by the Authority, cooperate with any other service providers to the Authority and/or any other third parties as may be relevant in the provision of the Services.

### **4 Use of Authority equipment**

- 4.1 Unless otherwise set out in the Specification and Tender Response Document or otherwise agreed by the Parties in writing, any equipment or other items provided by the Authority for use by the Supplier:
- 4.1.1 shall be provided at the Authority's sole discretion;
  - 4.1.2 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;
  - 4.1.3 must be returned to the Authority within any agreed timescales for such return or otherwise upon the request of the Authority; and
  - 4.1.4 shall be used by the Supplier at the Supplier's risk and the Supplier shall upon written request by the Authority reimburse the Authority for any loss or damage relating to such equipment or other items caused by the Supplier (fair wear and tear exempted).

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

- 5.1 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.
- 5.2 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 provide the Services during Staff holidays or absence.

- 5.3 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 Tender Response Document, the Purchase Order 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 Authority, such approval not to be unreasonably withheld or delayed.
- 5.4 The Supplier shall ensure that all Staff are aware of, and at all times comply with, the Policies.
- 5.5 The Supplier shall:
- 5.5.1 employ only those Staff who are careful, skilled and experienced in the duties required of them;
  - 5.5.2 ensure that every member of Staff is properly and sufficiently trained and instructed;
  - 5.5.3 ensure all Staff have the qualifications to carry out their duties;
  - 5.5.4 maintain throughout the Term all appropriate licences and registrations with any relevant bodies (at the Supplier's expense) in respect of the Staff;
  - 5.5.5 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 and Social Care or any relevant regulatory body or any industry body in relation to such Staff; and
  - 5.5.6 comply with the Authority's staff vetting procedures and other staff protocols, as may be relevant to this Contract and which are notified to the Supplier by the Authority in writing.
- 5.6 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 Authority's staff, patients, service users or visitors at risk unless otherwise agreed in writing with the Authority.
- 5.7 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:
- 5.7.1 are questioned concerning their Convictions; and
  - 5.7.2 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.
- 5.8 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.
- 5.9 The Supplier shall ensure that no person is employed or otherwise engaged in the provision of the Services without the Authority's prior written consent if:



- 5.9.1 the person has disclosed any Convictions upon being questioned about their Convictions in accordance with Clause 5.7.1 of this Schedule 2 of these Call-off Terms and Conditions;
  - 5.9.2 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 5.7.2 of this Schedule 2 of these Call-off Terms and Conditions; or
  - 5.9.3 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 5.7.2 of this Schedule 2 of these Call-off Terms and Conditions.
- 5.10 In addition to the requirements of Clause 5.7 to Clause 5.9 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:
- 5.10.1 warrants that it shall comply with all requirements placed on it by the Safeguarding Vulnerable Groups Act 2006;
  - 5.10.2 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
  - 5.10.3 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.
- 5.11 The Supplier shall ensure that the Authority 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 Authority's written consent and with such safeguards being put in place as the Authority may reasonably request. Should the Authority withhold consent the Supplier shall remove such member of Staff from the provision of the Services forthwith.
- 5.12 The Supplier shall immediately provide to the Authority any information that the Authority reasonably requests to enable the Authority to satisfy itself that the obligations set out in Clause 5.7 to Clause 5.11 of this Schedule 2 of these Call-off Terms and Conditions have been met.
- 5.13 The Authority 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 Authority will act reasonably in making such a request. Prior to making any such request the Authority shall raise with the Supplier the Authority's concerns regarding the member of Staff in question with the aim of seeking a mutually agreeable resolution. The Authority shall be under no obligation to have such prior discussion should the Authority have concerns regarding patient or service user safety.
- 5.14 Unless otherwise confirmed by the Authority 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 Authority (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.

## **6 Business continuity**

- 6.1 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:
- 6.1.1 the criticality of this Contract to the Authority; and
  - 6.1.2 the size and scope of the Supplier's business operations,
  - 6.1.3 regarding continuity of the provision of the Services during and following a Business Continuity Event.
- 6.2 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 Authority and the size and scope of the Supplier's business operations. The Supplier shall promptly provide to the Authority, at the Authority'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 6.2 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 Authority a copy of any updated or revised Business Continuity Plan within fourteen (14) Business Days of any material update or revision to the Business Continuity Plan.
- 6.3 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 Authority on such implementation.
- 6.4 During and following a Business Continuity Event, the Supplier shall use reasonable endeavours to continue to provide the Services in accordance with this Contract.

## **7 The Authority's obligations**

- 7.1 Subject to the Supplier providing the Services in accordance with this Contract, the Authority will pay the Supplier for the Services in accordance with Clause 9 of this Schedule 2 of these Call-off Terms and Conditions.
- 7.2 The Authority shall, as appropriate, provide copies of or give the Supplier access to such of the Policies that are relevant to the provision of the Services.
- 7.3 The Authority shall comply with the Authority's Obligations.
- 7.4 The Authority 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 Authority of any such cooperation necessary in circumstances where such

cooperation will require the Authority to plan for and/or allocate specific resources in order to provide such cooperation.

## **8 Contract management**

- 8.1 Each Party shall appoint and retain a Contract Manager who shall be the primary point of contact for the other Party in relation to matters arising from this Contract. Should the Contract Manager be replaced, the Party replacing the Contract Manager shall promptly inform the other Party in writing of the name and contact details for the new Contract Manager. Any 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 Authority's Contract Manager.
- 8.2 Each Party shall ensure that its representatives (to include, without limitation, its 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 authority 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 Tender Response Document. Should the Specification and Tender Response Document 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.
- 8.3 Two weeks prior to each review meeting (or at such time and frequency as may be specified in the Specification and Tender Response Document) the Supplier shall provide a written contract management report to the Authority regarding 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:
- 8.3.1 details of the performance of the Supplier when assessed in accordance with the KPIs since the last such performance report;
  - 8.3.2 details of 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;
  - 8.3.3 the information specified in the Specification and Tender Response Document;
  - 8.3.4 a status report in relation to the implementation of any current Remedial Proposals by either Party; and
  - 8.3.5 such other information as reasonably required by the Authority.
- 8.4 Unless specified otherwise in the Specification and Tender Response Document, the Authority shall take minutes of each review meeting and shall circulate draft minutes to the Supplier within a reasonable time following such review meeting. The Supplier shall inform the Authority in writing of any suggested amendments to the minutes within five (5) Business Days of receipt of the draft minutes. If the Supplier does not respond to the Authority within such five (5) Business Days the minutes will be deemed to be approved. Where there are any differences in interpretation of the minutes, 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 0 of the Key Provisions and Clause 22.3 of this Schedule 2 of these Call-off Terms and Conditions.

- 8.5 The Supplier shall provide such management information as the Authority may request from time to time within seven (7) Business Days of the date of the request. The Supplier shall supply the management information to the Authority in such form as may be specified by the Authority and, where requested to do so, the Supplier shall also provide such management information to another Contracting Authority, whose role it is to: (a) analyse such 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 Framework Agreement with the Supplier ("**Third Party Body**"). The Supplier confirms and agrees that the Authority may itself provide the Third Party Body with management information relating to the Services purchased, any payments made under this Contract, and any other information relevant to the operation of this Contract.
- 8.6 Upon receipt of management information supplied by the Supplier to the Authority and/or the Third Party Body, or by the Authority to the Third Party Body, the Parties hereby consent to the Third Party Body and the Authority:
- 8.6.1 storing and analysing the management information and producing statistics; and
- 8.6.2 sharing the management information or any statistics produced using the management information with any other Contracting Authority.
- 8.7 If the Third Party Body and/or the Authority shares the management information or any other information provided under Clause 8.6 of this Schedule 2 of these Call-off Terms and Conditions, any Contracting Authority receiving the management information shall, where such management information is subject to obligations of confidence under this Contract and such management information is provided direct by the Authority to such Contracting Authority, be informed of the confidential nature of that information by the Authority and shall be requested by the Authority not to disclose it to any body that is not a Contracting Authority (unless required to do so by Law).
- 8.8 The Authority may make changes to the type of 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 Price and payment**

- 9.1 The Contract Price shall be calculated in accordance with the provisions of the Framework Agreement, as confirmed in the Purchase Order.
- 9.2 Unless otherwise stated in the Framework Agreement and/or the Purchase Order, the Contract Price:
- 9.2.1 shall be payable from the Actual Services Commencement Date;
- 9.2.2 shall remain fixed during the Term; and
- 9.2.3 is the entire price payable by the Authority 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.
- 9.3 Unless stated otherwise in the Framework Agreement and/or the Purchase Order:
- 9.3.1 where the Framework Agreement and/or the Purchase Order confirms that the payment profile for this Contract is monthly in arrears, the Supplier shall

invoice the Authority, within fourteen (14) days of the end of each calendar month, the Contract Price in respect of the Services provided in compliance with this Contract in the preceding calendar month; or

- 9.3.2 where Clause 9.3.1 of this Schedule 2 of these Call-off Terms and Conditions does not apply, the Supplier shall invoice the Authority for Services at any time following completion of the provision of the Services in compliance with this Contract.

