

NHS ENGLAND FACULTY FRAMEWORK
CALL OFF AGREEMENT FOR THE PROVISION OF SERVICES
Faculty Framework reference C67212
Call Off Terms and Conditions

The Authority	NHS England
The Supplier	The Work in Progress [REDACTED] [REDACTED] [REDACTED]
Contract Reference	C270780
Date	[Insert date when signed by the Authority]
Title	C239550 NAT.414 Leading for System Change Design Refresh
Contract Value	£47,000

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

The 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 an Order Form 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 Order Form.

The Definitions in 0 of these Call-off Terms and Conditions apply to the use of all capitalised terms in the Contract.



Signed by the authorised representative of THE AUTHORITY

Authority Signature:

A large black rectangular box redacting the signature of the authorised representative of the Authority.

Full Name: 

Job Title/Role: 

Date Signed: 26.04.2024

Signed by the authorised representative(s) of THE SUPPLIER

Supplier Signature:

A large black rectangular box redacting the signature of the authorised representative(s) of the Supplier.

Full Name: 

Job Title/Role: 

Date Signed: 5 June 2024

**Schedules**

Error! Reference source not found.	Key Provisions
Schedule 2	General Terms and Conditions
Schedule 3	Information and Data Provisions
Schedule 4	Definitions and Interpretations
Schedule 5	Specification and Requirements
Schedule 6	Tender Response Document
Schedule 7	Commercial Schedule

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 7 of this Schedule 1 of these Call-off Terms and Conditions shall apply to this Contract.
- 1.2 The Extra Key Provisions set out in Part A of Schedule 7 of the Framework Agreement (Call-off contract, Ordering Procedure, Award Criteria and Order Form) shall apply to this Contract.

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 Order Form.
- 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 Call Off Agreement (including any options to extend).

3 Contract Managers

- 3.1 The Contract Managers or Lead Contract Manager (where applicable) at the commencement of this Contract shall be as set out in the Order Form 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 Order Form.

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:

Level	Authority representative	Supplier representative
1	Contract Manager	Contract Manager
2	Senior Responsible Officer for Call Off Agreement	Assistant Director or equivalent
3	National Director of NHS England	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 Call Off Order Form;
 - 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;
 - 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;
- 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).



Schedule 2 of these Call-off Terms and Conditions
General Terms and Conditions

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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 Call Off Agreement as applicable and/or the provisions of the Order Form;
 - 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 Order Form 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 Order Form, 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 Order Form 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 Order Form.

- 2.5 Where it is provided for by a specific mechanism set out in the Specification and Tender Response Document and/or the Order Form, 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 Order Form, 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 **Error! Reference source not found.** 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 Order Form or as otherwise agreed between the Parties in writing, any redeployment and/or replacement of such member of Staff by the Supplier shall be

- subject to the prior written approval of the 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 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.

6.2 The Supplier shall test its Business Continuity Plan at reasonable intervals, and in any event no less than once every twelve (12) Months or at 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 also test its Business Continuity Plan in the event of any major reconfiguration of the Services or as otherwise reasonable requested by the Authority.

6.3 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 or reasonable and proportionate documentary evidence that they have updated or revised their Business Continuity Plan (as applicable) within fourteen (14) Business Days of any material update or revision to such plan.

6.4 On receipt of a copy of the Supplier Business Continuity Plan and/or any revision of such plan and/or the result of any test of the Supplier Business Continuity Plan and/ or any documentary evidence relating to the Supplier Business Continuity Plan the Authority may review such plan, revision, test result and/or documentary evidence and where it reasonably considers that:

6.4.1 any such plan or revision may not sufficiently provide for continuity in the provision of the Services during a Business Continuity Event; and/or

6.4.2 the test result demonstrates that the Supplier Business Continuity Plan will or may fail to provide for continuity in the provision of the Services during a Business Continuity Event;

the Authority may require the Supplier to take such measures, acting reasonably, as it considers appropriate (including the re-testing of the Business Continuity Plan or revision of such plan) to strengthen such plan or such revision and this remedial activity and re-testing shall be completed by the Supplier, at no additional cost to the Authority, by the date reasonably required by the Authority and notified to the Supplier in writing.

6.5 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.

- 6.6 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.
- 6.7 During and following a Business Continuity Event, the Supplier shall use reasonable endeavours to continue to provide the Services in accordance with this Contract.
- 6.8 For the avoidance of doubt, the carrying out of a test of the Business Continuity Plan (including a test of the Business Continuity Plan's procedures) shall not relieve the Supplier of any of its obligations under 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. Where more than one Supplier is a party to this Contract, each Supplier shall appoint a Contract Manager to represent that Supplier, and the Suppliers shall appoint one of the Contract Managers so appointed to be their Lead Contract Manager with authority to represent all of the organisations comprising the Suppliers. Should the Contract Manager or Lead Contract Manager be replaced, the organisation replacing the Contract Manager shall promptly inform the other Party in writing of the name and contact details for the new Contract Manager or Lead 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 this Contract. The Supplier confirms and agrees that it will 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 or Lead Contract Manager (where applicable)) 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. 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 No more than one (1) week prior to each review meeting, but in any event not less than three (3) Business Days prior to each review meeting the Supplier shall provide a written contract management report ("**Report**") to the Authority regarding the provision of the Services and the operation of this Contract. Where the Parties have agreed to

hold review meetings less frequently than Monthly pursuant to Clause 8.2 of this Schedule 2 of these Call-Off Terms and Conditions then a Report shall, without prejudice to the remainder of this Clause 8.3 of this Schedule 2 of these Call-Off Terms and Conditions, be produced by the Supplier and submitted to the Authority at no less than Monthly intervals. Unless otherwise agreed by the Parties in writing, such contract management report shall contain, as a minimum:

- 8.3.1 details of the performance of the Supplier under this Contract (including as assessed against the KPIs under this Contract since the last Report;
 - 8.3.2 in the case of the first review meeting, a calculation of the number of Primary KPI Failure Points and the number of Secondary KPI Failure Points occurring in the period between the Effective Date and the date of the first review meeting, and in the case of any other review meeting a calculation of the number of Primary KPI Failure Points and Secondary KPI Failure Points occurring in the period between the preceding review meeting and the review meeting at which the Report will be considered;
 - 8.3.3 in the case of the first review meeting, a calculation of the number of KPI Failures relating to the KPIs occurring in the period between the Effective Date and the date of the first review meeting, and in the case of any other review meeting a calculation of the number of KPI Failures relating to the KPIs occurring in the period between the preceding review meeting and the review meeting at which the Report will be considered;
 - 8.3.4 Not used
 - 8.3.5 details of any complaints by the Authority regarding the Services and any complaints from or on behalf of patients or other service users, their nature of any such complaints and the way in which the Supplier has responded to such complaints since the last Report;
 - 8.3.6 the information specified in this Contract;
 - 8.3.7 a status report in relation to the implementation of any current Remedial Proposal by either Party; and
 - 8.3.8 such other information as reasonably required by the Authority.
- 8.4 Unless otherwise specified in this Contract, 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 for resolution in accordance with, the dispute resolution process set out in Clause **Error! Reference source not found.** 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 relating to the operation of this Contract to which the Supplier is a Party (the “**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 any such Management Information to another Contracting Authority, whose role includes (but is not limited to): (a) the analysis of such Management Information (to include, without limitation, for the purposes of analysing public sector expenditure and planning future procurement activities); and/or (b)

manage the Call Off 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 Call Off Agreement, as confirmed in the Order Form.

- 9.2 Unless otherwise stated in the Framework Agreement and/or the Call Off Order Form, 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 Call Off Order Form:

9.3.1 where the Framework Agreement and/or the Call Off Order Form 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 Month, the Contract Price in respect of the Services provided in compliance with this Contract in the preceding 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.

- 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, the invoice shall be regarded as valid and undisputed for the purposes this Clause 9.5 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 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 Not used
- 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, represents and undertakes that without prejudice to any warranty implied by an applicable Law:
- 10.1.1 it shall comply with the Framework and/or Call Off 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 (including, where the Supplier's procedures required, the consent of any parent company), 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 and/or Guidance 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 and Guidance, 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, 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 and Guidance, be fit for its intended purpose and maintained

fully in accordance with the manufacturer's specification and shall remain the Supplier's risk and responsibility at all times;

- 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: (i) comply with all relevant Law and Guidance and shall use Good Industry Practice to ensure that there is no slavery or human trafficking in its supply chains; and (ii) notify the Authority immediately if it becomes aware of any actual or suspected incidents of slavery or human trafficking in its supply chains;
- 10.1.17 it shall at all times conduct its business in a manner that is consistent with any anti-slavery Policy of the Authority and shall provide to the Authority any reports or other information that the Authority may request as evidence of the Supplier's compliance with this Clause 10.1.17 and/or as may be requested or otherwise required by the Authority in accordance with its anti-slavery Policy;
- 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 Order Form) 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 known to the Supplier before any court or administrative agency which would materially adversely affect the financial condition, business or operations of the Supplier. For the purposes of this Clause 10.1.23 of this **Error! Reference source not found.** "known" means either where at any point during the Term such pending or threatened actions or proceedings are known of by the

- Supplier or where at any point during the Term such pending or threatened actions or proceedings ought to be known of by the Supplier;
- 10.1.24 no proceedings or other steps have been taken and not discharged (nor, to the best of the Supplier's knowledge, are threatened) for the winding up of any Supplier or for its dissolution, or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets and/or revenue;
- 10.1.25 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;
- 10.1.26 it has and will continue to have the capacity, funding and cash flow to meet all its obligations under this Contract and will promptly notify the Authority if during the Term this ceases to be the case; and
- 10.1.27 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;
- 10.1.28 it shall notify the Authority immediately if they become aware of any actual or suspected incidents of slavery or human trafficking in their supply chains; and
- 10.1.29 it shall at all times conduct its business in a manner that is consistent with any anti-slavery Policy of the Authority and shall provide to the Authority
- 10.1.30 any reports or other information that the Authority may request as evidence of the Supplier's compliance with this Clause 10.1.30 and/or as may be requested or otherwise required by the Authority in accordance with its anti-slavery Policy. The Authority may, at its absolute discretion, accept a modern slavery transparency statement published by the Suppliers in accordance with the Modern Slavery Act 2015, including but not limited to section 54 of that Act, and any and all other relevant anti-slavery legislation in force from time to time, as evidence of compliance with this Clause 10.1.30 of this **Error! Reference source not found..**
- 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.
- 10.8 For the avoidance of doubt, it is agreed that neither the Authority nor any other Participating Authority shall be entitled to obtain damages or otherwise obtain reimbursement more than once in respect of the same loss, liability or damage caused by the same breach of any of the warranties which appear (or are deemed to appear) in both this Contract and the Framework Agreement.
- 10.9 Where:
- 10.9.1 under this Contract the Supplier breaches any warranty set out (or deemed or implied to be set out) in this Contract; and
- 10.9.2 the Participating Authority under the relevant Contract is the Authority; and
- 10.9.3 the same warranty is set out (or is deemed or implied to be set out) in the Framework Agreement;

then the terms of this Contract governing the breach of that warranty and the liability of the Parties shall prevail over the terms of the Framework Agreement.

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, material 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 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, 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 13.7 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, damages, costs and/or expenses (including without limitation legal costs and expenses) for which that Party is entitled to bring a claim against another pursuant to this Contract, including but not limited to any loss, damages, costs and/or expenses (including without limitation legal costs and expenses) for which one Party is entitled to bring a claim against any other Party pursuant to an indemnity under this Contract.
- 13.5 In relation to all third party claims against the Authority, which are the subject of any indemnity given by the Supplier under the Framework Agreement, the Authority shall:
- 13.5.1 notify the Supplier of any such claims as soon as reasonably practicable; and
 - 13.5.2 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:
 - (i) relating to any legal, regulatory, governance, information governance, or confidentiality obligations on the Authority; and/or
 - (ii) 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).

- 13.6 Where the Authority is restricted from transferring any claim to the Supplier in accordance with Clause 13.5 of this **Error! Reference source not found.** above, the Authority shall in relation to any such claim:
- 13.6.1 notify the Supplier about the claim in writing;
 - 13.6.2 consult with the Supplier about its conduct;
 - 13.6.3 where the Authority chooses to defend the claim, following consultation with the Supplier, defend such claim diligently and, where appropriate, using competent counsel; and
 - 13.6.4 where the Authority is considering settling the claim, consult with the Supplier about whether to settle it and the terms of any such settlement.
- 13.7 If the total Contract Price paid or payable by the Authority to the Supplier over the Term:
- 13.7.1 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);
 - 13.7.2 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);
 - 13.7.3 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
 - 13.7.4 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%).
- 13.8 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 Any excesses or deductibles under the indemnity cover and policies of insurance referred to in this Clause 14 of this Schedule 2 of these Call-Off Terms shall be the sole and exclusive responsibility of the Supplier.
- 14.7 The Supplier shall from time to time and in any event within five (5) Business Days of written demand from the Authority provide evidence to the Authority, in a form deemed satisfactory in the reasonable opinion of the Authority, that the insurance and/or indemnity 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 where applicable any premiums on them and/or contributions in respect of them (if any) are fully paid.
- 14.8 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 insurance and/or indemnity arrangements for the period of six (6) years from termination or expiry of this Contract or until such earlier date as that liability may reasonably be considered to have ceased to exist.

