



Home Office

APPENDIX C – FRAMEWORK TERMS & CONDITIONS

DATED 26th July 2019

(1) THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

AND

(2) DURADIAMOND HEALTHCARE LTD

**National Framework Agreement for the Supply of
Police & Fire Medical Appeal Board Services**

Framework Ref. No: C15285

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THIS AGREEMENT is made on 26th July 2019
BETWEEN:-

- (1) The Secretary of State for the Home Department, with offices at 2 Marsham Street, London, SW1P 4DF (the "**Authority**"); and
- (2) Duradiamond Healthcare Ltd (Company Number: SC229346 whose registered address is at King James The VI Business Centre, Friarton Road, Perth, Scotland, PH2 8DY (the "**Provider**").

BACKGROUND

- (A) The Authority placed a contract notice on 20th May 2019 in the Official Journal of the European Union seeking expressions of interest from providers for the provision of Medical Appeal Board Services and Training Services to Contracting Bodies under a framework agreement.
- (B) The Provider submitted a tender on 24th June 2019.
- (C) On the basis of the Provider's tender, the Authority selected the Provider to enter a framework agreement to provide the services to Contracting Bodies on a call-off basis in accordance with this Framework Agreement.
- (D) This Framework Agreement sets out the award and ordering procedure for services which may be required by Contracting Bodies, the main terms and conditions for any Call-Off Contract which Contracting Bodies may conclude, and the obligations of the Provider during and after the term of this Framework Agreement.
- (E) It is the Parties' intention that there will be no obligation for any Contracting Body to award any orders under this Framework Agreement during its Term.

IT IS AGREED as follows: -

1. INTERPRETATION

1.1 Unless the context otherwise requires, the following words and expressions shall have the following meanings: -

"Approval"	means the prior written approval of the Authority
"Auditor"	means the Authority's internal auditor and/or the National Audit Office or an auditor appointed by the National Audit Office as the context requires
"Call-Off Contract"	means the legally binding agreement (made pursuant to the provisions of this Framework Agreement) for the provision of Services made between a Contracting Body and the Provider comprising an Order Form and the Call-Off Terms and Conditions
"Call-Off Terms and Conditions"	means the terms and conditions in Schedule 4 to be used by the contracting authority (Customer)
"Commencement Date"	means the date on which the Framework Agreement starts, being 1 st October 2019.

"Complaint"	means any formal complaint raised by any Contracting Body in relation to the performance of this Framework Agreement or any Call-Off Contract in accordance with Clause 38
"Confidential Information"	means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which would or would be likely to prejudice the commercial interests of any person trade secrets, Intellectual Property Rights, know-how of either Party and all personal data and sensitive data within the meaning of the DPA;
"Contracting Bodies"	Means : Policing and Fire in England, Scotland and Wales
"Crown"	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf
"Default"	means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject-matter of the Contract and in respect of which such Party is liable to the other
"DPA"	means the Data Protection Act 2018 ("DPA 2018") and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation, and the General Data Protection Regulations ("GDPR") 2016/679 including the Law Enforcement Directive
"Environmental Information Regulations"	mean the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations
"Extension Period"	means a period of twelve (12) Months from the end of the Initial Term
"FOIA"	means the Freedom of Information Act 2000 and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation

"Framework Agreement"	means this Framework Agreement and all Schedules to this Framework Agreement
"Framework Agreement Variation Procedure"	means the procedure set out in Clause 31 (Variations to this Framework Agreement)
"Fraud"	means any offence under Law creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to this Framework Agreement or defrauding or attempting to defraud or conspiring to defraud any Contracting Body
"Good Industry Practice"	means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances
"Guidance"	means any guidance issued or updated by the UK Government from time to time in relation to the Regulations
"Information"	has the meaning given under Section 84 of the FOIA
"Initial Term"	means the period of three (3) years from and including the Commencement Date
"Intellectual Property Rights (IPR)"	means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off
"ITT"	means the invitation to tender issued by the Authority on 20 th May 2019
"Law"	means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body
"Management Information"	means the management information specified in Schedule 6
"Medical Appeal Board Service"	means the service to be delivered as described in schedule 1
"Month"	means a calendar month
"OJEU Notice"	means the contract notice issued on 20 th May 2019, published in the Official Journal of the European Union.