Each invoice shall contain such information and be addressed to such individual as the Authority may inform the Supplier from time to time. Each invoice may be submitted electronically by the Supplier if it complies with the standard on electronic invoicing as set out in the European standard and any of the syntaxes published in Commission Implementing Decision (EU) 2017/2870.

- 9.4 The Contract Price is exclusive of VAT, which, if properly chargeable, the Authority 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.
- 9.5 The Authority shall verify and pay each valid and undisputed invoice received in accordance with Clause 9.3 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 Authority 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 9.5 of this Schedule 2 of these Call-off terms and Conditions, the invoice shall be regarded as valid and undisputed for the purposes of this Clause 9.5 of this Schedule 2 of these Call-off Terms and Conditions after a reasonable time has passed.
- 9.6 Where the Authority 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) days of the query being raised. If the Parties are unable to agree a resolution within thirty (30) days the query shall be referred to dispute resolution in accordance with Clause 22 of this Schedule 2 of these Call-off Terms and Conditions. For the avoidance of doubt, the Authority 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 9.6 of this Schedule 2 of these Call-off Terms and Conditions has been followed and it has been determined that the queried or disputed invoice amount is properly due to the Supplier and the Authority has then failed to pay such sum within a reasonable period following such determination.
- 9.7 The Supplier shall pay to the Authority 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 Tender Response Document and/or the Purchase Order. For the avoidance of doubt, the Authority may invoice the Supplier for such sums or deductions at any time in the event that they have not automatically been credited to the Authority in accordance with the provisions of the Specification and Tender Response Document and/or Purchase Order. Such invoice shall be paid by the Supplier within 30 days of the date of such invoice.
- 9.8 The Authority reserves the right to set-off:
- 9.8.1 any monies due to the Supplier from the Authority as against any monies due to the Authority from the Supplier under this Contract; and



- 9.8.2 any monies due to the Authority from the Supplier as against any monies due to the Supplier from the Authority under this Contract.
- 9.9 Where the Authority is entitled to receive any sums (including, without limitation, any costs, charges or expenses) from the Supplier under this Contract, the Authority may invoice the Supplier for such sums. Such invoices shall be paid by the Supplier within 30 days of the date of such invoice.
- 9.10 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 Warranties**

- 10.1 The Supplier warrants and undertakes that:
- 10.1.1 it shall comply with the Framework Agreement;
  - 10.1.2 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;
  - 10.1.3 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;
  - 10.1.4 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, Guidance and Good Industry Practice and shall at all times comply with such quality controls and processes;
  - 10.1.5 it shall not make any significant changes to its system of quality processes in relation to the Services without notifying the Authority in writing at least twenty one (21) days in advance of such change (such notice to include the details of the consequences which follow such change being implemented);
  - 10.1.6 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, Guidance and Good Industry Practice, the Supplier shall comply fully with such notification and/or approval requirements;
  - 10.1.7 receipt of the Services by or on behalf of the Authority and use of the deliverables or of any other item or information supplied or made available to the Authority as part of the Services will not infringe any third party rights, to include without limitation any Intellectual Property Rights;
  - 10.1.8 it will comply with all Law, Guidance, Good Industry Practice, Policies and the Supplier Code of Conduct in so far as it is relevant to the provision of the Services;
  - 10.1.9 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;
  - 10.1.10 unless otherwise set out in the Specification and Tender Response Document 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;

- 10.1.11 without limitation to the generality of Clause 10.1.8 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 Tender Response Document and any notices or instructions given to the Supplier by the Authority and/or any competent body, as relevant to the provision of the Services and the Supplier's access to the Premises and Locations in accordance with this Contract;
- 10.1.12 without prejudice to any specific notification requirements set out in this Contract, it will promptly notify the Authority of any health and safety hazard which has arisen, or the Supplier is aware may arise, in connection with 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;
- 10.1.13 any equipment it uses in the provision of the Services shall comply with all relevant Law, Guidance and Good Industry Practice 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;
- 10.1.14 unless otherwise confirmed by the Authority in writing (to include, without limitation, as part of the Specification and Tender Response Document), it will ensure that any products purchased by the Supplier partially or wholly for the purposes of providing the Services will comply with requirements five (5) to eight (8), as set out at 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 products being purchased;
- 10.1.15 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 Authority's information and communications technology systems;
- 10.1.16 it shall comply with its Net Zero and Social Value Commitments;
- 10.1.17 it shall provide to the Authority any information that the Authority may request as evidence of the Supplier's compliance with Clause 10.1.16;
- 10.1.18 it will fully and promptly respond to all requests for information and/or requests for answers to questions regarding this Contract, the provision of the Services, any complaints and any Disputes at the frequency, in the timeframes and in the format as requested by the Authority from time to time (acting reasonably);
- 10.1.19 all information included within the Supplier's responses to any documents issued by the Authority as part of the procurement relating to the award of this Contract (to include, without limitation, as referred to in the Specification and Tender Response Document and/or Purchase Order) and all accompanying materials is accurate;
- 10.1.20 it has the right and authority to enter into this Contract and that it has the capability and capacity to fulfil its obligations under this Contract;

- 10.1.21 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;
  - 10.1.22 all necessary actions to authorise the execution of and performance of its obligations under this Contract have been taken before such execution;
  - 10.1.23 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;
  - 10.1.24 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;
  - 10.1.25 it has and will continue to have the capacity, funding and cash flow to meet all its obligations under this Contract; and
  - 10.1.26 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.
- 10.2 The Supplier warrants that all information, data and other records and documents required by the Authority as set out in the Specification and Tender Response Document shall be submitted to the Authority in the format and in accordance with any timescales set out in the Specification and Tender Response Document.
- 10.3 Without prejudice to the generality of Clause 10.2 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier acknowledges that a failure by the Supplier following the Actual Services Commencement Date to submit accurate invoices and other information on time to the Authority may result in the commissioner of health services, or other entity responsible for reimbursing costs to the Authority, delaying or failing to make relevant payments to the Authority. Accordingly, the Supplier warrants that, from the Actual Services Commencement Date, it shall submit accurate invoices and other information on time to the Authority.
- 10.4 The Supplier warrants and undertakes to the Authority 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 Authority to comply with such eProcurement Guidance.
- 10.5 The Supplier warrants and undertakes to the Authority that, as at the Commencement Date, it has notified the Authority 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:
- 10.5.1 notify the Authority in writing of such fact within five (5) Business Days of its occurrence; and
  - 10.5.2 promptly provide to the Authority:
    - (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 Authority may reasonably require.



10.6 The Supplier further warrants and undertakes to the Authority that it will inform the Authority in writing immediately upon becoming aware that any of the warranties set out in Clause 10 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.

10.7 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.

## **11 Intellectual property**

11.1 The Supplier warrants and undertakes to the Authority that either it owns or is entitled to use and will continue to own or be entitled to use all Intellectual Property Rights used in the development and provision of the Services and/or necessary to give effect to the Services and/or to use any deliverables, matter or any other output supplied to the Authority as part of the Services.

11.2 The Supplier hereby grants to the Authority, for the life of the use by the Authority of any deliverables, material or any other output supplied to the Authority in any format as part of the Services, an irrevocable, royalty-free, non-exclusive licence (with the right to sub-license to any supplier or other third party contracted by, engaged by and/or collaborating with the Authority) to use, modify, adapt or enhance such items in the course of the Authority's normal business operations. For the avoidance of doubt, unless specified otherwise in any Key Provisions and/or in the Specification and Tender Response Document and/or elsewhere in this Contract, the Authority shall have no rights to commercially exploit (e.g by selling to third parties) any deliverables, matter or any other output supplied to the Authority in any format as part of the Services.