15 Term and termination

- 15.1 This Contract shall commence on the Commencement Date and shall unless terminated earlier in accordance with the terms of this Contract or the general law, 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 notice of breach to the other Party ("**Breach Notice**") and allow the Party in breach the opportunity to remedy such breach in the first instance via the submission, agreement and implementation of a remedial proposal ("**Remedial Proposal**") before the non-breaching Party exercises any right to terminate this Contract in accordance with Clause 15.4(ii) of this Schedule 2 of these Call-off Terms and Conditions. Such Remedial Proposal must be agreed with the non-breaching Party (such agreement not to be unreasonably withheld or delayed) and must be implemented by the Party in breach in accordance with the timescales referred to in the agreed Remedial Proposal. The date a Remedial Proposal is agreed by the non-breaching Party shall be the date of that 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 within thirty (30) days of the date of the Remedial Proposal 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(ii) of this Schedule 2 of these Call-off Terms and Conditions, a material breach of this Contract by the Party in breach not remedied in accordance with an agreed Remedial Proposal.
- 15.4 Either Party may terminate this Contract forthwith by notice in writing to the other Party if such other Party commits a material breach of any of the terms of this Contract which is:
- (i) not capable of remedy; or
 - (ii) in the case of a breach capable of remedy, which is not remedied in accordance with a Remedial Proposal.
- 15.5 The Authority may terminate this Contract forthwith by issuing a notice in writing to the Supplier if:
- 15.5.1 the Supplier does not commence delivery of the Services by any Long Stop Date;

- 15.5.2 the Supplier, or any third party guaranteeing the obligations of the Supplier under this Contract, ceases or threatens to cease carrying on its business; suspends making payments on any of its debts or announces an intention to do so; is, or is deemed for the purposes of any Law to be, unable to pay its debts as they fall due or insolvent; enters into or proposes any composition, assignment or arrangement with its creditors generally; takes any step or suffers any step to be taken in relation to its winding-up, dissolution, administration (whether out of court or otherwise) or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) otherwise than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation; has a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed (in each case, whether out of court or otherwise) in respect of it or any of its assets; has any security over any of its assets enforced; or any analogous procedure or step is taken in any jurisdiction;
 - 15.5.3 the Supplier undergoes a change of control within the meaning of sections 450 and 451 of the Corporation Tax Act 2010 (other than for an intra-group change of control) without the prior written consent of the 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 or would, if permitted to take effect, constitute a material variation to the provisions of the Framework Agreement or this Contract for the purposes of the Public Contracts Regulations and any applicable provisions of Law;
 - 15.5.4 the Supplier purports to assign, Sub-contract, novate, create a trust in or otherwise transfer or dispose of this Contract in breach of Clause 29.1 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, 23.8; 26.2; 26.4 and 30.3 of this Schedule 2 of these Call-off Terms and Conditions or otherwise set out in this Contract; or
 - 15.5.6 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.
- 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 **Error! Reference source not found.**15.4(i) 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 notice in writing to the Supplier where:
 - 15.7.1 the Contract has been substantially amended to the extent that the Public Contracts Regulations require a new procurement procedure;
 - 15.7.2 the Authority has become aware that the Supplier could have been excluded under Regulation 57(1) or (2) of the Public Contracts Regulations from the procurement procedure leading to the award of this Contract or could if re-evaluated be so be excluded (subject always to the requirements of Regulation 57 of the Public Contracts Regulations governing such exclusions);
 - 15.7.3 the Contract should not have been awarded to the Supplier in view of a serious infringement of obligations under European law declared by the Court of Justice of the European Union under Article 258 of the Treaty on the Functioning of the EU; or
 - 15.7.4 there has been a failure by the Supplier and/or one 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 15.7.4.
- 15.7.1 the Supplier has, in the reasonable opinion of the Authority acted in a way likely to bring the NHS and/or the Authority into disrepute;
- 15.7.2 the Supplier has in the reasonable opinion of the Authority acted in a way so as to cause a serious risk to the health or safety of persons, property or the environment;

- 15.7.3 subject to Clause 15.8 the Supplier breaches any provision or provisions of the Data Protection Legislation whether related to the Framework Agreement, this Contract or otherwise;
- 15.7.4 subject to Clause 15.8 the Supplier breaches any provision or provisions of Schedule 3 of these Call-off Terms and Conditions and the Authority is required to report such breach to the Information Commissioner and/or to the relevant Data Subjects; and/or
- 15.7.5 subject to Clause 15.8 the Information Commissioner takes regulatory action against:
- (i) the Authority; and/or
 - (ii) the Suppliers
- in respect of any act or omission of the Supplier pursuant to this Contract.
- 15.8 Any right of termination set out in Clause 15.7 above that is expressed to be subject to this Clause 15.8 shall only be exercised by the Authority where the Authority considers, acting reasonably, that the breach and/or regulatory action (as applicable) means that the Supplier no longer can give that level of assurance that the Suppliers can guarantee the rights and freedoms of Data Subjects as is required by Data Protection Legislation.
- 15.9 Subject to Clause 15.8 of **Error! Reference source not found.** of this Contract, the Supplier may terminate this Contract on no less than 6 Months written notice if:
- 15.9.1 there is a change of Law, rule, regulation or professional standard, that would cause the relationship between the Parties set out in this Framework Agreement to violate such Law, rule, regulation or professional standard; or
- 15.9.2 a professional conflict of interest has arisen for the Supplier, whether arising due to any applicable auditor requirements or otherwise, which cannot be managed as required by any applicable professional rule, regulation or standard.
- 15.10 Where the Supplier wishes to exercise their right at Clause 15.9 of **Error! Reference source not found.** of this Contract, the Supplier must first before service of any notice under Clause 15.9 of **Error! Reference source not found.** of this Contract consult with the Authority and establish to the satisfaction of the Authority (acting reasonably) that:
- 15.10.1 such violation of Law, rule, regulation or professional standard exists; or
- 15.10.2 such professional conflict of interest exists; and
- 15.10.3 such violation or conflict of interest (as applicable) can only be effectively mitigated by the termination of the Contract.
- 15.11 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 notice in writing 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.

- 15.12 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 15.12 of this Schedule 2 of these Call-off Terms and Conditions (such agreement not to be unreasonably withheld or delayed), such failure to agree shall be deemed a Dispute, which shall be referred to and resolved in accordance with the Dispute Resolution Procedure.

16 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. To the extent that the Supplier is required by this Clause 16.4 of **Error! Reference source not found.** to provide access to Confidential Information and where requested of the Authority by the Supplier, the Authority shall use its reasonable endeavours to ensure any replacement supplier enters into a confidentiality agreement with the Supplier on the same terms of confidentiality and non-use as set out in Schedule 3 of these Call-off Terms and Conditions. The Supplier shall only be obliged to provide Confidential Information where a confidentiality agreement has been entered into by replacement suppliers and the Supplier.

- 16.5 Immediately upon expiry or earlier termination of this Contract any licence or lease entered into in accordance with any Order Form 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.
- 16.9 Without prejudice or limitation to Clauses 16.6, 16.7 and 16.8 of this **Error! Reference source not found.**, the Parties agree that the provisions of Clause 22, shall survive the expiry or termination of this Contract for any reason.
- 16.10 Without prejudice or limitation to Clauses 16.6, 16.7 and 16.8 of this **Error! Reference source not found.**, the Parties agree that the provisions of Clause 8 of this **Error! Reference source not found.** and all obligations upon the Suppliers to provide Management Information under this Contract shall survive the expiry or termination of this Contract for any reason.

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, accrued holiday pay, bonuses, commissions, PAYE, national insurance contributions,

- pension contributions and other contributions) payable in respect of any period on or before the Subsequent Transfer Date;
- 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 Sustainable development

- 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.
- 19.2 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.

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 For the avoidance of doubt the Supplier shall have no right to compel the Authority to exhibit the Services Information format or publication save that the Supplier may specify restrictions on how the Supplier's branding and/or logo are exhibited. For the avoidance of doubt the provisions of this Clause 20.6 of this Schedule 2 of these Call-off Terms and Conditions do not restrict or limit the ability of the Supplier to themselves promote their ability to provide the services 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.

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 Subject to Clause 30.3.3 of this Schedule 2 of these Call-off Terms and Conditions, 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 **Error! Reference source not found.** of the Key Provisions. Respective representatives at each level, as set out in Clause **Error! Reference source not found.** 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 Notwithstanding the other provisions of this Clause 22 of this **Error! Reference source not found.** of these Call-off Terms and Conditions, the Parties agree that where indicated in this Contract, or where otherwise agreed between the Parties in dispute, disputes and matters for determination by an expert shall be referred to a single independent expert acting as an expert (and not as an arbitrator) ("**Expert**") to be appointed jointly. Where this Contract indicates that a dispute or matter is to be determined by an expert, a Party may serve notice on the other Party or Parties in dispute requesting reference to an Expert and in the absence of agreement within 14 days on a joint appointment the Expert may be appointed, on the application of a Party, by the President for the time being of the Law Society (or such other person authorised by him to make appointments on his behalf).
- 22.7 If the Expert refuses to act, becomes incapable of acting or dies either Party may require the appointment of another Expert in accordance with Clause 22.6 of this Schedule 2 of these Call-off Terms and Conditions.
- 22.8 Within 7 days of appointment in relation to a particular dispute, the Expert shall require the Parties to submit in writing their respective arguments. The Expert shall, in his absolute discretion, consider whether a hearing is necessary in order to resolve the dispute and/or make a determination (as applicable).
- 22.9 In any event, the Expert shall provide to all Parties his written decision on the dispute and/or determination, within 28 days of appointment (or such other period as the Parties may agree after the reference, or 42 days from the date of reference if the Party which referred the dispute agrees).

- 22.10 The Expert shall be deemed not to be an arbitrator but shall render his decision as an expert and the provisions of the Arbitration Act 1996 and the Law relating to arbitration shall not apply to his determination or the procedure by which he reached his determination.
- 22.11 The Expert shall act impartially and may take the initiative in ascertaining the facts and the law. The Expert shall have the power to open up, review and revise any opinion, certificate, instruction, determination or decision of whatever nature given or made under this Contract.
- 22.12 All information, data or documentation disclosed or delivered by a Party to the Expert in consequence of or in connection with his appointment shall be treated as confidential. The Expert shall not disclose to any person or company any such information, data or documentation and all such information, data or documentation shall remain the property of the Party disclosing or delivering the same and all copies shall be returned to such Party on completion of the Expert's work.
- 22.13 The fees and expenses of the Expert are to be borne as the Expert may direct, or in default equally by the Parties. Each Party will bear their own costs with respect to the reference to an expert, including legal costs and the cost and expenses of witnesses.
- 22.14 The determination of the Expert, except in the case of manifest error, is to be final and binding on the Parties to this Contract.
- 22.15 Nothing in this Contract shall prevent:
- 22.15.1 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
 - 22.15.2 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.
- 22.16 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 23 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 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 **Error! Reference source not found.** 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 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 all reasonable 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 in full or in part on service of written notice on 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 by the Supplier for the longer of:
- 24.2.1 twelve (12) years; or
- 24.2.2 the relevant period applicable to that record as set out in the Records Management Code of Practice for Health and Social Care 2021 available at <https://www.nhs.uk/information-governance/guidance/records->

management-code/records-management-code-of-practice-2021/ or any successor guidance issued from time to time.

- 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 (who for the avoidance of doubt shall enter into obligations of confidentiality and non-use the same as those in Schedule 3 of these Call-off Terms and Conditions in respect of the Suppliers' Confidential Information) 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. The Supplier shall provide all reasonable cooperation with such audit and accompany the Authority or its authorised representative(s) if requested.
- 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 provide all reasonable cooperation with such audit and inspection and accompany the Authority or its authorised representative if requested.
- 24.5 Without limitation to the generality of Clause 24.3 of this **Error! Reference source not found.** of these Call-off Terms and Conditions, 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 all 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 Participating Authority Satisfaction Monitoring

- 25.1 The Authority may from time to time (but not on more than one occasion in any twelve (12) Month period) undertake (or procure the undertaking of) a Participating Authority satisfaction survey, ("**Participating Authority Satisfaction Survey**") the purpose of which shall include (but is not limited to):

- 25.1.1 assessing the level of satisfaction among the Participating Authorities with the supply of the Services by the Suppliers (including the way in which the relevant Services are provided, performed and delivered) and, in particular, the level of satisfaction as to the quality, efficiency and effectiveness of the Services;
 - 25.1.2 monitoring the Supplier's compliance with the requirements of the Framework Agreement and this Contract;
 - 25.1.3 such other assessment(s) as the Authority may deem appropriate for monitoring Participating Authority satisfaction; and
- 25.2 The Authority and any other Participating Authorities shall be entitled, but not obliged, to disclose (to any Contracting Authority) the results of the Participating Authority Satisfaction Survey and to use such results to inform decisions under or in relation to the Framework Agreement and this Contract.

26 Conflicts of interest and the prevention of fraud

- 26.1 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.
- 26.2 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 26.2 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.
- 26.3 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.
- 26.4 If the Supplier or its Staff or any other person referred to in Clause 26.3 of Schedule 2 of these Call-off Terms and Conditions commits Fraud (whether in relation to the Framework Agreement or this Contract) the Authority may:
- 26.4.1 terminate this Contract and recover from the Supplier the amount of loss suffered by the Authority resulting from such termination;
 - (i) without limitation to the generality of Clause **Error! Reference source not found.** above any cost and/or expense reasonably incurred by the Authority of making other arrangements for the provision of the Services following such termination including without limitation conducting or supporting the conduct of any Competition to reprocure the affected Services; and
 - (ii) without limitation to the generality of Clause **Error! Reference source not found.** above any other additional loss, liability, cost and/or expense incurred by the Authority in relation to the Term of this Contract resulting from such termination; and

- 26.4.2 recover in full from the Supplier and the Supplier shall on demand indemnify the Authority in full from and against any other loss sustained by the Authority in consequence of any breach of this Clause **Error!**
Reference source not found..