"Order"	means an order for Services served by any Contracting Body on the Provider in accordance with the Ordering Procedures
"Order Form"	means a document setting out details of an Order in the form set out in Schedule 3
"Ordering Procedures"	means the ordering and award procedures specified in Clause 6 (Order Procedures)
"Parent Company"	means any company which is the ultimate Holding Company of the Provider and which is either responsible directly or indirectly for the business activities of the Provider or which is engaged in the same or similar business to the Provider. The term "Holding Company" shall have the meaning ascribed by Section 736 of the Companies Act 1985 or any statutory re-enactment or amendment thereto
"Party"	means the Provider and the Authority and "Party" shall be construed accordingly as the context requires
"Pension & Injury Benefit Regulations"	means regulations governing awards & benefits set out in 3.2 of Schedule 1, Statement of Requirements.
"Pricing Matrix"	means the pricing matrix set out in Schedule 2 (Pricing Matrix)
"Prohibited Act"	means: <ul style="list-style-type: none"> (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority or Contracting Bodies a financial or other advantage to: <ul style="list-style-type: none"> (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Framework Agreement;

- (c) an offence:
 - (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);
 - (ii) under legislation or common law concerning fraudulent acts; or
 - (iii) defrauding, attempting to defraud or conspiring to defraud the Authority or Contracting Body; or

any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;

"Regulations"	means the Public Contracts Regulations 2015 (as amended)
"Regulatory Bodies"	means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Framework Agreement or any other affairs of the Authority or Contracting Bodies
"Requests for Information"	means a request for information or an apparent request under the FOIA or the Environmental Information Regulations
"Service Credits"	Money owed back to the contracting pension authority (Customer) where the Provider has failed key performance indicators.
"Services"	means the Medical Appeal Board Services and the Training Services referred to in Schedule 1
"Specifications"	means the specifications for the Services as set out at Schedule 1 of the Framework Agreement as amended from time to time
"Staff"	means all persons employed by the Provider together with the Provider's servants, agents, suppliers used in the performance of its obligations under this Framework Agreement or Call-Off Contracts
"Standards"	means any standards as described at Schedule 1 of this agreement and any other standard as mutually agreed between the Parties in writing from time to time
"Term"	means the period commencing on the Commencement Date and ending on the expiry of the Initial Term or any Extension Period or on earlier termination of this Framework Agreement, whichever period is longer

"

- "Working Days"** means any day other than a Saturday, Sunday or public holiday in England and Wales
- "Year"** means a calendar year.

- 1.2 In this Framework Agreement, unless the context otherwise requires:
- 1.2.1 the singular includes the plural and vice versa;
 - 1.2.2 reference to a gender includes the other gender and the neuter;
 - 1.2.3 references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;
 - 1.2.4 any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words;
 - 1.2.5 the headings in this Framework Agreement are for ease of reference only and shall not affect its interpretation;
 - 1.2.6 references to clauses, schedules and appendices are, unless otherwise provided, references to the clauses of and schedules and appendices to this Framework Agreement;
 - 1.2.7 if there is any conflict between the clauses and the schedules and/or any appendices to the schedules and/or any other documents referred to in this Framework Agreement, the clauses shall prevail over the remainder of the schedules;
 - 1.2.8 where an amount or sum is expressed to be "subject to indexation" at a point in time, it shall be adjusted by reference to the percentage change in the Retail Prices Index (all -items excluding mortgages) over the most recent 12 months for which published data is available at that point in time; and
 - 1.2.9 neither Party shall be liable for any Default of its obligations under this Framework Agreement to the extent that such Default is caused by a failure or delay by the other Party in performing its obligations under this Framework Agreement, provided and to the extent that the affected Party notifies the other Party of such failure or delay within 20 Working Days of the affected Party becoming aware of its occurrence and of its likely impact.

PART ONE: FRAMEWORK AGREEMENT AND AWARD PROCEDURE

2. TERM OF FRAMEWORK AGREEMENT

- 2.1 This Framework Agreement shall take effect on the Commencement Date and (unless it is otherwise extended or terminated in accordance with its terms or it is otherwise lawfully terminated) shall terminate:
- 2.1.1 at the end of the Initial Term; or
 - 2.1.2 subject to Clause 2.2 below, if the Authority elects to extend the Initial Term by giving the Provider at least 3 months' notice before the end of the Initial Term of not more than one 12-month Extension Period

2.2 The Authority shall not extend the Initial Term by more than one 12-month Extension Period.

3. SCOPE OF FRAMEWORK AGREEMENT

3.1 This Framework Agreement governs the relationship between the Parties in relation to the provision of Services by the Provider to Contracting Bodies.