## **12 Indemnity**

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

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

12.1.2 any loss of or damage to property (whether real or personal); and/or

12.1.3 any breach of Clause 10.1.7 and/or Clause 11 of this Schedule 2 of these Call-off Terms and Conditions; and/or

12.1.4 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 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 Authority.

12.2 Liability under Clauses 12.1.1, 12.1.3 and 17.13 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 12.1.2 and 12.1.4 of this Schedule 2 of these Call-off Terms and Conditions shall be subject to the limitation of liability set out in Clause 13 of this Schedule 2 of these Call-off Terms and Conditions.

- 12.3 In relation to all third party claims against the Authority, which are the subject of any indemnity given by the Supplier under this Contract, the Authority 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:

- 12.3.1 relating to any legal, regulatory, governance, information governance, or confidentiality obligations on the Authority; and/or
- 12.3.2 relating to the Authority'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 Authority 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 Authority).

### **13 Limitation of liability**

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

- 13.1.1 for death or personal injury resulting from its negligence;
- 13.1.2 for fraud or fraudulent misrepresentation; or
- 13.1.3 in any other circumstances where liability may not be limited or excluded under any applicable law.

- 13.2 Subject to Clauses 12.2, 13.1, 13.3, and 13.5 of this Schedule 2 of these Call-off Terms and Conditions, 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: (a) five million GBP (£5,000,000); or (b) one hundred and twenty five percent (125%) of the total Contract Price paid or payable by the Authority to the Supplier for the Services.

- 13.3 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:

- 13.3.1 extra costs incurred purchasing replacement or alternative services;
- 13.3.2 costs associated with advising, screening, testing, treating, retreating or otherwise providing healthcare to patients;
- 13.3.3 the costs of extra management time; and/or
- 13.3.4 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.

- 13.4 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.
- 13.5 If the total Contract Price paid or payable by the Authority to the Supplier over the Term:
- 13.5.1 is less than or equal to one million pounds (£1,000,000), then the figure of five million pounds (£5,000,000) at Clause 13.2 of this Schedule 2 of these Call-off Terms and Conditions shall be replaced with one million pounds (£1,000,000);
  - 13.5.2 is less than or equal to three million pounds (£3,000,000) but greater than one million pounds (£1,000,000), then the figure of five million pounds (£5,000,000) at Clause 13.2 of this Schedule 2 of these Call-off Terms and Conditions shall be replaced with three million pounds (£3,000,000);
  - 13.5.3 is equal to, exceeds or will exceed ten million pounds (£10,000,000), but is less than fifty million pounds (£50,000,000), then the figure of five million pounds (£5,000,000) at Clause 13.2 of this Schedule 2 of these Call-off Terms and Conditions shall be replaced with ten million pounds (£10,000,000) and the figure of one hundred and twenty five percent (125%) at Clause 13.2 of this Schedule 2 of these Call-off Terms and Conditions shall be deemed to have been deleted and replaced with one hundred and fifteen percent (115%); and
  - 13.5.4 is equal to, exceeds or will exceed fifty million pounds (£50,000,000), then the figure of five million pounds (£5,000,000) at Clause 13.2 of this Schedule 2 of these Call-off Terms and Conditions shall be replaced with fifty million pounds (£50,000,000) and the figure of one hundred and twenty five percent (125%) at Clause 13.2 of this Schedule 2 of these Call-off Terms and Conditions shall be deemed to have been deleted and replaced with one hundred and five percent (105%).
- 13.6 Clause 13 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.

## **14 Insurance**

- 14.1 Subject to Clauses 14.2 and 14.3 of this Schedule 2 of these Call-off Terms and Conditions and unless otherwise confirmed in writing by the Authority, 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 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 Authority 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 the NHS Litigation Authority.
- 14.2 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 specified in the Framework Agreement, if any.
- 14.3 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 14.1 and 14.2 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 Authority in writing prior to the Commencement Date.

- 14.4 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.
- 14.5 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.
- 14.6 The Supplier shall from time to time and in any event within five (5) Business Days of written demand provide documentary evidence to the Authority that insurance arrangements taken out by the Supplier pursuant to Clause 14 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.
- 14.7 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 twenty one (21) 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.

## **15 Term and termination**

- 15.1 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.
- 15.2 The Authority:
  - 15.2.1 subject to Clause 15.2.2 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 Key Provisions; or
  - 15.2.2 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.
- 15.3 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 9.6 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 15.4.2 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:

- 15.3.1 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;
- 15.3.2 comply with such Remedial Proposal (including, without limitation, as to its timescales for implementation, which shall be thirty (30) days unless otherwise agreed between the Parties); and/or
- 15.3.3 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 15.4.2 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.

- 15.4 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:

- 15.4.1 not capable of remedy; or
- 15.4.2 in the case of a breach capable of remedy, which is not remedied in accordance with a Remedial Proposal.

- 15.5 The Authority may terminate this Contract by issuing a Termination Notice to the Supplier:

- 15.5.1 if the Supplier does not commence delivery of the Services by any Long Stop Date;
- 15.5.2 if 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;



- 15.5.3 if 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 Authority and the Authority shall be entitled to withhold such consent if, in the reasonable opinion of the Authority, the proposed change of control will have a material impact on the performance of this Contract or the reputation of the Authority;
  - 15.5.4 if the Supplier purports to assign, Sub-contract, novate, create a trust in or otherwise transfer or dispose of this Contract in breach of Clause 28.1 of this Schedule 2 of these Call-off Terms and Conditions;
  - 15.5.5 pursuant to and in accordance with any termination rights set out in any Key Provisions and Clauses 15.6, 19.7.2, 23.8, 25.2, 25.4 and 29.2 of this Schedule 2 of these Call-off Terms and Conditions;
  - 15.5.6 if the warranty given by the Supplier pursuant to Clause 10.5 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 Authority of any Occasion of Tax Non-Compliance as required by Clause 10.5 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 10.5 of this Schedule 2 of these Call-off Terms and Conditions that in the reasonable opinion of the Authority are acceptable; or
  - 15.5.7 pursuant to and in accordance with any termination rights set out in the Data Protection Protocol, as applicable to this Contract.
- 15.6 If the Authority, 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 Authority 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, the following process shall apply:
- 15.6.1 the Authority 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 Authority may require within a reasonable time period as specified in such notice;
  - 15.6.2 a failure or refusal by the Supplier to provide the financial or other security and/or assurances requested in accordance with Clause 15.6 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 Authority 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
  - 15.6.3 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 22.3 of this Schedule 2 of these Call-off Terms and Conditions) shall entitle, but shall not compel, the Authority to terminate this Contract in accordance with Clause 15.4.1 of this Schedule 2 of these Call-off Terms and Conditions.

In order that the Authority may act reasonably in exercising its discretion in accordance with Clause 15.6 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall provide the Authority with such reasonable and proportionate up-to-date financial or other information relating to the Supplier or any relevant third party entity upon request.

15.7 The Authority may terminate this Contract by issuing a Termination Notice to the Supplier where:

15.7.1 the Contract has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure;

15.7.2 the Authority 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

15.7.3 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 Sub-contractors, the Authority may request the replacement of such Sub-contractor and the Supplier shall comply with such request as an alternative to the Authority terminating this Contract under this Clause 15.7.3.

15.8 If the Authority novates this Contract to any body that is not a Contracting Authority, from the effective date of such novation, the rights of the Authority to terminate this Contract in accordance with Clause 15.5.2 to Clause 15.5.4 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 Authority if any of the circumstances referred to in such Clauses apply to the entity assuming the position of the Authority.

15.9 Within three (3) months of the Commencement Date the Supplier shall develop and agree an exit plan with the Authority 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 Authority 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. If the Parties cannot agree an exit plan in accordance with the timescales set out in this Clause 15.9 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 Consequences of expiry or early termination of this Contract**

16.1 Upon expiry or earlier termination of this Contract, the Authority agrees to pay the Supplier for the Services which have been completed by the Supplier in accordance with this Contract prior to expiry or earlier termination of this Contract.