27 Equality and human rights

27.1 The Supplier shall:

- 27.1.1 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;
- 27.1.2 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
- 27.1.3 the Supplier shall impose on all its Sub-contractors and suppliers, obligations substantially similar to those imposed on the Supplier by Clause 27 of this Schedule 2 of these Call-off Terms and Conditions.

- 27.2 The Supplier shall meet reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of Clause 27 of this Schedule 2 of these Call-off Terms and Conditions.

28 Notice

- 28.1 Subject to Clause 22.5 of Schedule 2 of these Call-off Terms and Conditions, any notice required to be given by either Party under this Contract shall be in writing identifying this Contract and shall be delivered by hand or sent by prepaid first class recorded delivery or by email to the person referred to in the Order Form or such other person as one Party may notify 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.
- 28.2 A notice shall be treated as having been received:
- 28.2.1 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
- 28.2.2 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
- 28.2.3 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.

29 Assignment, novation and Sub-contracting

- 29.1 The Supplier shall not, except where Clause 29.2 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.
- 29.2 Notwithstanding Clause 29.1 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 29.2 of this Schedule 2 of these Call-off Terms and Conditions shall be subject to:
- 29.2.1 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;
 - 29.2.2 all related rights of the Authority in relation to the recovery of sums due but unpaid;
 - 29.2.3 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;
 - 29.2.4 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
 - 29.2.5 payment to the Assignee being full and complete satisfaction of the Authority's obligation to pay the relevant sums in accordance with this Contract.
- 29.3 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.
- 29.4 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:
- 29.4.1 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;
 - 29.4.2 contain at least equivalent obligations as set out in this Contract in respect of confidentiality, information security, data protection, Intellectual Property Rights, compliance with Law and Guidance and record keeping;
 - 29.4.3 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);
- 29.4.4 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;
- 29.4.5 requires the Supplier or other party receiving services under the contract to consider and verify invoices under that contract in a timely fashion;
- 29.4.6 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;
- 29.4.7 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;
- 29.4.8 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 15.7.4 of this Schedule 2 of these Call-off Terms and Conditions;
- 29.4.9 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
- 29.4.10 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.
- 29.5 Where the Authority considers that the grounds for exclusion under Regulation 57 of the Public Contracts Regulations 2015 apply to any Sub-contractor, then:
 - 29.5.1 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
 - 29.5.2 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.
- 29.6 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.

- 29.7 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.
- 29.8 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.

30 Prohibited Acts

30.1 The Supplier warrants and represents that:

30.1.1 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; or
- (iii) defrauded or attempted to defraud or conspired to defraud the Authority or any other public body; and

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

30.2 The Supplier warrants, represents and undertakes to the Authority that in entering into this Contract they have not breached the warranties contained within Clause 30.1 above.

30.3 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:

30.3.1 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;
- 30.3.2 any termination under Clause 30.3.1 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
- 30.3.3 notwithstanding Clause 22 of this Schedule 2 of these Call-off Terms and Conditions, any Dispute relating to:
 - (i) the interpretation of Clause 30 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.

31 General

- 31.1 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.
- 31.2 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.
- 31.3 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.
- 31.4 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.
- 31.5 If a provision of this Contract that is fundamental to the accomplishment of the purpose of this Contract is held to any extent to be invalid, the Authority and the Supplier shall negotiate in good faith immediately to remedy such invalidity.
- 31.6 Subject to Clause 31.7 of this Schedule 2 of these Call-off Terms and Conditions, 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.
- 31.7 The waiver contained at Clause 31.6 of this Schedule 2 of these Call-off Terms and Conditions above shall not apply if the representation, undertaking or warranty relied upon:
 - 31.7.1 is set out in this Contract; and/or
 - 31.7.2 was made fraudulently.
- 31.8 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.

- 31.9 The rights and remedies provided in this Contract are cumulative and not exclusive of any rights or remedies provided by general Law, or by any other contract or document. In this Clause 31.9 of this Schedule 2 of these Call-off Terms and Conditions, right includes any power, privilege, remedy, or proprietary or security interest.
- 31.10 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.
- 31.11 Each Party undertakes at the request of another, and at the cost of the requesting Party, to do all acts and execute all documents which may be necessary to give effect to the meaning and intention of this Contract.
- 31.12 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.
- 31.13 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.
- 31.14 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.
- 31.15 All written and oral communications and all written material referred to under this Contract must be produced or conducted in the English language.
- 31.16 This Contract may be executed in any number of counterparts and by the Parties on separate counterparts, each of which so executed and delivered shall be an original, but all the counterparts will together constitute one and the same agreement.
- 31.17 No counterpart shall be effective until each of the Parties has executed and delivered at least one counterpart. Where more than one Supplier is a Party to this Agreement, then delivery by the Authority for the purposes of Clause **Error! Reference source not found.** of this **Error! Reference source not found.** of these Call-off Terms and Conditions shall be delivery to the person identified as the Contract Manager or Lead Contract Manager, and delivery by the Supplier shall be delivery to the Authority. Delivery of an executed counterpart is not required by the Supplier to any other of the Suppliers.
- 31.18 Each Party may execute this Contract:
- 31.18.1 under hand, by their authorised signatory signing the Contract in the appropriate place in the body of this Contract; or
 - 31.18.2 by the application of an electronic signature, by inserting a JPEG image of their authorised signatory's signature in the appropriate place in the body of this Contract.

- 31.19 Delivery of an executed counterpart of this Contract (but for the avoidance of doubt not just a signature page) for the purposes of Clause 31.16 of this **Error! Reference source not found.** of these Call-off Terms and Conditions shall be by any method permitted for notices under this Contract at Clause 28.1 of this **Error! Reference source not found.** of these Call-off Terms and Conditions. If delivery of an executed counterpart is by email the executed counterpart shall be transmitted in PDF, JPEG, or by an alternative format if agreed between the Parties. Delivery shall occur at the time of receipt as determined by applying the provisions of Clause 28.2 of this **Error! Reference source not found.** of these Call-off Terms and Conditions.
- 31.20 If delivery by email is adopted then, without prejudice to the validity of the Contract, each Party shall provide the other Party with the originals of such counterparts as soon as reasonably possible thereafter. Where more than one Supplier is a Party to this Contract, then the Authority shall provide the originals of counterparts executed by the Authority to the person identified as the Lead Contract Manager, and each of the Suppliers shall provide to the Authority the originals of counterparts executed by such Supplier. Suppliers are not, for the avoidance of doubt, required to provide the originals of counterparts executed by such Supplier to any other of the Suppliers.
- 31.21 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:
- 31.21.1 notify the Supplier of any such claims as soon as reasonably practicable; and
 - 31.21.2 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:
 - (i) relating to any legal, regulatory, governance, information governance, or confidentiality obligations on the Authority; and/or
 - (ii) 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 the 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).
- 31.22 Where the Authority is restricted from transferring any claim to the Supplier in accordance with Clause 31.21 of Schedule 2 of these Call-off Terms and Conditions, the Authority shall in relation to any such claim:
- 31.22.1 notify the Supplier about the claim in writing;
 - 31.22.2 consult with the Supplier about its conduct;
 - 31.22.3 where the Authority chooses to defend the claim, following consultation with the Supplier, defend such claim diligently and, where appropriate, using competent counsel; and
 - 31.22.4 where the Authority is considering settling the claim, consult with the Supplier about whether to settle it and the terms of any such settlement.

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 **Error! Reference source not found.** 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 **Error! Reference source not found.** 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 **Error! Reference source not found.** 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 **Error! Reference source not found.** of this Schedule 3 of these Call-off Terms and Conditions shall remain in force:
 - 1.6.1 without limit in time in respect of Confidential Information which comprises Personal Data or which relates to national security; and
 - 1.6.2 for all other Confidential Information for a period of three (3) years after the expiry or earlier termination of this Contract unless otherwise agreed in writing by the Parties.

2 Data protection

- 2.1 The Parties acknowledge their respective duties under Data Protection Legislation and shall give each other all reasonable assistance as appropriate or necessary to enable each other to comply with those duties. For the avoidance of doubt, the Supplier shall take reasonable steps to ensure it is familiar with the Data Protection Legislation and any obligations it may have under such Data Protection Legislation and shall comply with such obligations.
- 2.2 Where the Supplier is Processing Personal Data under or in connection with this Contract, the Parties shall comply with the Data Protection Protocol.
- 2.3 The Supplier and the Authority shall ensure that Personal Data is safeguarded at all times in accordance with the Law, and this obligation will include (if transferred electronically) only transferring Personal Data (a) if essential, having regard to the

- purpose for which the transfer is conducted; and (b) that is encrypted in accordance with any international data encryption standards for healthcare, and as otherwise required by those standards applicable to the 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 patients and/or service users as part of the Services, the Supplier shall:
- 2.4.1 complete and publish an annual information governance assessment using the NHS information governance toolkit;
 - 2.4.2 achieve a minimum level 2 performance against all requirements in the relevant NHS information governance toolkit;
 - 2.4.3 nominate an information governance lead able to communicate with the Supplier's board of directors or equivalent governance body, who will be responsible for information governance and from whom the Supplier's board of directors or equivalent governance body will receive regular reports on information governance matters including, but not limited to, details of all incidents of data loss and breach of confidence;
 - 2.4.4 report all incidents of data loss and breach of confidence in accordance with Department of Health and/or the NHS England and/or Health and Social Care Information Centre guidelines;
 - 2.4.5 put in place and maintain policies that describe individual personal responsibilities for handling Personal Data and apply those policies vigorously;
 - 2.4.6 put in place and maintain a policy that supports its obligations under the NHS Care Records Guarantee (being the rules which govern information held in the NHS Care Records Service, which is the electronic patient/service user record management service providing authorised healthcare professionals access to a patient's integrated electronic care record);
 - 2.4.7 put in place and maintain agreed protocols for the lawful sharing of Personal Data with other NHS organisations and (as appropriate) with non-NHS organisations in circumstances in which sharing of that data is required under this Contract;
 - 2.4.8 where appropriate, have a system in place and a policy for the recording of any telephone calls in relation to the Services, including the retention and disposal of those recordings;
 - 2.4.9 at all times comply with any information governance requirements and/or processes as may be set out in the Specification and 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, 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 **Error! Reference source not found.** 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:

“Actual Services Commencement Date”	means the date the Supplier actually commences delivery of all of the Services;
“Authority”	means the authority named on the Order Form;
“Authority’s Obligations”	means the Authority’s further obligations, if any, referred to in the Specification and Tender Response Document and/or the Order Form;
“Breach Notice”	has the meaning given under Clause 15.3 of Schedule 2 of these Call-off Terms and Conditions;
“Business Continuity Event”	means any event or issue that could impact on the operations of the Supplier and its ability to provide the Services including an influenza pandemic and any Force Majeure Event;
“Business Continuity Plan”	means the Supplier’s business continuity plan which includes its plans for continuity of the Services during a Business Continuity Event;
“Business Day”	means any day other than Saturday, Sunday, Christmas Day, Good Friday or a statutory bank holiday in England and Wales;
“Cabinet Office Statement”	the Cabinet Office Statement of Practice – Staff Transfers in the Public Sector 2000 (as revised 2013) as may be amended or replaced;
“Call Off Order Form”	means the order form for the Services issued by the Authority in accordance with the Framework Agreement;
“Call-off Terms and Conditions”	means these Call-off Terms and Conditions;
“Change Control Process”	means the change control process, if any, referred to in any Key Provisions;
“Codes of Practice”	shall have the meaning given to the term in Clause 1.2 of Schedule 3 of these Call-off Terms and Conditions;

“Commencement Date”	means the date of the Order Form;
“Competition”	means a mini-competition to award a Contract to a Supplier under the Framework Agreement;
“Confidential Information”	<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 Competition which is:</p> <ul style="list-style-type: none"> (a) Personal Data, Special Categories of Personal Data and/or Criminal Offence Data including without limitation which relates to any patient or other service user or his or her treatment or clinical or care history; (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 (c) Policies and such other documents which the Supplier may obtain or have access to through the Authority's intranet;
“Contract”	means the Call Off Order Form, 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;
“Contracting Authority”	means any contracting authority as defined in Regulation 3 of the Public Contracts Regulations 2015 (SI 2015/102) (as amended), other than the Authority;
“Contract Manager”	means for the Authority and for the Supplier the individuals specified in the Order Form or as otherwise agreed between the Parties in writing or such other person notified by a Party to the other Party from time to time in accordance with Clause 8.1 of Schedule 2 of these Call-off Terms and Conditions;
“Contract Price”	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 Call Off Order Form;
“Contract Year”	means in respect of any Contract each period of 12 Months with the first such year commencing upon the Services Commencement Date and each subsequent year commencing upon an anniversary of the Services Commencement Date;
“Controller”	shall have the same meaning as set out in the GDPR;
“Convictions”	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);
“Criminal Offence Data”	means Personal Data relating to criminal convictions and offences or related security measures, as described in the Data Protection Legislation;
“Data Protection Legislation”	means the Data Protection Act 2018 to the extent that it relates to processing of Personal Data and privacy; (ii) the GDPR and any applicable implementing Law as amended from time to time; and (iii) all applicable Law about the processing of Personal Data and privacy;
“Data Protection Protocol”	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 Order Form;
“Discloser”	has the meaning given under Clause 1.1 of Schedule 3 of these Call-off Terms and Conditions;
“Dispute(s)”	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;
“Dispute Notice”	means a written notice served by one Party to the other stating that the Party serving the notice believes there is a Dispute;
“Dispute Resolution Procedure”	means the process for resolving Disputes as set out in Clause 22 of Schedule 2 of these Call-off Terms and Conditions;
“DOTAS”	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;
“Electronic Trading System(s)”	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;
“Employment Liabilities”	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;
“Environmental Regulations”	shall have the meaning given to the term in Clause 1.2 of Schedule 3 of these Call-off Terms and Conditions;
“eProcurement Guidance”	means the NHS eProcurement Strategy available via: http://www.gov.uk/government/collections/nhs-procurement together with any further Guidance issued by the Department of Health in connection with it;
“Equality Legislation”	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;
“Exit Requirements”	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;
“Expert”	means an expert appointed pursuant to Clause Error! Reference source not found. of Error! Reference source not found. in order to determine disputes reserved for expert determination pursuant to this Framework Agreement and/or disputes that the Parties otherwise agree shall be determined by an expert;
“Extra Key Provisions”	means any extra key provisions set out in Part A of Error! Reference source not found. of the Framework Agreement;
“Fair Deal for Staff Pensions”	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);
“FOIA”	shall have the meaning given to the term in Clause 1.2 of Schedule 3 of these Call-off Terms and Conditions;
“Force Majeure Event”	means any event beyond the reasonable control of the Party in question to include, without limitation: <ul style="list-style-type: none"> (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; (b) acts of terrorism; (c) flood, storm or other natural disasters;