3.2 In particular this Framework Agreement sets out:

3.2.1 the entitlement of a Contracting Body to order Services from the Provider;

3.2.2 the procedure to be followed if a Contracting Body wishes to order Services from the Provider; and

3.2.3 the terms and conditions that shall apply to the provision of those Services.

4. PROVIDER'S APPOINTMENT

The Authority appoints the Provider as a potential provider of the Services and the Provider shall be eligible to be considered for the award of Orders for such Services by the Contracting Bodies during the Term.

5. NON-COMMITMENT OR EXCLUSIVITY

5.1 The Provider acknowledges that the award of this Framework Agreement does not provide any guarantee that the Provider will be awarded an agreement by one or more Contracting Bodies and that the award of an agreement does not provide any guarantee of any Contracting Body placing any order for Services, or of the volume of any Services that might be placed under any agreement.

5.2 The Provider acknowledges that it is not the exclusive supplier of services that are the same as or similar to the Services and that Contracting Bodies may procure services that are the same as or similar to the Services from any other supplier.

6. ORDER PROCEDURES

Orders under this Framework Agreement

6.1 If a Contracting Body decides to source Services through this Framework Agreement, then it may place an Order with the Provider which states:

6.1.1 the Services required and the date for Delivery for the provision of such Services;

6.1.2 the price payable for the Services in accordance with the Pricing Matrix applicable for those Services; and

6.1.3 incorporates the Call-Off Terms and Conditions

Responsibility for Orders

6.2 The Provider acknowledges that each Contracting Body is independently responsible for the conduct of its order for Call-Off Contracts under this Framework Agreement and that the Authority is not responsible or accountable for and shall have no liability whatsoever in relation to:

6.2.1 the conduct of Contracting Bodies in relation to this Framework Agreement; or

6.2.2 the performance or non-performance of any Call-Off Contract between the Provider and Contracting Bodies entered into pursuant to this Framework Agreement.

Form of Order

- 6.3 Subject to Clauses 6.1 to 6.2 above, each Contracting Body may place an Order with the Provider by serving an order in writing containing information set out in Schedule 3 as a minimum or such similar or analogous form agreed with the Provider including systems of ordering involving facsimile, electronic mail or other on-line solutions.
- 6.4 The Order constitutes an offer by the Contracting Body to purchase the Services subject to the terms and conditions of the Call-Off Contract.

Accepting and Declining Orders

- 6.5 Following receipt of an Order, the Provider shall promptly and in any event within a reasonable period (taking into account all relevant circumstances in relation to the subject matter and nature of an Order) determined by the relevant Contracting Body and notified to the Provider in writing at the same time as the submission of the Order which in any event shall not exceed two (2) Working Days acknowledge receipt of the Order and either:
- 6.5.1 notify the relevant Contracting Body that it declines to accept the Order; or
- 6.5.2 notify in writing the relevant Contracting Body that it accepts the Order
- 6.6 If:
- 6.6.1 the Provider notifies the Contracting Body that it declines to accept an Order; or
- 6.6.2 the time-limit referred to in Clause 6.5 expires,
- then the offer from the Contracting Body to the Provider shall lapse and the relevant Contracting Body may withdraw that Order.
- 6.7 The Provider in agreeing to accept such an Order pursuant to Clause 6.3 above shall enter a Call-Off Contract with the relevant Contracting Body for the provision of Services referred to in that Order. A Call-Off Contract shall be formed on the Contracting Body's receipt of the Provider's written acceptance of order (or such similar or analogous form agreed with the Provider) pursuant to Clause 6.5.2.

PART TWO: PROVIDER'S GENERAL FRAMEWORK OBLIGATIONS

7. WARRANTIES AND REPRESENTATIONS

7.1 Each Party warrants, represents and undertakes that:

- 7.1.1 it has full capacity and authority to enter into and to perform this Framework Agreement;
- 7.1.2 this Framework Agreement is executed by a duly authorised representative of that Party;
- 7.1.3 there are no actions, suits or proceedings or regulatory investigations pending or, to that Party's knowledge, threatened against or affecting that Party before any court or administrative body or arbitration tribunal that might affect the ability of that Party to meet and carry out its obligations under this Framework Agreement; and
- 7.1.4 once duly executed this Framework Agreement will constitute its legal, valid and binding obligations.