16.2 Immediately following expiry or earlier termination of this Contract and/or in accordance with any timescales as set out in the agreed exit plan:

16.2.1 the Supplier shall comply with its obligations under any agreed exit plan;

16.2.2 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 Authority shall be delivered by the Supplier to the Authority provided that the Supplier shall be entitled to keep copies to the extent that (a) the content does not relate solely to the Services; (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

- 16.2.3 any Personal Data Processed by the Supplier on behalf of the Authority shall be returned to the Authority or destroyed in accordance with the relevant provisions of the Data Protection Protocol.
- 16.3 The Supplier shall retain all data relating to the provision of the Services that are not transferred or destroyed pursuant to Clause 16.2 of this Schedule 2 of these Call-off Terms and Conditions for the period set out in Clause 24.1 of this Schedule 2 of these Call-off Terms and Conditions.
- 16.4 The Supplier shall cooperate fully with the Authority 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 Authority to achieve a fair and transparent re-procurement and/or an effective transition without disruption to routine operational requirements.
- 16.5 Immediately upon expiry or earlier termination of this Contract any licence or lease entered into in accordance with any Purchase Order shall automatically terminate.
- 16.6 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.
- 16.7 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.
- 16.8 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.
- 17 Staff information and the application of TUPE at the end of the Contract**
- 17.1 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 Authority and to the extent permitted by Law, supply to the Authority and keep updated all information required by the Authority 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.
- 17.2 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 Authority, 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 Authority and all employee liability information



identified in regulation 11 of TUPE in relation to the Subsequent Transferring Employees.

- 17.3 If the Supplier shall, in the reasonable opinion of the Authority, deliberately not comply with its obligations under Clauses 17.1 and 17.2 of this Schedule 2 of these Call-off Terms and Conditions, the Authority may withhold payment under Clause 9 of this Schedule 2 of these Call-off Terms and Conditions.
- 17.4 The Supplier shall be liable to the Authority for, and shall indemnify and keep the Authority 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 17.1 and 17.2 of this Schedule 2 of these Call-off Terms and Conditions.
- 17.5 Subject to Clauses 17.6 and 17.7 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 Authority, such consent not to be unreasonably withheld or delayed:
- 17.5.1 make, propose or permit any material changes to the terms and conditions of employment or other arrangements of any of the Supplier Personnel;
  - 17.5.2 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;
  - 17.5.3 replace any of the Supplier Personnel or increase the total number of employees providing the Services;
  - 17.5.4 deploy any person other than the Supplier Personnel to perform the Services;
  - 17.5.5 terminate or give notice to terminate the employment or arrangements of any of the Supplier Personnel;
  - 17.5.6 increase the proportion of working time spent on the Services by any of the Supplier Personnel; or
  - 17.5.7 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.
- 17.6 Clause 17.5 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.
- 17.7 Where the obligations on the Supplier under Clause 17 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.
- 17.8 Having as appropriate gained permission from any Sub-contractor, the Supplier hereby permits the Authority to disclose information about the Supplier Personnel to any

Interested Party provided that the Authority informs the Interested Party in writing of the confidential nature of the information.

- 17.9 The Parties agree that where a Successor or the Authority 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 17.11 to Clause 17.14 of this Schedule 2 of these Call-off Terms and Conditions and (where relevant) the requirements of Clause 1.15 of Part D of Schedule 7 of the NHS Terms and Conditions for the Provision of Services (Contract Version) (December 2016) shall apply.
- 17.10 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 Authority in relation to any Employment Liabilities arising out of or in connection with any allegation or claim raised by any Supplier Personnel.
- 17.11 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.
- 17.12 The Supplier will and shall procure that any Sub-contractor will on or before any Subsequent Transfer Date:
- 17.12.1 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;
  - 17.12.2 account to the proper authority 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;
  - 17.12.3 pay any Successor or the Authority, 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;
  - 17.12.4 pay any Successor or the Authority, 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
  - 17.12.5 subject to any legal requirement, provide to the Successor or the Authority, 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.

- 17.13 The Supplier will and shall procure that any Sub-contractor will indemnify and keep indemnified the Authority and/or a Successor in relation to any Employment Liabilities arising out of or in connection with any claim arising from:
- 17.13.1 the Supplier's or Sub-contractor's failure to perform and discharge its obligations under Clause 17.12 of this Schedule 2 of these Call-off Terms and Conditions;
  - 17.13.2 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;
  - 17.13.3 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 Authority, as appropriate;
  - 17.13.4 any emoluments payable to a person employed or engaged by the Supplier or Sub-contractor (including without limitation all wages, any accrued or unpaid 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;
  - 17.13.5 any allegation or claim by any of the Subsequent Transferring Employees on the grounds that the Successor or Authority, 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 Authority, as appropriate, to provide an identical benefit but where the Successor or Authority, 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
  - 17.13.6 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 Authority's failure to comply with regulation 13(4) of TUPE.
- 17.14 The Supplier will, or shall procure that any Sub-contractor will, on request by the Authority provide a written and legally binding indemnity in the same terms as set out in Clause 17.13 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.
- 17.15 The Supplier will indemnify and keep indemnified the Authority 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.
- 17.16 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 Authority or Successor pursuant to TUPE or claims that their employment would have so transferred had they not resigned, then:

- 17.16.1 the Authority 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;
- 17.16.2 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 Authority or Successor;
- 17.16.3 if such offer of employment is accepted, the Authority will, or shall procure that the Successor will, immediately release the person from their employment; and
- 17.16.4 if after the period in Clause 17.16.2 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 Authority 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.

## **18 Complaints**

- 18.1 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 Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- 18.2 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.

## **19 Modern slavery and environmental, social, and labour laws**

### **Environmental, social and labour law requirements**

- 19.1 The Supplier shall comply in all material respects with applicable environmental and social and labour Law requirements in force from time to time in relation to the 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 Tender Response Document. Without prejudice to the generality of the foregoing, the Supplier shall:
  - 19.1.1 comply with all Policies and/or procedures and requirements set out in the Specification and Tender Response Document in relation to any stated environmental and social and labour requirements, characteristics and impacts of the Services and the Supplier's supply chain;
  - 19.1.2 maintain relevant policy statements documenting the Supplier's significant labour, social and environmental aspects as relevant to the Services being provided and as proportionate to the nature and scale of the Supplier's business operations; and
  - 19.1.3 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 19.1.2 of this Schedule 2 of these Call-off Terms and Conditions.

**Modern slavery**

- 19.2 The Supplier shall, and shall procure that each of its Sub-contractors shall, comply with:
- 19.2.1 the Modern Slavery Act 2015 (“Slavery Act”); and
  - 19.2.2 the Authority’s anti-slavery policy as provided to the Supplier by the Authority from time to time (“Anti-Slavery Policy”).
- 19.3 The Supplier shall:
- 19.3.1 implement due diligence procedures for its Sub-contractors and other participants in its supply chains in accordance with Good Industry Practice with the aim of avoiding slavery or trafficking in its supply chains;
  - 19.3.2 respond promptly to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time and shall ensure that its responses to all such questionnaires are complete and accurate;
  - 19.3.3 upon request from the Authority, prepare and deliver to the Authority each year, an annual slavery and trafficking report setting out the steps it has taken to ensure that slavery and trafficking is not taking place in any of its supply chains or in any part of its business;
  - 19.3.4 maintain a complete set of records to trace the supply chain of all goods and services purchased and/or supplied by the Supplier in connection with all contracts or framework agreements with the Authority;
  - 19.3.5 implement a system of training for its employees to ensure compliance with the Slavery Act; and
  - 19.3.6 ensure that any Sub-contracts contain anti-slavery provisions consistent with the Supplier’s obligations under this Clause 19 of this Schedule 2 of these Call-off Terms and Conditions.
- 19.4 The Supplier undertakes on an ongoing basis that:
- 19.4.1 it conducts its business in a manner consistent with all applicable Laws including the Slavery Act and all analogous legislation in place in any part of the world in which its supply chain operates;
  - 19.4.2 its responses to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time are complete and accurate; and
  - 19.4.3 neither the Supplier nor any of its Sub-contractors, nor any other persons associated with it (including any Staff):
    - (i) has been convicted of any offence involving slavery or trafficking; or
    - (ii) has been, or is currently, the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body relating to any offence committed regarding slavery or trafficking,not already notified to the Authority in writing in accordance with Clause 19.5 of this Schedule 2 of these Call-off Terms and Conditions.
- 19.5 The Supplier shall notify the Authority as soon as it becomes aware of:
- 19.5.1 any breach, or potential breach, of the Anti-Slavery Policy; or



- 19.5.2 any actual or suspected slavery or trafficking in its supply chain.
- 19.6 If the Supplier notifies the Authority pursuant to Clause 19.5 of this Schedule 2 of these Call-off Terms and Conditions, it shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, premises, facilities, records and/or any other relevant documentation in accordance with this Contract.
- 19.7 If the Supplier is in breach of Clause 19.3 of this Schedule 2 of these Call-off Terms and Conditions or the undertaking at Clause 19.4 of this Schedule 2 of these Call-off Terms and Conditions in addition to its other rights and remedies provided under this Contract, the Authority may:
- 19.7.1 by written notice require the Supplier to remove from performance of any contract or framework agreement with the Authority (including this Contract) any Sub-contractor, Staff or other persons associated with it whose acts or omissions have caused the breach; or
- 19.7.2 terminate this Contract by issuing a Termination Notice to the Supplier.