	<p>(d) fire;</p> <p>(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;</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, the withdrawal of the United Kingdom from the European Union and any related circumstances, events, changes or requirements;</p>
"Framework Agreement"	means the Framework Agreement referred to in the Call Off Order Form;
"Fraud"	<p>means any offence under any law in respect of:</p> <p>a) fraud in relation to this Contract and/or the Framework Agreement; or</p> <p>b) defrauding or attempting to defraud or conspiring to defraud the government, parliament, the Authority or any Contracting Authority;</p>
GDPR	means the UK General Data Protection Regulation (Regulation (EU) 2016/679);
"General Anti-Abuse Rule"	<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>

“Good Industry Practice”	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;
“Guidance”	means any applicable guidance, 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, Monitor, NHS England, the Medicines and Healthcare Products Regulatory Agency, the European Medicine Agency, the European Commission, the Care Quality Commission and/or any other regulator or competent body;
“Halifax Abuse Principle”	means the principle explained in the CJEU Case C-255/02 Halifax and others;
“HM Government Cyber Essentials Scheme”	means the HM Government Cyber Essentials Scheme as further defined in the documents relating to this scheme published at: https://www.gov.uk/government/publications/cyber-essentials-scheme-overview
“Implementation Plan”	means the implementation plan, if any, referred to in any Key Provisions;
“Implementation Requirements”	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;
“Information Commissioner”	means the independent authority established to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals, and any other relevant data protection of supervisory authority recognised pursuant to the Data Protection Legislation;
“Intellectual Property Rights”	means: (a) all patents and rights in inventions, copyright, rights related to or affording similar protection to copyright, design rights, registered designs, trade marks, know-how, database rights, confidential formulae, rights in internet domain names and website addresses and other rights in trade names, designs, know-how, trade secrets and any other intellectual property

	<p>rights and the rights to apply for patents and trade marks and registered designs;</p> <p>(b) applications for registration, and the right to apply for registration for any of the rights listed at (a) that are capable of registration in any jurisdiction; and</p> <p>(c) all other rights having similar or equivalent effect in any country or jurisdiction.</p>
“Interested Party”	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;
“Key Provisions”	means the key provisions set out in Schedule 1 of these Call-off Terms and Conditions and/or as part of the Order Form;
“KPI”	means the key performance indicators as set out in the Specification and Tender Response Document and/or the Order Form, if any;
“Law”	<p>means any applicable legal requirements including, without limitation,:</p> <ul style="list-style-type: none"> (a) any applicable statute or proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument as applicable in England and Wales; (b) any applicable European Union obligation, directive, regulation, decision, law or right (including any such obligations, directives, regulations, decisions, laws or rights that are incorporated into the law of England and Wales or given effect in England and Wales by any applicable statute, proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument); (c) any enforceable community right within the meaning of section 2(1) European Communities Act 1972; (d) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales; (e) requirements set by any regulatory body as applicable in England and Wales; (f) any relevant code of practice as applicable in England and Wales; and (g) any relevant collective agreement and/or international law provisions (to include, without limitation, as referred to in (a) to (f) above);
“Lead Contract Manager”	means for the Supplier the individual specified in the Key Provisions or such other person notified by the Supplier to the Authority from time to time in accordance with Clause 8.1 of Schedule 2 of these Call-off Terms and Conditions being one of

	the Contract Managers with authority to represent all of the organisations comprising the Supplier;
“Long Stop Date”	means the date, if any, specified in the Order Form;
“Management Information”	has the meaning given under Clause 8.5 of Schedule 2;
“Month”	means a calendar month;
“NHS”	means the National Health Service;
“NHS Constitution”	the constitution for the NHS in England set out in Law and/or Guidance from time to time which establishes the principles and values of the NHS in England and sets out the rights, pledges and responsibilities for patients, the public and staff;
“NHS England”	pursuant to section 1H(1) of the National Health Service 2006, which has adopted the name and is known as NHS England;
“NICS”	National Insurance Contributions;
“Occasion of Tax Non-Compliance”	<p>means:</p> <p>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:</p> <p>(i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or 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>
“Participating Authority Satisfaction Survey”	has the meaning given under Clause 25.1 of Schedule 2 of these Call-off Terms and Conditions;
“Party”	means the Authority or the Supplier as appropriate and Parties means both the Authority and the Supplier;
“Personal Data”	shall have the same meaning as set out in the Data Protection Legislation;

“Policies”	means the policies, rules and procedures of the Authority as notified to the Supplier from time to time or to which the Authority has granted the Supplier access from time to time;
“Premises and Locations”	has the meaning given under Clause 2.1 of Schedule 2 of these Call-off Terms and Conditions;
“Process”	shall have the same meaning as set out in the Data Protection Legislation. Processing and Processed shall be construed accordingly;
“Processor”	shall have the same meaning as set out in the Data Protection Legislation;
“Prohibited Acts”	has the meaning given under Clause 30.1.1 of Schedule 2 of these Call-off Terms and Conditions;
“Relevant Tax Authority”	means HM Revenue and Customs, or, if applicable, a tax authority in the jurisdiction in which the Supplier is established;
“Remedial Proposal”	has the meaning given under Clause 15.3 of Schedule 2 of these Call-off Terms and Conditions;
“Services”	means the services set out in this Contract;
“Services Commencement Date”	means the date delivery of the Services shall commence as specified in the Order Form. If no date is specified in the Order Form, the services commencement date shall be the Commencement Date;
“Services Information”	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;
“Special Categories of Personal Data”	shall have the meaning set out in the Data Protection Legislation;
“Specification and Tender Response Document”	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 Order Form and as amended and/or updated in accordance with this Contract;
“Staff”	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;
“Sub-contract”	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;
“Sub-contractor”	means a party to a Sub-contract other than the Supplier;
“Subsequent Transfer Date”	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;
“Subsequent Transferring Employees”	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;
“Successor”	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;
“Supplier”	means the supplier named on the Order Form;
“Supplier Code of Conduct”	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;
“Supplier Personnel”	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or any Sub-contractor who are either partially or fully assigned to or engaged in the performance of the Services;
“Term”	means the term as referred to in the Key Provisions;
“Third Party”	means any supplier of services fundamentally the same as the Services (either in whole or in part) immediately before the Transfer Date;
“Third Party Body”	has the meaning given under Clause 8.5 of Schedule 2 of these Call-off Terms and Conditions;
“Transfer Date”	means the Actual Services Commencement Date;
“TUPE”	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; and
“VAT”	means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax.

- 1.2 References to any statute or order shall include any order, regulation, bye law or other subordinate legislation and any extension, modification, replacement or re enactment of that statute, order, regulation, bye-law or subordinate legislation from time to time. References to any order, regulation, bye law or other subordinate legislation shall include any extension, modification, replacement or re enactment of that order, regulation, bye-law or subordinate legislation from time to time. Subject to any contrary provisions in this Contract references to any legal entity shall include any body (or bodies) that takes over responsibility for the functions of such entity.
- 1.3 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.
- 1.4 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 31.8 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 References to any legal entity shall include any body that takes over responsibility for the functions of such entity.
- 1.13 References in this Contract to a European Directive or European Regulations shall be construed to include any legislation incorporating the terms of such Directive or such Regulations (or broadly similar provisions) into English law following the exit of the United Kingdom from the European Union.
- 1.14 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.

Schedule 5 of these Call-off Terms and Conditions

Specification and Requirements

Purpose

This document sets out the process for obtaining quotations for Goods and Services **up to £138,760 including VAT** (see following pricing summary for extent of total budget envelope available via this ITQ).

Introduction

2.1 The Authority

This Invitation to Quote (ITQ) has been prepared by NHS England (the 'Authority'). The Authority is looking for a Supplier for the provision of the following:

2.2 Tender Outline

The Contracting Authority is seeking one faculty supplier with a capability to provide 2 faculty members to support the refresh of the Leading for System Change offer, based on the current strategic context, and as a result of recommendations from a near completed evaluation of the existing design. Work for this would commence at the beginning of April 2024, or as soon as possible upon contract award, and would be completed before end of July 2024.

A full description of the requirement is found in section 5.

2.3 Faculty Framework Competition

This procurement exercise is being carried out as a further competition in accordance with Faculty Framework, Reference C67212.

The Authority has taken reasonable care to ensure that the information provided is accurate in all material respects. However, the Bidders attention is drawn to the fact that no representation, warranty, or undertaking is given by The Authority in respect of the information provided in respect of this transaction and/or any related transaction.

The Authority does not accept any responsibility for the accuracy or completeness of the information provided and shall not be liable for any loss or damage arising directly or indirectly as a result of reliance on this ITQ or any subsequent communication.

No warranties or opinions as to the accuracy of any information provided in this ITQ Pack shall be given at any stage by The Authority.

2.4 Bidding Information

Any person considering making a decision to enter into contractual relationships with the Authority or any other person, on the basis of information provided, should make their own investigations and form their own opinion of the Authority. The attention of Bidders is drawn to the fact that, by issuing this ITQ, The Authority is, in no way, committed to awarding any contract and that all costs incurred by the Bidder, in relation to any stage of the Tender process, are for the account of the relevant Bidder only.

In accordance with The Authority's internal financial instructions and general principles applicable to public procurement, The Authority seeks best value for money in terms of the Contract reached with the successful Bidder.

The Authority has endeavoured therefore, to express as clearly as possible in this ITQ the terms on which it would propose to contract with the successful Bidder, and in particular the obligations, risks and liabilities which it expects to become the responsibility of the successful Bidder.

ITQ Summary

Title	Leading for System Change (Design Refresh)
Specification No.	NAT.414

3.1 Project Team Details

Name of Team	Board Development and Careers
Business Contract Owner	Deputy Director of Board Development and Careers
Business Contract Manager	██████████, Programme Manager

3.2 Procurement Timeline

Item	Date*
ITQ Publication	06/02/2024
ITQ Clarification Questions Deadline	13/02/2024 (Tuesday 13:00)
ITQ Clarification Reply deadline	16/02/2024 (Friday 17:00)
ITQ Closing Date (bid deadline)	07/03/2024 (Thursday 13:00)
Estimated Award Date	04/04/2024 (Thursday)
Estimated Contract Commencement Date	08/04/2024 (Monday)

**This timeline is indicative and may be subject to change.*

3.3 Lotting and Pricing

Lot		
Lot 1	Leadership Development	X
Lot 2	Talent Management	
Lot 3	Research and Evaluation	
Lot 4	Specialist Equality, Diversity, and Inclusion (EDI)	

Maximum Contract Value	£50,000.00
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- The maximum rate payable under this specification is £1,350 per day (£675 per half day)
- The total budget envelope is £50,000
- Day rates and total budget envelope noted are exclusive of VAT



- *Training costs (if applicable) will be capped at 65% of the maximum rate payable, however are not expected to be required for this project*
- *Bids exceeding the day rate thresholds and/or the maximum budget envelope of £50,000, will be rejected, and the bid will not move to the technical evaluation phase of the tender.*

3.4 Consortia Bids and Award Type

Consortia Bids	
Consortia Bids are welcomed in response to this specification.	No

Award Type	
Single supplier	X
Multiple Suppliers	

The requirements of this specification are suitable for award to one supplier drawn from the Faculty Framework, who can provide 2 faculty members to deliver the work outlined.

We seek to award 1 (one) contract to deliver this project in its entirety, though anticipate that the delivery will take place across a pair of faculty members.

3.5 Contract Term

Contract Start Date	08 April 2024	Contract Expiry Date	31 July 2024
Extension Option	No extensions allowed		

**This timeline is indicative and may be subject to change.*

Instructions

4.1 Supplier Clarification Question Process

- 4.1.1. All clarification questions relating to this ITQ must be submitted via the procurement portal route (Atamis) as indicated in the timeline above (section 3.2). Clarification questions received after this time will not receive a response.
- 4.1.2. All clarification questions will be responded to as noted in the timeline.
- 4.1.3. All clarification questions received via other routes will not be reviewed or receive a response.

Please Note: To ensure an open and fair process is followed, all bidders will receive a copy of the question(s) submitted and answer(s) provided.

4.2 Evaluation Criteria

- 4.2.1 The purpose of evaluation in the procurement process is to establish which supplier(s) have submitted the best quotation; ensuring that the assessment of quotes is undertaken in a transparent, fair and consistent manner so that an effective comparison can be made.

The Authority reserves the right to accept or reject all or any part of the quotation if you have failed to provide the information requested in this quotation or you have submitted any modification or any qualification to the terms and conditions of contract.