**Further corporate social responsibility requirements**

- 19.8 The Supplier shall comply with any further corporate social responsibility requirements set out in the Specification and Tender Response Document.

**Provision of further information**

- 19.9 The Supplier shall meet reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of Clause 19 of this Schedule 2 of these Call-off Terms and Conditions. For the avoidance of doubt, the Authority may audit the Supplier's compliance with Clause 19 of this Schedule 2 of these Call-off Terms and Conditions in accordance with Clause 24 of this Schedule 2 of these Call-off Terms and Conditions.

**20 Electronic services information**

- 20.1 Where requested by the Authority, the Supplier shall provide the Authority the Services Information in such manner and upon such media as agreed between the Supplier and the Authority from time to time for the sole use by the Authority.
- 20.2 The Supplier warrants that the Services Information is complete and accurate as at the date upon which it is delivered to the Authority and that the Services Information shall not contain any data or statement which gives rise to any liability on the part of the Authority following publication of the same in accordance with Clause 20 of this Schedule 2 of these Call-off Terms and Conditions.
- 20.3 If the Services Information ceases to be complete and accurate, the Supplier shall promptly notify the Authority in writing of any modification or addition to or any inaccuracy or omission in the Services Information.
- 20.4 The Supplier grants the Authority a perpetual, non-exclusive, royalty free licence to use and exploit the Services Information and any Intellectual Property Rights in the Services Information for the purpose of illustrating the range of goods and services (including, without limitation, the Services) available pursuant to the Authority's contracts from time to time. Subject to Clause 20.5 of this Schedule 2 of these Call-off Terms and Conditions, no obligation to illustrate or advertise the Services Information is imposed on the Authority, as a consequence of the licence conferred by this Clause 20.4 of this Schedule 2 of these Call-off Terms and Conditions.

- 20.5 The Authority may reproduce for its sole use the Services Information provided by the Supplier in the Authority's services catalogue from time to time which may be made available on any NHS communications networks in electronic format and/or made available on the Authority's external website and/or made available on other digital media from time to time.
- 20.6 Before any publication of the Services Information (electronic or otherwise) is made by the Authority, the Authority will submit a copy of the relevant sections of the Authority's services catalogue 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 Authority to exhibit the Services Information in any services catalogue as a result of the approval given by it pursuant to this Clause 20.6 of this Schedule 2 of these Call-off Terms and Conditions or otherwise under the terms of this Contract.
- 20.7 If requested in writing by the Authority, and to the extent not already agreed as part of the Specification and Tender Response Document, the Supplier and the Authority shall discuss and seek to agree in good faith arrangements to use any Electronic Trading System.

## **21 Change management**

- 21.1 The Supplier acknowledges to the Authority that the Authority's requirements for the 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 Tender Response Document, as may be requested by the Authority from time to time.
- 21.2 Subject to Clause 21.3 of this Schedule 2 of these Call-off Terms and Conditions, any change to the Services or other variation to this Contract shall only be binding once it has been agreed either: (a) in accordance with any Change Control Process if any Key Provisions specify that changes are subject to a formal change control process; or (b) if the Key Provisions make no such reference, in writing and signed by an authorised representative of both Parties.
- 21.3 Any change to the Data Protection Protocol shall be made in accordance with the relevant provisions of that protocol.
- 21.4 The Supplier shall neither be relieved of its obligations to provide the Services in accordance with the terms and conditions of this Contract nor be entitled to an increase in the Contract Price as the result of:
- 21.4.1 a General Change in Law; or
  - 21.4.2 a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Commencement Date.

## **22 Dispute resolution**

- 22.1 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 Authority requests in writing that the Supplier does not do so).
- 22.2 In the case of a Dispute arising out of or in connection with this Contract the Supplier and the Authority 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 22.3 of this Schedule 2 of these Call-off Terms and Conditions as the first stage in the Dispute Resolution Procedure.

- 22.3 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 0 of the Key Provisions. Respective representatives at each level, as set out in Clause 0 of the Key Provisions, 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.
- 22.4 If the procedure set out in Clause 22.3 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 22.3 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.
- 22.5 The mediation shall commence within twenty eight (28) days of the confirmation of the mediator in accordance with Clause 22.4 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 Authority 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.
- 22.6 Nothing in this Contract shall prevent:
- 22.6.1 the Authority taking action in any court in relation to any death or personal injury arising or allegedly arising in connection with the provision of the Services; or
- 22.6.2 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.
- 22.7 Clause 22 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.

## **23 Force majeure**

- 23.1 Subject to Clause 23.2 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.

- 23.2 The Supplier shall only be entitled to rely on a Force Majeure Event and the relief set out in Clause 22 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:
- 23.2.1 the Supplier has fulfilled its obligations pursuant to Clause 6 of this Schedule 2 of these Call-off Terms and Conditions;
  - 23.2.2 the Force Majeure Event does not arise directly or indirectly as a result of any willful or negligent act or default of the Supplier; and
  - 23.2.3 the Supplier has complied with the procedural requirements set out in Clause 23 of this Schedule 2 of these Call-off Terms and Conditions.
- 23.3 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.
- 23.4 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.
- 23.5 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.
- 23.6 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.
- 23.7 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.
- 23.8 If the Supplier is prevented from performance of its obligations as a result of a Force Majeure Event, the Authority may at any time, if the Force Majeure Event subsists for thirty (30) days or more, terminate this Contract by issuing a Termination Notice to the Supplier.
- 23.9 Following such termination in accordance with Clause 23.8 of this Schedule 2 of these Call-off Terms and Conditions and subject to Clause 23.10 of this Schedule 2 of these Call-off Terms and Conditions, neither Party shall have any liability to the other.
- 23.10 Any rights and liabilities of either Party which have accrued prior to such termination in accordance with Clause 23.8 of this Schedule 2 of these Call-off Terms and Conditions shall continue in full force and effect unless otherwise specified in this Contract.

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

- 24.1 Subject to any statutory requirement and Clause 24.2 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.
- 24.2 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.
- 24.3 The Authority shall have the right to audit the Supplier's compliance with this Contract. The Supplier shall permit or procure permission for the Authority 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.
- 24.4 Should the Supplier Sub-contract any of its obligations under this Contract, the Authority shall have the right to audit and inspect such third party. The Supplier shall procure permission for the Authority 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 Authority or its authorised representative if requested.
- 24.5 The Supplier shall grant to the Authority 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:
- 24.5.1 the examination and certification of the Authority's accounts; or
- 24.5.2 any examination pursuant to section 6(1) of the National Audit Act 1983 of the economic efficiency and effectiveness with which the Authority has used its resources.
- 24.6 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 24 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.
- 24.7 The Supplier shall provide reasonable cooperation to the Authority, 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.
- 24.8 The Supplier shall provide all reasonable information as may be reasonably requested by the Authority to evidence the Supplier's compliance with the requirements of this Contract.

## **25 Conflicts of interest and the prevention of fraud**

- 25.1 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 Authority, 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 Authority under the provisions of this Contract. The Supplier will disclose to the Authority full particulars of any such conflict of interest which may arise.

- 25.2 The Authority 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 Authority, 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 Authority under the provisions of this Contract. The actions of the Authority pursuant to this Clause 25.2 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 Authority.
- 25.3 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 Authority immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- 25.4 If the Supplier or its Staff commits Fraud the Authority may terminate this Contract and recover from the Supplier the amount of any direct loss suffered by the Authority resulting from the termination.

## **26 Equality and human rights**

- 26.1 The Supplier shall:
- 26.1.1 ensure that (a) it does not, whether as employer 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 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;
- 26.1.2 in the management of its affairs and the development of its equality and diversity policies, cooperate with the Authority in light of the Authority'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 Authority 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
- 26.1.3 the Supplier shall impose on all its Sub-contractors and suppliers, obligations substantially similar to those imposed on the Supplier by Clause 26 of this Schedule 2 of these Call-off Terms and Conditions.
- 26.2 The Supplier shall meet reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of Clause 26 of this Schedule 2 of these Call-off Terms and Conditions.

## **27 Notice**

- 27.1 Subject to Clause 22.5 of this 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 Purchase Order 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.

27.2 A notice shall be treated as having been received:

- 27.2.1 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
- 27.2.2 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
- 27.2.3 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.

**28 Assignment, novation and Sub-contracting**

- 28.1 The Supplier shall not, except where Clause 28.2 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 Authority 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 Authority as if such act or omission had been committed or omitted by the Supplier itself.
- 28.2 Notwithstanding Clause 28.1 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 28.2 of this Schedule 2 of these Call-off Terms and Conditions shall be subject to:
  - 28.2.1 the deduction of any sums in respect of which the Authority exercises its right of recovery under Clause 9.8 of this Schedule 2 of these Call-off Terms and Conditions;
  - 28.2.2 all related rights of the Authority in relation to the recovery of sums due but unpaid;
  - 28.2.3 the Authority 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 Authority shall make payment;
  - 28.2.4 the provisions of Clause 9 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 Authority; and
  - 28.2.5 payment to the Assignee being full and complete satisfaction of the Authority's obligation to pay the relevant sums in accordance with this Contract.

- 28.3 Any authority given by the Authority for the Supplier to Sub-contract any of its obligations under this Contract shall not impose any duty on the Authority to enquire as to the competency of any authorised Sub-contractor. 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.
- 28.4 Where the Supplier enters into a Sub-contract in respect of any of its obligations under this Contract relating to the provision of the Services, the Supplier shall include provisions in each such Sub-contract, unless otherwise agreed with the Authority in writing, which:
- 28.4.1 contain at least equivalent obligations as set out in this Contract in relation to the performance of the Services to the extent relevant to such Sub-contracting;
  - 28.4.2 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, Guidance, and Good Industry Practice, and record keeping;
  - 28.4.3 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 Authority (such approval not to be unreasonably withheld or delayed);
  - 28.4.4 contain a right for the Authority to take an assignment or novation of the Sub-contract (or part of it) upon expiry or earlier termination of this Contract;
  - 28.4.5 requires the Supplier or other party receiving services under the contract to consider and verify invoices under that contract in a timely fashion;
  - 28.4.6 provides that if the Supplier or other party fails to consider and verify an invoice in accordance with Clause 28.4.5 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 28.4.7 of this Schedule 2 of these Call-off Terms and Conditions after a reasonable time has passed;
  - 28.4.7 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;
  - 28.4.8 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 15.7.3 of this Schedule 2 of these Call-off Terms and Conditions;
  - 28.4.9 permitting the Supplier to terminate, or to procure the termination of, the relevant Sub-contract where the Supplier is required to replace such Sub-contractor in accordance with Clause 28.5 of this Schedule 2 of these Call-off Terms and Conditions; and
  - 28.4.10 requires the Sub-contractor to include a clause to the same effect as this Clause 28.4 of this Schedule 2 of these Call-off Terms and Conditions in any Sub-contract which it awards.



- 28.5 Where the Authority considers that the grounds for exclusion under Regulation 57 of the Public Contracts Regulations 2015 apply to any Sub-contractor, then:
- 28.5.1 if the Authority finds there are compulsory grounds for exclusion, the Supplier shall ensure, or shall procure, that such Sub-contractor is replaced or not appointed; or
  - 28.5.2 if the Authority finds there are non-compulsory grounds for exclusion, the Authority 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.
- 28.6 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 Authority 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.
- 28.7 The Authority shall upon written request have the right to review any Sub-contract entered into by the Supplier in respect of the provision of the Services and the Supplier shall provide a certified copy of any Sub-contract within five (5) Business Days of the date of a written request from the Authority. For the avoidance of doubt, the Supplier shall have the right to redact any confidential pricing information in relation to such copies of Sub-contracts.
- 28.8 The Authority may at any time transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this 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, subcontracting or disposal. If the Authority 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 Authority shall not further transfer, assign, novate, subcontract 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.

## **29 Prohibited Acts**

- 29.1 The Supplier warrants and represents that:
- 29.1.1 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 Authority 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 Authority or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the Authority; 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 Authority; and

- 29.1.2 it has in place adequate procedures to prevent bribery and corruption, as contemplated by section 7 of the Bribery Act 2010.
- 29.2 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 Authority:
- 29.2.1 the Authority 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;
- 29.2.2 any termination under Clause 29.2.1 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 Authority; and
- 29.2.3 notwithstanding Clause 22 of this Schedule 2 of these Call-off Terms and Conditions, any Dispute relating to:
- (i) the interpretation of Clause 29 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 Authority, acting reasonably, and the decision shall be final and conclusive.

### **30 General**

- 30.1 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 authority 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.
- 30.2 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.
- 30.3 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.
- 30.4 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.
- 30.5 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.

- 30.6 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.
- 30.7 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 30.7 of this Schedule 2 of these Call-off Terms and Conditions, right includes any power, privilege, remedy, or proprietary or security interest.
- 30.8 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.
- 30.9 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 Authority relating to 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 Authority's procurement documentation leading to the award of this Contract shall form part of this Contract.
- 30.10 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.
- 30.11 Subject to Clause 22 of this Schedule 2 of these Call-off Terms and Conditions, the Parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any Dispute or claim that arises out of or in connection with this Contract or its subject matter.
- 30.12 All written and oral communications and all written material referred to under this Contract shall be in English.



## **Schedule 3 of these Call-off Terms and Conditions**

### **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 Authority 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 Authority 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 Authority'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 Authority 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 Authority 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 Authority's Confidential Information, and any other information provided to the Supplier by the Authority 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 Authority's written discretion, destroyed securely or returned to the Authority when it is no longer required. The Supplier shall not, and shall ensure that the Staff do not, use any of the Authority'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 Authority (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 Authority 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 and/or the Parties are otherwise sharing Personal Data under or in connection with this Contract, the Parties shall comply with the Data Protection Protocol in respect of such matters.

- 2.3 The Supplier and the Authority shall ensure that patient related Personal Data is safeguarded at all times in accordance with the Law, and this obligation will include (if transferred electronically) only transferring patient related 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 Authority 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 NHS patients and/or service users and/or has access to NHS systems as part of the Services, the Supplier shall:
- 2.4.1 complete and publish an annual information governance assessment using the Data Security and Protection toolkit;
  - 2.4.2 achieve all relevant requirements in the relevant Data Security and Protection 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 Social Care 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 Tender Response Document; and
  - 2.4.10 comply with any new and/or updated requirements, Guidance and/or Policies notified to the Supplier by the Authority 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 and any relevant Data Protection Protocol of these Call-off Terms and Conditions, as if such Sub-contractor were the Supplier.
- 2.6 The Supplier shall indemnify and keep the Authority 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 Authority 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 Authority's behalf for the purposes of this Contract are subject to the obligations and commitments of the Authority 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 Authority;
  - 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 Authority 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 Authority;
  - 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 Authority) and will promptly (and in any event within two (2) Business Days) transfer the request to the Authority;
  - 3.2.5 that the Authority, 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 Authority 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 Authority 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 Authority 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 Authority's absolute discretion.
- 3.6 The Supplier shall assist and cooperate with the Authority to enable the Authority 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 Authority 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 Authority'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 Authority and shall provide full information as may be reasonably requested by the Authority in relation to such audits, investigations and assessments.
- 4.2 Where required in accordance with the Specification and Tender Response Document, 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 Provisions and/or the Specification and Tender Response Document.
- 4.3 Where required in accordance with the Specification and Tender Response Document, the Supplier shall obtain and maintain certification under the HM Government Cyber Essentials Scheme at the level set out in the Specification and Tender Response Document.