- 4.2.2 The Authority does not bind itself to accept the lowest priced, or any quotation, nor guarantee any value or volume and shall not be liable to accept any costs you have incurred in the production of your quotation.
- 4.2.3 The Authority will check each quotation and submission for completeness and compliance with the requirements in this Invitation to Quote document, thus, you should ensure that you carefully examine this document in full.
- 4.2.4 The final selection will be made based on total weighted scores. The top 2 scoring tenders taken forward to award (multiple supplier award). We are seeking to award this contract to 2 suppliers to deliver all requirements outlined.
- 4.2.5 Quotes will be evaluated on the following quality and costs basis:

Section	Weighting (%)
A. Technical and Quality (Q1, Q2, Q3, Q4)	70%
B. Sustainability and Social Value (Q5)	10%
C. Commercial (Cost)	20%

A weighted scoring system will be applied to the responses across each area, against the evaluation criteria below:

Technical and Quality		Weighting % (Word Count)
1	How would you approach the refresh of the design content for Leading for System Change as described but not limited to section 5.2.2? <i>Your response should also include your project delivery plan, activity breakdowns and timelines, how you will work as a pair to deliver this work, and detail of how you would ensure the ethos of the programme remains.</i>	20% (Max 800 words)
2	Describe your experience of refreshing and/or development of system leadership in health and care, aligning with the Essential Skills described in Section 5.3. <i>Your response should showcase your expertise in designing high-quality, blended interventions, understanding diversity, working collaboratively, addressing NHS challenges, and detail working with complex systems. Please highlight responsive, collaborative work in line with NHS England strategy, referencing Section 5.3 of this specification, for essential skills. Please provide the profiles of your two faculty members as additional information (not counted within the wordcount).</i>	20% (Max 800 words)
3	Describe your understanding of the current challenges facing leaders in the health and care system and how you would apply this to the refresh and design work.	20% (Max 800 words)
4	Describe how you would ensure involvement from the Contracting Authority and key stakeholders when refreshing the programme's content. <i>Your response should also describe your approach to ensuring effective collaboration to produce the desired outcomes.</i>	10% (Max 400 words)
SECTION TOTAL		70%
Social Value and Sustainability		
5	Please outline how you will address and contribute to the themes of the Social Value Model through the life of this contract and how your management of this programme will support the in-work progression of faculty and participants alike, including those from disadvantaged or minority groups, to develop new skills and progress their roles/leadership?	10% (Max 400 words)
SECTION TOTAL		10%

Commercial	
Price	20%
SECTION TOTAL	20%

The aim of the evaluation process is to select the Most Economically Advantageous Tender to NHS England, having regard to NHS England's overall objectives and the criteria set out above.

- 4.2.6 Bidders must achieve a minimum score threshold of *Acceptable (3)* on all technical and social value criteria.

The authority will reject any Tender which does not meet the overall threshold of 'Acceptable' (3) in respect of all technical award criteria.

Bidders that achieve the minimum score for all technical criteria will be ranked based on their overall score (combined technical and commercial criteria) with the highest score being ranked number 1, and so on.

- 4.2.7 Where the total final score achieved by multiple bidders' results in equal position within the final ranking, and all such bidders have achieved the minimum score threshold (or higher), the bidder with the highest score for the following elements, listed in order of importance, will be deemed the winner, and awarded the contract.

Element 1	Question 1
Element 2	Question 2
Element 3	Question 4
Element 4	Question 3

Tied scores are reviewed against Element 1, and where still tied, will be reviewed against Element 2, and so on.

4.3 Scoring

4.3.1 Bidder information

4.3.1.1 The 'Bidders Detail' will be 'For Information Only' and not scored.

4.3.1.2 The 'Further Bidder Information' will be given a 'Pass/Fail' for each section.

4.4 Technical and Quality

- 4.4.1 The Authorities evaluation system is based on the familiar "weighted scoring approach", in which the officer scores responses to the quality

questions according to a pre-agreed scoring system 0-5 (see table below).

The scores for the sections are then added together to give a total quality score for the quotation response.

Assessment	Score	Interpretation
Excellent	5	Exceeds the requirement. Exceptional demonstration by the Bidder of the relevant ability, understanding, resource and quality measures required to provide the services. Response identifies factors that will offer potential added value, with evidence to support the response.
Good	4	Satisfies the requirement with minor additional benefits/value for money. Above average demonstration by the Bidder of the relevant ability, understanding, resource and quality measures required to provide the services. Response identifies factors that will offer potential added value, with evidence to support the response.
Acceptable	3	Satisfies the requirement. Demonstration by the Bidder of the relevant ability, understanding, resource and quality measures required to provide the services, with evidence to support the response.
Minor Reservations	2	Does not fully satisfy the requirement, with minor reservations. Some minor reservations of the Bidder's relevant ability, understanding, resource and quality measures required to provide the services, with little or no evidence to support the response.
Serious Reservations	1	Does not satisfy the requirement, with major reservations. Considerable reservations of the Bidder's relevant ability, understanding, resource and quality measures required to provide the services, with little or no evidence to support the response.
Unacceptable	0	Does not meet the requirement. Does not comply and/or insufficient information provided to demonstrate that the Bidder has the ability, understanding, resource and quality measures required to provide the services, with little or no evidence to support the response.

4.5 Cost

4.5.1 The weighted score for the commercial element is calculated by using the following formula:

$$\text{Bidder Price Score} = \frac{\text{Lowest Total Cost Bid}}{\text{Bidder Total Cost}} \times (\%) \text{ Weighting}$$

(Or *Lowest Total Cost* divided by *Bidder Total Cost* multiplied by 20%).

- 4.5.2 The financial score will be calculated to two decimals places. The bidder who submits the lowest compliant bid, based on the pricing model created for evaluation purposes, will receive the full 20% score available.
- 4.5.3 Only prices submitted that are within the maximum budget envelope and day rate caps noted within Section 3.3 of this document will be evaluated. Any Tender that includes any price which exceeds the maximum budget envelope and day rate caps, will be classed as non-compliant and the Authority will have the right to fail and reject the Tender, and their response shall not be evaluated.

The Requirement

This section outlines the key deliverables expected from the successful contractor in the fulfilment of the contract.

The following Contract deliverables are critical to the fulfilment of the contract:

5.1 Background Information

The purpose of this section is to outline the context for the content refresh requirement of the established and successful Leading for System Change programme.

1.1.1 Context

- 1.1.1.1 The idea of taking a system-wide approach to health and care, with a focus on prevention and population health, has long been the basis for the strategic direction of the NHS in England. Over time, this has given rise, to Integrated Care Systems (ICSs).
- 1.1.1.2 This shift to a system wide approach requires leaders to work differently. It requires a different mindset, capability and behaviours. Leading for System Change enables leaders to move to a systems mindset and support a momentum of change across integrated care systems. System thinking focuses on tools and methods to enable leaders to work in their system on their system together, enabling change across the system.
- 1.1.1.3 The Contracting Authority and its network of regional teams have delivered several systems leadership interventions and continue to do so. Leading for System Change is one of these offers and complements other system development offers in existence.

5.1.2 Leading for System Change Programme Aims

- 5.1.2.1 Leading for System Change is a support offer that is delivered in place to develop system leaders who are change-makers, problem solvers, and able to

work collaboratively across institutional, hierarchical, and professional boundaries. The offer spans the whole of health and care and is aimed at strategic and operational leaders working to address an ICS problem or priority. We have currently supported 14 ICSs with this offer to date.

- 5.1.2.2 Its aim is to develop understanding and expertise around what it means to collaborate at a system level; to encourage new ways of working; and – ultimately – to enable better outcomes for people using health and care services.
- It encourages participants to act as change agents, with agency and an expectation that they will contribute personally to a genuine shift in mind set, impact on working practices and improve outcomes for communities.
 - It provides support for leaders everywhere in the system who are grappling with real system-wide issues and who would benefit from expert facilitation, challenge and individual and collective learning.
- 5.1.2.3 Leading for System Change is an intervention designed to be delivered in place with high quality faculty facilitation. It is based on real time in place application working with groups and wider cohorts. The offer is aligned with NHS Impact, the NHS Long Term Workforce Plan, Core20Plus, and the Hewitt Review and is designed to be complementary to other system leadership offers both national, regional and place based. Learning from the work so far also indicates the need to have a clear shared understanding of what the system is working on to improve and this is where improvement methodologies and system thinking input could enhance the current offer.
- 5.1.2.4 It is a collaboration and a co-production between various key stakeholders including peer leader/lived experience groups and is continually evaluated and adapted as the context for systems leadership changes.
- 5.1.2.5 The offer provides a broad architecture with components able to be combined in different ways, tailored to different needs and priorities, and support planned and co-designed from the beginning. The design works with people wherever they are in the system and uses tools and methods to accelerate natural processes of change.
- 5.1.2.6 Participants are recognised as knowledgeable about their system. Skilled facilitation and the use of system development tools and improvement methods creates experimental spaces in which leaders can explore, test, modify and implement ideas.
- 5.1.2.7 Targeted towards a truly pan sector cohort of strategic and operational leaders, participants will tackle a priority or challenge which will be determined by the system and/or participants with the encouragement of innovative projects (could already be something in progress). You will challenge and work alongside the system to ensure that the offer is truly inclusive across health and care.
- 5.1.2.8 The design works with people wherever they are in the system and uses tools and methods to accelerate natural processes of change. This allows rapid

cycles of 'small tests of change', the opportunity to incorporate new learning into system plans in real time, and to share learning across the wider system.

5.1.3 Leading for System Change Programme Design

5.1.3.1 The offer acknowledges that working with systems is often unpredictable and at points unstructured and has a broad architecture to handle that: specifically, a process of setup through to ongoing Orientation and Discovery cycles. It provides support for leaders in the system to grapple with real system-wide issues with facilitated support; and will role model, through the delivery team, how to constructively challenge existing dogma in a locality, and move a system on to new ways of working.

5.1.4 Structure of the current offer

5.1.4.1 The offer has been designed in a way that allows flexibility and adaptability to the ICS or place that it is supporting. The Contracting Authority wishes to keep the ethos and key design principles of the offer as well as the structure (described below).

5.1.4.2 Delivery structure (either face to face or virtual) will take place across 8-9 months and could include:

- Working with regional and national colleagues to support the ICS to determine local priority and ambition: up to 3 months.
- Working with a cohort of up to 40 participants, in large group and smaller facilitated groups of up to 8 participants for up to 6 months. This work will be though a mix of orientation and discovery cycles.
- Online learning (supported by access to NHS Futures collaboration space) and face to face learning, depending on the needs of groups and systems.
- Masterclasses
- Networking opportunities and building of a community of practice
- Designed and delivered in two phases. These can be run separately or connected through repeating cycles:
 - **Orientation** – participants introduced to key elements of system leadership: systems thinking, the tools, behaviours and skills that enable leadership in complexity, improvement methods, examples and approaches used in systems to support change for the better.
 - **Discovery** - participants work in systems groups to apply the learning to the real challenges they face in leading in complexity.

5.1.5 Pre-launch

5.1.5.1 A key part of the offer will be the pre-launch phase. While regional or central Leadership NHSE colleagues will have held the initial engagement with the ICS, the facilitators play a key role in supporting and challenging the system to identify the priorities, and the groups and teams involved in the work. Facilitators will work alongside the system to encourage and challenge a systems approach in these early stages. Key outputs from the pre-launch stage include:

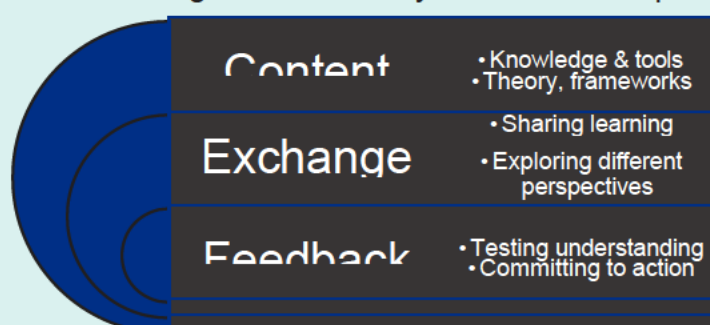
- Identified and refined priorities and focus for the offer within the ICS.
- Identified and enrolled participants (up to 40 in 5 teams/groups) drawn from across sectors and representative of populations.
- Delivery dates for group and cohort sessions planned and communicated.
- Clarity of starting point for ICS and desired outcomes for groups based on logic model.
- Patient and citizen input into pre-launch and planned for delivery phases.
- Ongoing input, direction, and engagement from senior stakeholders in different and relevant parts of the system

5.1.6 Delivery of group and participant support

5.1.6.1 This phase is based around a broad architecture which can be adapted alongside and with the ICS.

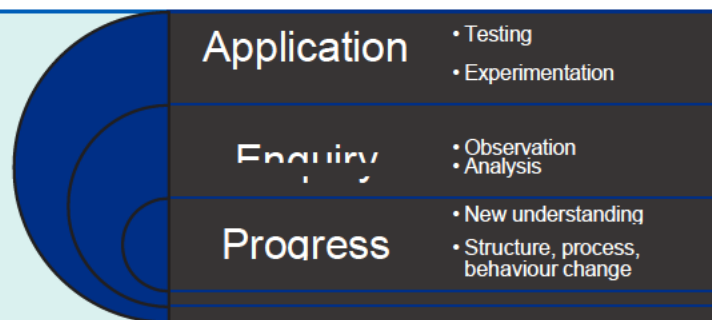
5.1.6.2 The offer will have two distinct but connected phases, Orientation and Discovery. They will be interlinked, providing opportunities for the cohort to come together as a whole group and in smaller groups or teams. The work will continue between the facilitated sessions.

5.1.6.3 The **Orientation** phase is the gateway into the process for developing confident leadership in complex systems. It addresses three linked components of learning in relation to systems leadership:



Orientation is designed to equip all participants with an understanding of the fundamentals of what a system is, approaches to systems thinking, characteristics of systems, and the implications for managing and leading in them, alongside tools and approaches that will help participants make progress when, in Discovery phase, they apply them to real system challenges.

5.1.6.4 The **Discovery** phase presents the opportunity for participants to apply their learning to the real challenges they are contending with day to day in their system. They will identify plans or tests of change, implement actions, observe and reflect on impact and new learning and identify where new knowledge and understanding is acquired. In this process they will challenge and assess the work of other sets, so that their learning is not confined to immediate experiential data but to developing a shared awareness of what works well, where, in what contexts and with what outcomes.



- 5.1.6.5 Up to 40 participants will work together in designated small pan-sector teams or sets (up to 5), drawn from existing groups and teams within an ICS or place footprint. Each team or set will work to apply their learning about system leadership to a challenge they are facing in their system. The basis for identifying these system challenges will be the strategic priorities for the ICS set out in their yearly and five-year plans. Learning will take place in cross-organisational teams, working as a system, rather than a sector, basis.
- 5.1.6.6 There is no formal assessment as part of this offer, as the aim is not solely individual development. The ambition is that participants will act as change agents and promote and share their learning across the local system.

5.2 Service Specification

5.2.1 Faculty Requirement

- 5.2.1.1 The Contracting Authority are now looking for a team of 2 Faculty members (drawn from the same supplier organisation) to support the refresh of this offer based on evaluation feedback and the current strategic context. The landscape has changed since the offer was initially designed in 2021, with the introduction of Statutory Integrated Care Systems, NHS Impact, the Hewitt Review and Core20Plus, which needs to be considered for the new design.
- 5.2.1.2 Delivery of existing cohorts of Leading for System Change will continue whilst the refresh is in progress and the changes will be implemented in the wave of delivery commencing after completion.

5.2.2 Specifics of the design refresh requirement

- 5.2.2.1 Delivery has completed across 14 sites of Leading for System Change, over the last 2 years. Evaluation is in the process of being finalised and its outcome will be available to the successful Faculty member(s) upon contract start.
- 5.2.2.2 However, some key themes that have arisen from the evaluation include:
- Importance of senior sponsorship throughout the whole support offer and beyond
 - How the work remains sustainable once Leading for System Change completes

- Communication of the offer across the whole system, and “from” the whole system
- Improvement elements – how to measure progress in a way that is not linear.
- Clarity of the elements of the offer
- Balance between structured and unstructured spaces.
- Importance of patient and citizen involvement
- Operational pressures have a significant implication on attendance.

5.2.2.2 The Contracting Authority wishes to keep the ethos and key design principles of the offer (described above in section 5.1), as well as the structure, but are seeking support with redesign and refresh of key elements to embed some of the recommendations from the evaluation and:

- Refresh and review resources available to support sites during pre-launch phase, including logic model to support planning and delivery and proposed outcomes.
- Review of proposed and suggested workshops and session outlines based on the design structure.
- Review and refresh of proposed resources to support delivery of sessions.
- Signposting to Quality improvement resources.
- An outline of the changes with proposed guidance for use for delivery Faculty members.

5.2.2.3 All content must be co-designed with the Contracting Authority and complement the existing pedagogy of the programme and the audience.

5.2.2.4 The final detail of the design for these elements will be agreed with the Contracting Authority and potentially other key stakeholders.

5.2.3 Collaboration

5.2.3.1 Collaboration with the following key teams and individuals is expected:

- Samantha Banks, Programme Manager System Development
- Regional Leadership and Management Development teams
- Deputy Director, Board Development and careers
- Existing Faculty members in delivery
- External evaluation provider
- System Leadership Programme and Practice board
- System Transformation team
- Faculty Framework Team, as required

5.2.4 Data Protection

5.2.4.1 No data will need to be shared with the successful supplier; therefore, a Data Protection Impact Assessment (DPIA) is not required for this specification.

1.3 Essential Skills Required

- 1.3.1 Across all those involved in the design phase, the following skills are required:
- Significant experience of designing system development and system leadership development interventions within health and care.
 - Significant demonstrable experience of designing high quality blended complex experiential leadership development /interventions.
 - An understanding of and ability to work with diversity and difference amongst peer Faculty members who may have a different background/approach, and participants and their workplace priorities – fostering a compassionate and inclusive learning culture, this may involve adapting delivery to meet the needs of our participants.
 - Ability to work collaboratively with a range of stakeholders.
 - Knowledge of the NHS and broader system, and the challenges faced by leaders working in complex and challenging organisations / systems at all levels.
 - An ability to work in a responsive, agile and client centred way towards agreed outcomes, working proactively to ensure that the programme runs in line with NHS England strategy and values, and the principles of the NHS constitution, especially as related to inclusion.
 - Demonstrable collaborative design experience

1.4 Deliverables

5.4.1 Contract Deliverables

The following Contract deliverables critical to the fulfilment of the Contract shall apply:

- 5.4.1.1 Deliver proposal and outline for refreshed content and elements based on evaluation for previous cohorts and specifications from The Contracting Authority within 4 weeks of commencing contract. This proposal should include refresh and review of resources currently available across the programme offer.
- 5.4.1.2 Produce new proposed content and example workshop outlines for sessions within 10 weeks of commencing contract.
- 5.4.1.3 Produce list of resources to be included within NHS Futures site (including quality improvement and system thinking resources) within 10 weeks of commencing contract.
- 5.4.1.4 Produce outline and guidance for facilitators for using new resources and outlines within 14 weeks of commencing contract.

5.4.2 Cancellations Policy

- 5.4.2.1 It is unlikely that cancellation fees will be required, due to delivery of this work being design / desk based. However, where this is required, the following cancellations policy shall apply:

5.4.2.2 There may, at times, be circumstances out of our control where programmes or events need to be cancelled. On such occasions, the following notice period will be applied to all booked delivery elements:

14 working days or less 50%

15 to 21 working days 25%

21+ working days 0%

5.4.2.3 Force majeure will abdicate both Faculty and Academy of any financial responsibility.

5.4.3.4 Cancellation fees (where agreed) can be invoiced in line with the above rates, against existing project POs, as per the usual invoicing process.

5.4.3 Expenses and Administration Costs

5.4.3.1 Any additional costs or anticipated expenses must be set out to the Authority within your costing schedule, and approval must be sought before these are incurred during delivery.

5.4.3.2 No other ad hoc expense or administration costs will be paid.

5.5 Contract Management

5.5.1 In managing this contract, both the supplier and NHS England are committed to maintaining the highest standards of transparency, accountability, and efficiency. A designated Business Contract Manager from both parties shall oversee the execution of the contract's terms. Performance will be gauged through regular monitoring of established KPIs.

5.5.2 Any variations to this contract shall follow a pre-agreed process, ensuring all changes are appropriately documented and authorised. Monthly review meetings shall be conducted to discuss performance, address any issues, and plan for future service delivery. All documentation related to the contract's execution must be properly maintained and available for inspection by NHS England or its representatives. Audit rights shall be reserved by NHS England to ensure compliance with contractual terms.

5.5.3 Attendance at Contract Review meetings shall be at the Supplier's own expense.

5.6 Key Performance Indicators (KPIs)

5.6.1 The project is overseen by the Board Development and Careers team. Timelines for deliverables will be re-confirmed at the project initiation meeting. The quality and content of the deliverables will be reviewed at project update meetings.

5.6.2 The successful supplier is expected to provide updates as required, including the prompt escalation of any risks and issues to the Business Contract Manager (BCM). Specific evaluation metrics, how and when these are measured are outlined below.

5.6.3 Business Contract Manager: Samantha Banks

Outcome Measure (KPI)		Measured By	Date	Target
01	Project initiation has taken place and work has commenced.	Attendance at initiation	Within week 1 of contract	100%
02	Deliver proposal and outline for refreshed content and elements based on evaluation for previous cohorts and specifications from The Contracting Authority.	Proposal delivered and signed off by Contracting Authority	Within 4 weeks of contract commencing	100%
03	Produce new proposed content and example outlines for sessions.	Content delivered	Within 10 weeks of contract commencing	100%
04	Produce list of resources to be included within NHS Futures site (including quality improvement resources).	Content delivered	Within 10 weeks of contract commencing	100%
05	Produce outline and guidance for facilitators for using new resources and outlines.	Content delivered	Within 14 weeks of contract commencing	100%
06	Delivery of contracted services on time and in full, as per deliverable timelines set out above in Section 5.4.	Evidence provided at update meetings	Monthly review meetings with BCM; Final review meet and contract close	100%

5.6.3 Any potential disputes will follow the Dispute Resolution process as outlined in the Faculty Framework Terms and Conditions (Schedule 2, 22. Dispute Resolution).

5.7 Invoicing and Payments

5.7.1 The Supplier shall invoice the Authority for Services at any time following completion of the provision of the Services in compliance with this Contract as outlined in the KPI section

5.7.2 Payment can only be made following satisfactory delivery of pre-agreed products and deliverables.

5.7.3 Before payment can be considered, each invoice must include a detailed breakdown of work completed.

5.7.4 Invoices should be submitted via [Tradeshift](http://www.tradeshift.com) (<http://www.tradeshift.com>)

5.8 Location

5.8.1 The delivery of services under this contract shall be conducted through virtual means, utilising digital communication technologies, online

platforms, and remote collaboration tools, as mutually agreed upon by the parties involved.

5.8.2 The virtual delivery of services may include, but is not limited to, video conferences, online documentation sharing, and any other methods facilitated through electronic communication.

5.9 Terms and Conditions

5.9.1 The proposed terms and conditions for this requirement are the NHS England Faculty Framework Call-Off Terms and Conditions (Framework Reference C67212).

5.9.2 No amendments shall be considered or accepted in relation to the Terms and Conditions. Failure to accept the terms will result in disqualification.

5.9.3 Bidders should note the applicable Faculty Framework 2022, Annex E: Ways of Working Agreement in submitting their bid.



Responding to this ITQ

6.1 Key Information

- 6.1.1 When responding to this ITQ, Bidders must ensure that their Tender (bid) covers all the information required. Bidders must complete their Tenders within the Authorities procurement portal (Atamis) set out in the "Supplier Response Form".
- 6.1.2 Bidders should complete all highlighted areas of Section 4, uploading their word document response and the corresponding excel pricing schedule via the published opportunity on the Atamis portal. Failure to do so will render the response non-compliant and it will be rejected.
- 6.1.3 In evaluating Tenders, the Authority will only consider information provided in the Supplier Response Form.
- 6.1.4 Bidders should not assume that the Authority has any prior knowledge of the Bidder, its practice or reputation, or its involvement in existing services, projects, or procurements.
- 6.1.5 If there are any questions that do not apply to a Bidder, please answer with a N/A and explanation where appropriate.
- 6.1.6 Where any section of the ITQ indicates a word limit, any response will be reviewed to that word limit and any additional information beyond that word limit will not be considered. Bidders must provide a word count for each question response.
- 6.1.7 The Authority may at its own absolute discretion extend the Deadline for receipt of Tenders specified in the timetable. Any extension to the Deadline granted under this paragraph will apply to all Bidders.
- 6.1.8 Tenders must be submitted via the Authorities procurement portal (Atamis) no later than the ITQ submission Deadline specified in 'Timetable'. Tenders may be submitted at any time before the Deadline.
- 6.1.9 Tenders received before this Deadline will be retained unopened until the opening date.
- 6.1.10 The Tender and any documents accompanying it must be formatted in Word or Excel as appropriate and be in the English language.
- 6.1.11 Price and any financial data provided must be submitted in or converted into pounds sterling. Where official documents include financial data in a foreign currency, a sterling equivalent must be provided.

- 6.1.12 Tender pricing must be provided excluding Value Added Tax (VAT), and consider any budget envelopes, thresholds or day rate limits set out. Submissions of any pricing outside of these thresholds may result in immediate disqualification.

6.2 Bidder Details

Please complete the following sections, uploading your response to the Atamis portal, alongside your completed Pricing Schedule.

Please ensure a response is provided for all sections in green below.

Company Name	
Company Address	
Company Representative (Name & Title)	
Contact telephone number	
Email address	
Address for correspondence	
Date of Submission	
Company Registration Number	
VAT Registration Number	

6.3 Further Bidder Information

Please ensure a response is provided for all sections in green below.

1.	Has your organisation met all its obligations to pay its creditors and staff during the past year?	Yes or No
2.	If your answer to the above is 'No', have you rectified the situation resulting in your organisation now being able to pay its creditors and staff?	Yes, No or N/A
3.	Is your company or any group company (your Organisation), or are any of the directors/partners/proprietors in a state of bankruptcy, insolvency, compulsory winding up, and receivership, composition with creditors or subject to relevant proceedings?	Yes or No
4.	Please confirm that data is stored in line with the General Data Protection Regulations 2018 where applicable.	Yes or No
5a.	Please confirm that you accept NHS England's Faculty Framework Terms and Conditions in full, with no modifications. This offer and any contract arising from it shall be subject to these Terms and Conditions and all other items or instructions as issued in this bidder response.	Yes or No

5b.	Please confirm that you accept that any modifications to the Terms and Conditions will be rejected and may result in the bid being rejected.	Yes or No
6.	Please confirm that all invoicing shall be processed through Tradeshift in line with NHS England processes.	Yes or No

6.4 Bidder Response

Please ensure a response is provided for the Technical (A), Social Value (B) and Commercial (C) sections by completing the 'Supplier Response' boxes and your separate Excel Pricing Schedule. Complete section (D) Confirmation with your electronic signature and upload your completed written response and pricing schedule to Atamis.