## **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>“Actual Services Commencement Date”</b>	means the date the Supplier actually commences delivery of all of the Services;
<b>“Anti-Slavery Policy”</b>	has the meaning given under Clause 19.2.2 of Schedule 2 of these Call-off Terms and Conditions;
<b>“Authority”</b>	means the authority named on the Purchase Order;
<b>“Authority’s Obligations”</b>	means the Authority’s further obligations, if any, referred to in the Specification and Tender Response Document and/or the Purchase Order;
<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 provide the Services including a 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 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 Terms and Conditions”</b>	means these Call-off Terms and Conditions for the Provision of Services;
<b>“Change Control Process”</b>	means the change control process, if any, referred to in any Key Provisions;
<b>“Change in Law”</b>	means any change in Law which impacts on the provision of the Services which comes into force after the Commencement Date;
<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 Purchase Order;
<b>“Comparable Supply”</b>	means the supply of services to another customer of the Supplier that are the same or similar to any of the Services;
<b>“Confidential Information”</b>	<p>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:</p> <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 Authority’s intranet;</li> </ul>
<b>“Contract”</b>	means the Purchase Order, the provisions on the front page and all Schedules of these Call-off Terms and Conditions, the Specification and Tender Response Document and the applicable provisions of the Framework Agreement;
<b>“Contracting Authority”</b>	means any contracting authority as defined in Regulation 2(1) of the Public Contracts Regulations 2015 (SI 2015/102) (as amended), other than the Authority;
<b>“Contract Manager”</b>	means for the Authority and for the Supplier the individuals specified in the Purchase Order 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 8.1 of Schedule 2 of these Call-off Terms and Conditions;
<b>“Contract Price”</b>	means the price exclusive of VAT that is payable to the Supplier by the Authority 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 Purchase Order;
<b>“Controller”</b>	shall have the same meaning as set out in the UK 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 the Data Protection Act 2018 and the UK GDPR and any other applicable laws of England and Wales relating to the protection of Personal Data and the privacy of individuals (all as amended, updated, replaced or re-enacted from time to time);
<b>“Data Protection Protocol”</b>	means any document of that name as provided to the Supplier by the Authority (as amended from time to time in accordance with its terms) which shall include, without limitation, any such document appended to the Purchase Order;
<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 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 22 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 Authority 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 and Social Care in connection with it;
<b>“Equality Legislation”</b>	means any and all legislation, applicable guidance and statutory codes of practice relating to equality, diversity, non-discrimination 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>“EU References”</b>	shall have the meaning given to the term in Clause 1.16 of this Schedule 4 of these Call-off Terms and Conditions;
<b>“Evergreen Supplier Assessment”</b>	shall have the meaning given to the term in Clause 8.2 of Schedule 1 of these Call-off Terms and Conditions;
<b>“Exit Day”</b>	shall have the meaning in the European Union (Withdrawal) Act 2018;
<b>“Exit Requirements”</b>	means the Authority’s exit requirements, as set out in the Specification and Tender Response Document and/or otherwise as part of this Contract, which the Supplier must comply with during the Term and/or in relation to any expiry or early termination of this Contract;
<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 Majeure Event”</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</li> </ul>

	<p>reasonably have planned for such unavailability as part of its business continuity planning;</p> <p>(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;</p> <p>(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;</p> <p>(h) industrial action which affects the ability of the Supplier 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</p> <p>(i) a failure in the Supplier's and/or Authority'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,</p> <p>but excluding, for the avoidance of doubt, any event or other consequence arising as a result of or in connection with the withdrawal of the United Kingdom from the European Union;</p>
<b>“Framework Agreement”</b>	means the Framework Agreement referred to in the Purchase Order;
<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>“General Anti-Abuse Rule”</b>	<p>means:</p> <p>(a) the legislation in Part 5 of the Finance Act 2013; and</p> <p>(b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;</p>
<b>“General Change in Law”</b>	means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
<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 service provider engaged in the provision of services similar to the 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>“Guidance”</b>	means any applicable guidance, supplier code of conduct, direction or determination and any policies, advice or industry alerts which apply to the 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 Authority and/or have been published and/or notified to the Supplier by the Department of Health and Social Care, NHS England and NHS Improvement, the Medicines and Healthcare products Regulatory Agency, the European Medicines Agency, the European Commission, the Care Quality Commission, the National Institute for Health and Care Excellence 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-essentials-scheme-overview">https://www.gov.uk/government/publications/cyber-essentials-scheme-overview</a>
<b>“Implementation Plan”</b>	means the implementation plan, if any, referred to in any Key Provisions;
<b>“Implementation Requirements”</b>	means the Authority's implementation and mobilisation requirements (if any), as may be set out in the Specification and Tender Response Document 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 Authority;
<b>“Key Provisions”</b>	means the key provisions set out in Schedule 1 of these Call-off Terms and Conditions and/or as part of the Purchase Order;

<b>“KPI”</b>	means the key performance indicators as set out in the Specification and Tender Response Document and/or the Purchase Order, if any;
<b>“Law”</b>	<p>means any applicable legal requirements including, without limitation:</p> <ul style="list-style-type: none"> <li>(a) any applicable statute or proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument as applicable in England and Wales;</li> <li>(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 applicable statute, proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument);</li> <li>(c) any enforceable community right within the meaning of section 2(1) European Communities Act 1972;</li> <li>(d) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales;</li> <li>(e) requirements set by any regulatory body as applicable in England and Wales;</li> <li>(f) any relevant code of practice as applicable in England and Wales; and</li> <li>(g) any relevant collective agreement and/or international law provisions (to include, without limitation, as referred to in (a) to (f) above);</li> </ul>
<b>“Long Stop Date”</b>	means the date, if any, specified in the Purchase Order;
<b>“Net Zero and Social Value Commitments”</b>	means the Supplier’s net zero and social value commitments, each as set out in the Key Provisions and/or the Specification and Tender Response Document;
<b>“Net Zero and Social Value Contract Commitments”</b>	shall have the meaning given to the term in Clause 8.4 of Schedule 1 of these Call-off Terms and Conditions;
<b>“NHS”</b>	means the National Health Service;
<b>“Occasion of Tax Non-Compliance”</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(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:</li> </ul>

	<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 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 Effective Date or to a civil penalty for fraud or evasion;</p>
<b>“Party”</b>	means the Authority or the Supplier as appropriate and Parties means both the Authority and the Supplier;
<b>“Personal Data”</b>	shall have the same meaning as set out in the UK GDPR;
<b>“Policies”</b>	means the policies, rules and procedures of the Authority as notified to the Supplier from time to time;
<b>“Premises and Locations”</b>	has the meaning given under Clause 2.1 of Schedule 2 of these Call-off Terms and Conditions;
<b>“Process”</b>	shall have the same meaning as set out in the UK GDPR. Processing and Processed shall be construed accordingly;
<b>“Purchase Order”</b>	means the purchase order for the Services issued by the Authority in accordance with Schedule 7 of the Framework Agreement;
<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 15.3 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 Purchase Order. If no date is specified in the Purchase Order, the services commencement date shall be the Commencement Date;
<b>“Services Information”</b>	means information concerning the Services as may be reasonably requested by the Authority and supplied by the Supplier to the Authority in accordance with Clause 20 of

	Schedule 2 of these Call-off Terms and Conditions for inclusion in the Authority's services catalogue from time to time;
<b>“Slavery Act”</b>	has the meaning given in Clause 19.2.1 of Schedule 2 of these Call-off Terms and Conditions;
<b>“Specification and Tender Response Document”</b>	means the Specification and Tender Response Document set out in the Framework Agreement as supplemented by any further information set out and/or referred to in the Purchase Order 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 Sub-contractors and person employed or engaged by such Sub-contractors;
<b>“Specific Change in Law”</b>	means a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply;
<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 Authority, 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 Authority, 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 Purchase Order;
<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 Net Zero Corporate Champion”</b>	shall have the meaning given to the term in Clause 8.3 of Schedule 1 of these Call-off Terms and Conditions;
<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>“Supplier Net Zero and Social Value Contract Champion”</b>	Shall have the meaning given to the term in Clause 8.6 of Schedule 1 of these Call-off Terms and Conditions;
<b>“Term”</b>	means the term as referred to in the Key Provisions;
<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 8.5 of Schedule 2 of these Call-off Terms and Conditions;
<b>“Transfer Date”</b>	means the Actual 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>“UK GDPR”</b>	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018; 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 Unless set out in the Contract as a chargeable item and subject to Clause 30.6 of Schedule 2 of these Call-off Terms and Conditions, the Supplier shall bear the cost of complying with its obligations under this Contract.
- 1.7 The headings are for convenience only and shall not affect the interpretation of this Contract.
- 1.8 Words denoting the singular shall include the plural and vice versa.
- 1.9 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.
- 1.10 Where there is a conflict between the Supplier’s responses to the requirements set out in the Specification and Tender Response Document and any other part of this Contract, such other part of this Contract shall prevail.
- 1.11 Where a document is required under this Contract, the Parties may agree in writing that this shall be in electronic format only.
- 1.12 Where there is an obligation on the Authority to procure any course of action from any third party, this shall mean that the Authority shall use its reasonable endeavours to procure such course of action from that third party.
- 1.13 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 as referred to above as may be requested by the Receiving Party but no such withholding or delay shall invalidate the Breach Notice.
- 1.14 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.
- 1.15 For the avoidance of doubt, and to the extent not prohibited by any Law, the term “expenses” (as referred to under any indemnity provisions forming part of this Contract) shall be deemed to include any fine and any related costs imposed by a commissioner, regulator or other competent body.
- 1.16 Any reference in this Contract which immediately before Exit Day was a reference to (as it has effect from time to time):
- 1.16.1 any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement (“**EU References**”) which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and



- 1.16.2 any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred.