A. Technical (Quality)

Question 1	Weighting	20%	Max Word Count	800
<p>How would you approach the refresh of the design content for Leading for System Change as described but not limited to section 5.2.2?</p> <p><i>Your response should also include your project delivery plan, activity breakdowns and timelines, how you will work as a pair to deliver this work, and detail of how you would ensure the ethos of the programme remains.</i></p>				
Supplier Response				

Question 2	Weighting	20%	Max Word Count	800
<p>Describe your experience of refreshing and/or development of system leadership in health and care, aligning with the Essential Skills described in Section 5.3.</p> <p><i>Your response should showcase your expertise in designing high-quality, blended interventions, understanding diversity, working collaboratively, addressing NHS challenges, and detail working with complex systems. Please highlight responsive, collaborative work in line with NHS England strategy, referencing Section 5.3 of this specification, for essential skills. Please provide the profiles of your two faculty members as additional information (not counted within the wordcount).</i></p>				
Supplier Response				

Question 3	Weighting	20%	Max Word Count	800
Describe your understanding of the current challenges facing leaders in the health and care system and how you would apply this to the refresh and design work.				
Supplier Response				

Question 4	Weighting	10%	Max Word Count	400
Describe how you would ensure involvement from the Contracting Authority and key stakeholders when refreshing the programme's content.				
<i>Your response should also describe your approach to ensuring effective collaboration to produce the desired outcomes.</i>				
Supplier Response				

B. Social Value and Sustainability

Question 5	Weighting	10%	Max Word Count	400
Please outline how you will address and contribute to the themes of the Social Value Model through the life of this contract and how your management of this programme will support the in-work progression of faculty and participants alike, including those from disadvantaged or minority groups, to develop new skills and progress their roles/leadership?				
Supplier Response				

C) Commercial

Cost	Weighting	20%	Max Word Count	N/A
Please download the <i>Pricing Schedule Template</i> spreadsheet and attach your cost breakdown				
Additional information and narrative can be included below as required. Total costs must not exceed the total budget envelope of £50,000.00 (excluding VAT) covering all requirements. Day rates should be within the Level 1 capped rates of £1,350 per day, £675 per half day (excluding VAT).				
Please note the commercial aspect of this procurement will be adjudicated on the final TOTAL price (cell E15 of the Pricing Schedule)				



Supplier Response (additional notes on pricing, if required)

D) Confirmation

Supplier Response	
Electronic Signature	XX
Name	XX
Job Title	XX
Date	XX

Schedule 6 of these Call-off Terms and Conditions

Tender Response Document

Please complete the following sections, uploading your response to the Atamis portal, alongside your completed Pricing Schedule.

Please ensure a response is provided for all sections in green below.

Company Name	The Work in Progress
Company Address	[REDACTED]
Company Representative (Name & Title)	[REDACTED], [REDACTED]
Contact telephone number	[REDACTED]
Email address	[REDACTED]
Address for correspondence	[REDACTED] [REDACTED]
Date of Submission	07/03/2024
Company Registration Number	13720319
VAT Registration Number	N/A

1.1 Further Bidder Information

Please ensure a response is provided for all sections in green below.

1.	Has your organisation met all its obligations to pay its creditors and staff during the past year?	Yes
2.	If your answer to the above is 'No', have you rectified the situation resulting in your organisation now being able to pay its creditors and staff?	N/A
3.	Is your company or any group company (your Organisation), or are any of the directors/partners/proprietors in a state of bankruptcy, insolvency, compulsory winding up, and receivership, composition with creditors or subject to relevant proceedings?	No
4.	Please confirm that data is stored in line with the General Data Protection Regulations 2018 where applicable.	Yes
5a.	Please confirm that you accept NHS England's Faculty Framework Terms and Conditions in full, with no modifications. This offer and any contract arising from it shall be subject to these Terms and Conditions and all other items or instructions as issued in this bidder response.	Yes
5b.	Please confirm that you accept that any modifications to the Terms and Conditions will be rejected and may result in the bid being rejected.	Yes
6.	Please confirm that all invoicing shall be processed through Tradeshift in line with NHS England processes.	Yes

1.2 Bidder Response

Please ensure a response is provided for the Technical (A), Social Value (B) and Commercial (C) sections by completing the 'Supplier Response' boxes and your separate Excel Pricing Schedule. Complete section (D) Confirmation with your electronic signature and upload your completed written response and pricing schedule to Atamis.

A. Technical (Quality)

Question 1	Weighting	20%	Max Word Count	800
<p>How would you approach the refresh of the design content for Leading for System Change as described but not limited to section 5.2.2?</p> <p><i>Your response should also include your project delivery plan, activity breakdowns and timelines, how you will work as a pair to deliver this work, and detail of how you would ensure the ethos of the programme remains.</i></p>				
Supplier Response				

Below we have set out how we would approach the refresh of the Leading System Change programme blending the need to retain the existing ethos and design principles with building in insights from the evaluation alongside the experience we and wider stakeholders bring to the refresh.

Design Cycle 1: Orientation

Build relationships with key stakeholders and orientation to underpinning content:

- Embed deep understanding of existing design (ethos, principles and structure)
- Understand the Contracting Authority specifications and detail around the design ethos and principles to be retained
- Assimilate feedback from the formal evaluation
- Gather emerging informal wisdom and insights from leading in health and care systems in the current context (ICB priorities, Core20Plus, reducing health inequalities, Hewitt review, NHS Impact)
- Gather emerging insights for developing leadership in complexity considering the emerging socioeconomic, digital and environmental context (e.g. anchor and sustainability leadership)

Design Cycle 2: Collective sensemaking

- Bring observations from orientation to exchange and generate ideas from diverse perspectives. Invite representation from across the system including patient/citizen.
- Create the conditions for inclusive and boundary pushing virtual asynchronous (using online 'easy retro boards') and/or synchronous spaces (e.g. minimum of x3 1 to 2 hour Sensemaking and Co-design Circles using MS Teams or Zoom).
- All spaces would use Collaborate Out Loud methodology.

Design Cycle 3: Curation

- Gather feedback from orientation and sensemaking to curate ideas for design proposals (KPI2) considering key themes identified in evaluation and Contracting

Authority specifications (e.g. senior sponsorship, design sustainability, communication - across/within system and the offer, impact, balancing structured and unstructured spaces, patient/citizen involvement and operational pressure).

1.1 Design Cycle 4. Testing

- Proof of concept conversations that test out the ideas with key stakeholders and sensemaking group to refine ideas ahead of content development, session outlines and resource curation.

1.2 Design Cycle 5: Refresh

Our approach to writing the refreshed materials would be informed by the Design Cycles 1-4 and include written and audio/video recorded materials to bring the refreshed materials to life for the Faculty Members using them. We would produce refreshed:

- Resources to support sites during pre-launch phase
- Complexity sensitive logic model to support planning and delivery and proposed outcomes
- Workshop content and session outlines based on the design structure.
- Resources for Futures Workspace (including Quality Improvement)
- An outline of the changes with proposed guidance for use for delivery Faculty members.

We would facilitate an online workshop for Faculty Members to:

- Explain the process that we have undertaken and how we have retained the design ethos and principles of the original programme whilst building in feedback and new insights
- Share the new materials and walk through them (in brief)
- Answer any questions and take any feedback

This can be recorded to be used for future Faculty Members. It will also allow us to make any final minor amendments or points of clarification to ensure the materials are able to be used effectively.

Design cycles may run in parallel to support iterative co-design.

1.3 Facilitation approach:

We approach facilitation in a way that maximises our shared skillset of system leadership development across the health care and wider system, understanding of inclusion and the nuances of system leadership/development design required to challenge power bases and structures of oppression, boundary pushing design as well as complementary strengths in leadership for complexity – research and theory (Amy) and creating simple social spaces for collaboration (Claire). We each lead on our respective areas of strength and Amy will be the key contact for programme management. We have experience of facilitating system leadership design and development together.

1.4 Project delivery plan:

*Based on project commencement date of 8/4/24

Timeline*	Activity	Output
April	<ul style="list-style-type: none"> Co-initiation to agree proposed approach (KPI1) Orientation Sensemaking 	<ol style="list-style-type: none"> Revise approach delivery plan if required Establish monthly review meetings and risk mitigation processes Identify sensemaking participation Invite participants to sensemaking co-design circles Facilitate x3 virtual sensemaking spaces (1-2 hours each) (22nd – 26th April)
May	<ul style="list-style-type: none"> Curation Testing 	<ol style="list-style-type: none"> Proposal and content outline for refreshed content based on evaluation, Contracting Authority specifications and co-design insights (KPI 2 estimate Friday 3rd May)
June	<ul style="list-style-type: none"> Refresh Process of design, test, integrate learning and curation of content, session outlines and resources 	<ol style="list-style-type: none"> Proposed content Example session outlines Resources for NHS Futures (KPI 3 & 4 estimate 14th June)
July	<ul style="list-style-type: none"> Develop facilitation guidance Faculty Webinar Final review meeting 	<ol style="list-style-type: none"> Outline and guidance for facilitators (KPI 5 estimate 12th July) <p>Contract close</p>

Question 2	Weighting	20%	Max Word Count	800
<p>Describe your experience of refreshing and/or development of system leadership in health and care, aligning with the Essential Skills described in Section 5.3.</p> <p><i>Your response should showcase your expertise in designing high-quality, blended interventions, understanding diversity, working collaboratively, addressing NHS challenges, and detail working with complex systems. Please highlight responsive, collaborative work in line with NHS England strategy, referencing Section 5.3 of this specification, for essential skills. Please provide the profiles of your two faculty members as additional information (not counted within the wordcount).</i></p>				
Supplier Response				

Please see our experience of (co)designing quality, inclusive, blended, collaborative, complex, experiential system leadership development interventions within health and care below.

We demonstrate quality by longitudinal/repeat commission (see examples) and can provide evaluations. We define quality with clients/collaborators considering:

- **Inclusion:** We are mindful of the systems we are reinforcing by design and embed core concepts (equality, diversity, inclusion, intersectionality) into development as an enabler of inclusive and compassionate cultures. E.g, an output from example 1 (below) included establishing a Fair Exchange Fund to balance power by remunerating citizens.
- **Experience:** We design for human and system properties (e.g. emergence, relationships)
- **Impact:** We design in complexity sensitive evaluation to gather indicators of impact
- **Value:** We design to add, not duplicate.

1.5 1: Fairer Health for All Leadership Scoping and Co-design

In response to the Marmot Building Back Fairer report, Core20Plus and ICB priorities to reduce health inequalities, we were commissioned by NHS Greater Manchester to explore the leadership required for Fairer Health for All. We have spoken to 50 leaders working at system and locality level to understand what leadership development exists, what is emerging and what the opportunities are. System leadership development is saturated, so we have 'conscious collaboration' alongside our work to avoid duplication and ensure future design adds value. We are embarking on a co-design process to understand views from citizens. We have created co-design spaces including online, 'go to' (online and in person conversations) as well as going through trusted networks. We are gathering insights and will invite broad participation to a sensemaking and curation process. The next phase will include developing workshop sessions and curation of resources/tools for hosting online.

2. Good Enough Start System Leadership Design and Development

We have designed and delivered bespoke, emergent system leadership development to enable the community led, universal preventative parent-infant mental health service to navigate challenges with system integration over the last five-years.

3. Primary Care System Leadership Emergent Design and Development

Three repeat commissions to research, evaluate and develop inclusive system leadership across primary care (North Cumbria ICB). The current approach has been designed in a social learning architecture with in-person thought leadership sessions, workbooks/resources for those struggling with operational pressures and virtual community spaces to maintain momentum and collaborate with colleagues on leadership around real issues. The design is emergent based on contribution.

4. System Leadership in Public Health for Eye Care Redesign and Development

After a decade of developing leadership across international health systems and transferring learning into the MSc Public Health for Eye Care (LSHTM) the pandemic created an opportunity to redesign the system leadership approach and transform into online content delivery.

5. Lankelly Chase Developing a Community First Mindset

We delivered an experimental leadership programme for people who wanted to change the system across GM and were part of the formal system (e.g., local government, NHS, VCSE sector, housing).

6. *Collaborating Out Loud as a System in Pendle East*

This work involved a cross sector group of middle and senior leaders coming together to explore how they work at a system level to bring about system change and the role of communities.

7. *GM Moving Community Leadership Landscape Review*

Understanding the impact the pandemic had on community leaders/citizen leaders. We sought to understand the barriers and enablers in communities, carried out a skills assessment to understand the future support needed and designed development to support community capacity and capability building.

8. *The Big GM Coproduction Conversation*

We worked with GM Moving and 10GM to host 'The GM Moving Big Co-Production Conversation' - a series of online conversations addressing and supporting topics surrounding co-production and collaboration.

10. *Developing a Citizen Leadership Resource Pack*

We co-created a resource pack to develop citizen leadership (NHS NW Leadership Academy commission). This was co-created with citizens to be accessible for both public service leaders and community leaders for use in building community to influence future health and care services.

We have developed system leadership in the NHS and wider health and care from community, locality, system, regional, national and international perspectives. We have up to date knowledge of the NHS and broader system from formal structures (governance, strategic priorities and economic position) to informal experiences of navigating the challenges faced by leaders at all system levels (power, permissions, cultural pull back).

We understand the importance of EDI in leadership design. For example:

- Awareness of barriers to engagement (including backfill, capacity, timing and format of activities, how and by whom opportunities are recruited to).

- The project and delivery team matters in terms of people feeling connected to those that will be working with them

- The unusual suspects need to be supported to be part of conversations in design and how barriers can be removed.

We have experience of designing online learning resources as well as facilitation guidance.

Additional Information:

1.6 Faculty Member Profiles

1) [REDACTED] – The Work in Progress

████ is interested in exploring and developing the leadership required to work in complexity. With an underpinning in Psychology, Organisational Psychology and Cognitive Behavioural Coaching, █████ has developed leadership in community, organisational, system, regional, national and international contexts and holds a varied portfolio ranging from strategy development; commissioning; full cycle intervention design, facilitation and evaluation; academic content development and delivery as well as research.

1.7 *The Work in Progress*

The Work in Progress (TWIP) explores, collaboratively reimagines and develops the leadership required to work in complexity considering issues with the potential to impact society, and indeed humanity, over the long term. We are interested in breaking boundaries – in what is considered possible in leadership development and especially how it intersects with legacies leading to inequality.

1.8 *The philosophy:*

Everyone We work to make progress against complex problems, expand the sphere of our possibilities and enable different voices to contribute to conversations with ease.

Everyday We build development into the everyday. Where we are now. We can be radical in our daily life.

Everywhere We look for new ideas everywhere. We take inspiration from future facing research and apply it today.

1.9 *The work we do:*

- **We explore leadership in complexity** - We take the principles of complex adaptive systems ('systems') as a lens for exploring the ways of thinking, feeling, doing and being that have the potential to be most helpful in complex contexts.
- **We create space for diverse voices** – We create individual and collective spaces to break with pace setting and ensure the structures we are either creating or reinforcing are ones with the potential to enable and not oppress.
- **We apply what we have learnt to innovate inclusive leadership development** - We openly test new ideas and aim to reflect a full spectrum of natural and human processes to enable universal access to concepts like leadership as well as recognising individual and cultural nuances to the experience of it.

2) █████ *he Work in Progress for current contract and Co-Founder of Collaborate Out Loud CIC*

████ works with people, places and systems facilitating them to create surprising, simple and social spaces for collaboration, change and innovation. █████ has a strong background in public services, community development and behaviour change. She is an experienced coach, facilitator and researcher. She loves nothing more than helping individual, teams, places and systems work through the messiness of shifting the way they work with communities, sharing power and coproducing the future together.

████ works with communities and public services to create spaces where diverse voices can shape the future of a place together. █████ methodology for undertaking this work is underpinned by the 11 Principles of Collaborating Out Loud. These are fundamental to how we work and how we will undertake this work in a simple, surprising and social way.

1.10 *Values:*

- **Surprising** - we do the unexpected. This might be bringing in practice and thinking from unusual places or helping people to connect across unusual boundaries.
- **Social** - we work out loud, share, work with others and connect with existing agendas and ideas. We lead with generosity, openness and trust
- **Simple** - we know the world is complicated enough so we are easy to work with, straightforward and keep things as simple as we can, believing that less can be more

1.11 *The type of work we do:*

Working with system leaders –leadership development activity, system change work and helping organisations and individuals shift mindsets and behaviours to create a different relationship with each other and the wider community. We create spaces for reflection and learning to aid this process including developing collaborative circles, reverse mentoring and leadership development workshops and programmes. For example, how we have worked with the [REDACTED] group of system leaders and influencers to consider power dynamics across the system, and with communities. We have also run a number of leadership programmes that have intentionally involved social care within them to understand how these leaders influence, work with and as part of the health and care system. Specific work undertaken around system leadership includes:

- Design and delivery of system leadership programmes
- Action learning facilitation
- Mentoring and coaching
- Workshop design and facilitation including team away days
- Development of leadership diagnostics

Power sharing – a great deal of our work is locality-based working with communities and public services to create spaces for voices that wouldn't normally be heard, to be heard; to explore power dynamics and how power can be shared; develop deep collaborations which allow for true coproduction; and challenge the system to change the way they work with communities. For example, a year long piece of work across the Bury health and care system to develop system leaders to explore coproduction, lived experience and power sharing. This has involved developing a neighbourhood development programme, collaborative circles and a system wide learning group.

System and Community insight and engagement work – working deep in communities to understand the issues and what they need to help them to get on with what is important, is a central part of our work. This allows us to have rich insights that inform our wider practice and offers, as well as helping to make the invisible, visible. For example, we are currently working with the public health team in Bury over a nine month period to be their learning partner. This involves helping them to understand the true impact of their work and help them to maximise the opportunities for learning and change.

Question 3	Weighting	20%	Max Word Count	800
Describe your understanding of the current challenges facing leaders in the health and care system and how you would apply this to the refresh and design work.				

1.12 **Supplier Response**

Our understanding of current challenges facing leaders in the health, care and wider system has emerged from conversation with leaders as well as lived experience. There are as many system barriers as there are individuals or change attempts. Therefore, we have included three example system barriers (from explicit to implicit) we are hearing regularly in our system leadership insights, design and development work:

1.13 **Explicit:**

Funding & Governance:

- intersecting consequences of austerity, covid and financial deficit
- competing priorities (financial deficit/sustainability/prevention investment), lack of formal position on direct conflicts and operational pressures
- economic pressures rightly increasing scrutiny with regards to investment yet this makes it difficult to test emergent and co-produced approaches required in complexity
- funding and governance transformation slower than the appetite to shift the psychosocial system (e.g. power to citizen and community led innovation)

1.14 **Semi-explicit:**

Power & relationships

- Power dynamics emerging from the threat to professional identity by innovative and social models of care.
- Power, trust & openness influences decision freedom and laterality
- Complexity of health and care can fuel silo working
- Relationship building can be inhibited by perceptions of hierarchy and permission
- Labels, titles and the expectations they bring can get in the way of working towards purpose and reduce tolerance for risk.

1.15 **Implicit:**

Awareness & literacy

- Legacy of pace setting culture can still emphasis action at the expense of deep thinking blocking the space to let new solutions emerge
- Barriers are faced when there is a lack of awareness and understanding of personal 'leadership lens' shaping what is visible and possible. This can contribute to the perpetuation of systems of oppression. Particularly if this is coupled with a lack of EDI literacy.

From recent system leadership insights work we identified the following 'existing disconnects' experienced by leaders:

- The tension between here and now priorities (finance, recovery) versus longer term priorities (strengthening communities, supporting all people to stay well)
- The time, capacity, readiness and competing priorities versus the depth of learning and space required to work differently (experienced at all levels including Boards)
- The gap between leadership ideals versus fallback leadership practiced
- The ambitions of learners' post development versus the cultures they return to



- The transactional approaches applied in complex contexts versus the transformational approaches required
- The backlash for pathbreaking versus belonging within the status quo
- The shifts in values, behaviours and culture required to work with system principles versus legacy decision making, governance and funding structures

How we would apply our understanding of current challenges to the refresh: What we are hearing about what is needed from the future of system leadership development in the current context is included below (selected examples). Within the existing ethos, design principles and structure we would bring our insights into the conversation and keep an open mind about what design could look like allowing solutions to emerge through co-design as far as possible in the timescale.

- Micro moments of development to fit in operational pressure and cascade across systems.
- Design development without end points
- Design with and design out isolation.
- Broaden access and entry points.
- Create space without agenda for connection, co-creation and emergent working
- Design what works with the human system (holistic, wellbeing centred, trauma informed, working with grief to support letting go of existing practices)
- Design to deepen development to enable transformation in ways that we have not seen or mainstreamed before, interventions will have to go to new depths and will be required to explore the intersections within and across the following layers - 'Intra-human' (e.g., thinking, imagining, feeling), 'Inter-human' (e.g., connecting, relating, dynamics) and 'human – environment' (e.g., intersectionality, power, perspective, action).
- The whole self (person) is part of the system and mindfully shifting systems requires parallel focus on the intersectionality between self and system - power, privilege and discrimination. From this view, system blockers have the potential to look different for everyone based on identities, lived experience and perspective. There is the potential for inner shifts in self (e.g., perspective) to reduce the experience of a 'barrier' as the interface between the system and self shapes thinking, perspectives, interpretation, interactions, relationships and action (i.e., the ways in which we are upholding modernity).
- Design in a journey of 'unlearning'. Do not assume an existing level of awareness, understanding or knowledge of key topics relating to E,D&I, sustainability – or any other complex issue – are in place. Even at senior or strategic levels.

Question 4	Weighting	10%	Max Word Count	400
Describe how you would ensure involvement from the Contracting Authority and key stakeholders when refreshing the programme's content.				
<i>Your response should also describe your approach to ensuring effective collaboration to produce the desired outcomes.</i>				
Supplier Response				
Our approach to redesign centres co-design and sensemaking spaces.				
We would meet with the Contracting Authority to introduce ourselves and get to know the key people we would be working with at this meeting we can agree:				

- How we want to work together
- How we stay in touch
- How often updates are required and helpful
- How much the contracting authority wants to be involved and in what elements e.g. workshops etc.
- Who the key stakeholders are we need to need to keep updated
- Anything else that will support us to work together effectively

At co-initiation we will agree with the Contracting Authority regular touchpoints (e.g. monthly) to share design developments 'in real time' this will enable the contracting authority to be aware of the developments in the design cycles, listen to and share feedback/ideas and monitor progress. Due to timescales we will also agree expectations around methods of communication outside of the agreed touchpoints.

Additional sensemaking and co-design virtual spaces will be designed to bring together key stakeholders to contribute to the design conversation from multiple perspectives.

Virtual spaces could be an asynchronous virtual notice board guided collaboration (via easy retro boards so insights can be organised), synchronous spaces for sensemaking and idea generation (via MS Teams or Zoom) or a combination of both. To be agreed with the contracting authority at co-initiation depending on timescales and operational pressures.

Both facilitators have extensive experience of designing and facilitating inclusive and creative virtual spaces. We pay attention to co-creating the conditions for collaboration, hold open conversations about psychological safety and 'brave' spaces and use Collaborate Out Loud methodology and tools to create surprisingly simple social spaces.

B. Social Value and Sustainability

Question 5	Weighting	10%	Max Word Count	400
Please outline how you will address and contribute to the themes of the Social Value Model through the life of this contract and how your management of this programme will support the in-work progression of faculty and participants alike, including those from disadvantaged or minority groups, to develop new skills and progress their roles/leadership?				
Supplier Response				
We will contribute to generating Social Value throughout the life of this contract by:				
<ul style="list-style-type: none"> • Giving five days of time back into projects that support the social value themes. 				
Covid recovery:				
<ul style="list-style-type: none"> • Taking a trauma informed approach • Taking broader learning and insights into our work with systems and communities • Contributing to culture in a way that respects diversity in experience of trauma, responds to social isolation and prioritises wellbeing. 				
Tackling economic inequality:				

- Open access to our wider materials for citizen and community groups to contribute to opportunities for innovation, new business and access to high level skills development.
- Citizen participation fair exchange at the rate of £25 per hour
- Supporting micro-entities through commissioning
- We provide high quality and flexible work and do not pay rates lower than the Living Wage

1.16 *Fighting climate change:*

We minimise our impact on the environment and promote a sustainable approaches by:

- Minimising our use of paper
- Avoiding unnecessary travel
- Using sustainable transportation methods
- Working with ethical suppliers
- Ensuring that we are respectful to the environment
- Where possible, commission from sustainable suppliers/green energy sources

1.17 *Equal opportunity:*

- open source access to materials for citizen, community groups and schools in order to develop the leadership required to take reduce inequality;
- contribute to breaking systems of oppression by creating space and platforms for marginalised voices to be in decision making and design;
- Facilitate remuneration for engagement in work reflective of the diversity of the local community
- Build confidence and capability to enable strong, long-term working relationships.
- We value diversity in our team. We ensure fair payment and remove barriers to involvement, including flexible working, or adapting roles

1.18 *Wellbeing:*

- open access to scientifically backed wellbeing resources
- continue community contribution to health and wellbeing culture (e.g. under 5's, Governor Primary School - responsibility for safeguarding, health and wellbeing, contribution to community led parent-infant mental health service).

We see the following opportunities for faculty and participants:

- **Sharing freely:** We will share original and signposted resources we bring into design and, with Contracting Authority agreement, we will make new resources available. Raising awareness and opportunity for self-directed development
- **Working out loud:** We will work out loud and model the design, set up and facilitation of approaches so the learning

can be applied in a work context.

- **The hour project:** We will offer clinics for collaborators or dedicated spaces to support those from minority groups to explore what insights mean to them.

Schedule 7 of these Call-off Terms and Conditions**Commercial Schedule**

NAT.414		
Project Title: Leading for System Change (Redesign)		
Bidder Name:	The Work in Progress	
Commercial Score weighting:	20%	
Bidder Instructions: > Additional information / narrative can be included within the 'Notes' section below the costings table. > All cells in YELLOW should be completed, or left blank if not required for your proposal. Unused rows may be deleted or left blank. > Day rates should be within the Level 1 capped rates of £1,350.00 per day, £675.00 per half day (excluding VAT). > Total costs must not exceed the total budget envelope of £50,000 (excluding VAT) covering all requirements. > The table below illustrates a breakdown of the deliverables for this project by volume. Please insert your total costs against each of the required elements within the total budget envelope of £50,000. > Bids will be evaluated on Total Bid Price, at 20% of your total score. > Expenses are not anticipated to be required, but where these form part of your plan and approach, relevant costings can be included within the total charges below, and must be approved prior to being spent. Please note the commercial aspect of this procurement will be adjudicated on the final TOTAL price (cell E15)		
ITEM	ANTICIPATED PROJECT VOLUME	CHARGES
Proposal of delivery refresh, KPI 2	Estimated 30% of the overall value of the contract	
Content delivery, KPI 3, 4 & 5	Estimated 60% of the overall value of the contract	
Delivery of the service in full, KPI 6	Estimated 10% of the overall value of the contract	
Any additional costs	To be included as needed	
TOTAL BID PRICE		47,000.00
Notes No costs included for branding		