**Schedule 5**  
**Authority Step-In Rights**

**1. Step In Rights**

1.1. Without prejudice to any other right or remedy of the Authority, this Schedule 5 shall apply in the following circumstances:

- 1.1.1. if the Authority, acting reasonably, do not consider there to be sufficient time, or that the Supplier is not likely to be willing and able to take the necessary steps to rectify any failure to meet the requirements of this Contract;
- 1.1.2. the Contract Manager reasonably considers that a breach by the Supplier of an obligation under this Contract or the occurrence of a Force Majeure Event is likely to:
  - 1.1.2.1. result in a material interruption to or delay in the provision of the Services; or
  - 1.1.2.2. result in the Authority being unable to perform its statutory functions;
- 1.1.3. if the Supplier is in breach of its obligations entitling the Authority to terminate in accordance with Clauses 15.4 or 15.5 of Schedule 2 of these Call-off Terms and Conditions
- 1.1.4. if the Supplier has received three (3) Breach Notices in any rolling 12 month period;
- 1.1.5. if, acting reasonably, the Authority have 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 Authority as part of any procurement process or other due diligence leading to the award of this Contract or the entering into a Sub-contract by the Supplier, and such material deterioration has, or is likely to have, a material adverse effect on the Supplier's ability to carry out its obligations under this Contract;
- 1.1.6. where a regulatory body has advised the Authority that the exercise by the Authority of their rights under this Schedule 5 is necessary;
- 1.1.7. because a serious risk exists to the health or safety of general practices or other persons, property or the environment;
- 1.1.8. to discharge a statutory duty;
- 1.1.9. if the Contract Manager otherwise considers that in any event there are circumstances that constitute an emergency.

**2. Steps by Supplier**

2.1. Before the Authority may exercise their right of step in under this Schedule 5 it shall permit the Supplier the opportunity to demonstrate to the Authority's reasonable

satisfaction within 20 Business Days that the Supplier is still able to provide the Services in accordance with the terms of this Contract and/or remedy the circumstances giving rise to the right to step in without the requirement for the Authority to take action. The Contract Manager shall require the Supplier forthwith to take such steps as the Contract Manager reasonably considers necessary or expedient to mitigate or preclude such state of affairs and the Supplier shall use all reasonable endeavours to comply with the Contract Manager requirements.

### 3. Steps by the Authority

#### 3.1. If the Supplier:

- 3.1.1. fails to confirm within ten (10) Business Days of a notice served pursuant to Clause 2 of this Schedule 5 that it is willing to comply with that notice; or
- 3.1.2. fails to take the steps notified to it by the Authority pursuant to Clause 2 of this Schedule 5,

then the Authority may take action under this Clause 3 of this Schedule 5 either themselves or with the assistance of third party contractors.

#### 3.2. If the Authority takes action pursuant to Clause 3 of this Schedule 5 the Authority shall serve notice ("**Step-in Notice**") on the Supplier. The Step-in Notice shall set out the following:

- 3.2.1. the action the Authority wish to take and in particular the Services they wish to control;
- 3.2.2. the reason for and the objective of taking the action and whether the Authority reasonably believes that the primary cause of the action is due to the Supplier's default;
- 3.2.3. the date they wish to commence the action;
- 3.2.4. the time period which they believe will be necessary for the action; whether the Authority will require access to the Supplier's premises;
- 3.2.5. to the extent practicable, the effect on the Supplier and its obligations to provide the Services during the period the action is being taken; and
- 3.2.6. the name of the party who will undertake to provide the Services in lieu of the Supplier during any period of step-in (the "Step-in Party").

#### 3.3. Following service of a Step-in Notice, the Authority shall:

- 3.3.1. take the action set out in the Step-in Notice and any consequential additional action as it reasonably believes is necessary to achieve (together, the "Required Action");
- 3.3.2. keep records of the Required Action taken and provide information about the Required Action to the Supplier; and
- 3.3.3. co operate wherever reasonable with the Supplier in order to enable the Supplier to continue to provide any Services in relation to which the Authority is not assuming control.

#### **4. Operation and performance consequences**

4.1. If the Contract Manager (on behalf of the Authority) exercises the rights of step-in under Clause 3 of this Schedule 5:

4.1.1. the Step-in Party shall perform those Services which have been suspended under Clause 3 of this Schedule 5 and, subject to Clause 5 of this Schedule 5 below, the Authority shall be responsible for all Step-in Costs;

4.1.2. the Step-in Party shall be entitled to use all or any part of the Supplier's facilities, premises, Equipment, materials and/or the Staff to assist in the provision of such Services and the Supplier shall cooperate fully with the Step-in Party to achieve this; and

4.1.3. for the period that the step-in subsists the Supplier will not be required to provide that part of the Services affected by the step-in.

#### **5. Cost Consequences**

5.1. Subject to Clause 5.2 of this Schedule 5 and except where the Authority have exercised their rights under this Schedule 5 as a result of the occurrence of a Force Majeure Event, the Supplier shall reimburse the Authority immediately on demand for all Step-in Costs reasonably incurred by the Authority in taking the steps or engaging others to take the steps referred to in Clauses 2, 3 or 4 of this Schedule 5 and the Authority shall be entitled to invoice the Supplier for any such amount. Such amounts shall be payable by the Supplier within two (2) Business Days of the date of the invoice, failing which the Authority shall be entitled to deduct any such amount from any amount payable to the Supplier in accordance with this Contract.

5.2. Where the Contract Manager and the Supplier agree that, or it is determined in accordance with the Dispute Resolution Procedure that:

5.2.1. the Supplier had not failed to perform its obligations under this Contract; or

5.2.2. the Contract Manager was unreasonable in requiring the Supplier to take such steps or to take such steps as are set out in Clauses 2, 3 or 4 of this Schedule 5,

then the Authority will refund any amounts paid by the Supplier pursuant to Clause 5.1 of this Schedule 5 without due cause.

#### **6. Step-Out or Termination**

6.1. Once the circumstances which gave rise to the step-in no longer subsist the Contract Manager shall promptly give notice to the Supplier that the Step-In Party shall cease providing those Services the subject of the exercise of its rights under Clause 3 of this Schedule 5 setting out the date that the Step-In Party shall cease providing those Services ("Step-Out Notice"), such date to be no less than two (2) Business Days and no longer than ten (10) Business Days after the issue of the notice pursuant to this Clause 6 of this Schedule 5.

6.2. The Supplier shall, following receipt of a Step-Out Notice and not less than 20 Business Days prior to the date specified within the Step-Out Notice on which the Step-In Party will cease providing the Services, develop for the Authority's approval a draft plan ("Step-Out Plan") relating to the resumption by the Supplier of the Services,

including any action the Supplier proposes to take to ensure that the affected Services satisfy the requirements of this Contract.

- 6.3. If the Authority does not approve the draft Step-Out Plan, the Authority shall inform the Supplier of their reasons for not approving it. The Supplier shall then revise the Step-Out Plan taking those reasons into account and shall re-submit the revised plan to the Authority for the Authority's approval. The Authority shall not unreasonably withhold or delay approval of a Step-Out Plan.
- 6.4. If a step-in for any reason other than the occurrence of a Force Majeure Event continues for a continuous period of three (3) months and provided that a notice has not been provided pursuant to Clause 6.1 of this Schedule 5, the Authority shall be entitled to terminate this Contract with effect from the date specified in the Termination Notice.