7.2 The Provider warrants, represents and undertakes:

7.2.1 for the duration of the Term that:

7.2.1.1 it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform the Provider's obligations under this Framework Agreement; and

7.2.1.2 it shall at all times comply with Law in carrying out its obligations under this Framework Agreement; and

7.2.2 as at the Commencement Date:

7.2.2.1 all statements and representations in the Provider's response to the ITT are true and accurate in all material respects and that it will advise the Authority of any fact, matter or circumstance of which it may become aware which would render any such statement or representation to be false or misleading;

7.2.2.2 it is not subject to any contractual obligation, compliance with which is likely to have an adverse effect on its ability to perform its obligations under this Framework Agreement;

7.2.2.3 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Provider 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 Provider's assets or revenue;

7.2.2.4 it has not done or omitted to do anything which could have an adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under this Framework Agreement; and

7.2.2.5 in entering into this Framework Agreement it has not committed a Prohibited Act; and

7.2.3 in the three (3) trading years prior to the Commencement Date:

7.2.3.1 it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts; and

7.2.3.2 it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established.

7.3 Except as expressly stated in this Framework Agreement, all warranties and conditions whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by Law.

7.4 For the avoidance of doubt the fact that any provision within this Framework Agreement is expressed as a warranty shall not preclude any right of termination the Authority may have in respect of breach of that provision by the Provider.

8. PREVENTION OF CORRUPTION AND ANTI-BRIBERY

8.1 The Provider shall not offer or give, or agree to give, to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this Framework Agreement or any other contract with the Authority or any other public body, or for

showing or refraining from showing favour or disfavour to any person in relation to this Framework Agreement or any such contract.

- 8.2 The Provider warrants that it has not paid commission or agreed to pay commission to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body in connection with this Framework Agreement.
- 8.3 The Provider shall:
- 8.3.1 comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (the “**Relevant Requirements**”);
 - 8.3.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom;
 - 8.3.3 have and shall maintain in place throughout the Term its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and clause 8.3.2, and shall enforce them where appropriate;
 - 8.3.4 promptly report to the Authority any request or demand for any undue financial or other advantage of any kind received by the Provider in connection with the performance of this Framework Agreement;
 - 8.3.5 immediately notify the Authority in writing if a foreign public official becomes an officer or employee of the Provider or acquires a direct or indirect interest in the Provider, and the Provider warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the Commencement Date;
 - 8.3.6 within three (3) months of the Commencement Date, and annually thereafter, certify to the Authority in writing signed by an officer of the Provider, compliance with this clause 8.3 by the Provider and all persons associated with it under clause 8.4. The Provider shall provide such supporting evidence of compliance as the Authority may reasonably request.
- 8.4 The Provider shall ensure that any person associated with the Provider who is performing services in connection with this Framework Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Provider in clause 8.3 (the “**Relevant Terms**”). The Provider shall be responsible for the observance and performance by such persons of the Relevant Terms and shall be directly liable to the Authority for any breach by such persons of any of the Relevant Terms.
- 8.5 If the Provider, its Staff or anyone acting on the Provider’s behalf, engages in conduct prohibited by clause 8.2 or 8.3 or commits any offence under the Bribery Act 2010, the Authority may:
- 8.5.1 terminate this Framework Agreement and recover from the Provider the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Services under a new framework agreement and any additional expenditure incurred by the Authority throughout the remainder of the Term; or
 - 8.5.2 recover in full from the Provider any other loss sustained by the Authority in consequence of any breach of clauses 8.3 to 8.4.
- 8.6 For the purpose of this clauses 8.3 to 8.5, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purpose of clauses 8.3 to 8.5, a person associated with the Provider of the Provider.

9. TRANSPARENCY

- 9.1 The Provider shall provide to the Authority such assistance as the Authority may reasonably require to comply with its transparency obligations for meeting Government and EU policies on the availability and accuracy of information about the delivery of public services that are publicly funded.
- 9.2 Notwithstanding any other provision of this Framework Agreement, the Provider hereby gives its consent for the Authority to publish to the general public this Framework Agreement in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including any changes to this Framework Agreement agreed from time to time.
- 9.3 The Provider shall assist and co-operate with the Authority to enable the Authority to publish this Framework Agreement.

10. CONFLICTS OF INTEREST AND REPUTATION OF THE AUTHORITY

- 10.1 In providing the Services, the Provider shall (and shall procure that its staff shall) not do any act or thing nor permit any situation to arise whereby a conflict or a potential conflict arises or may arise between the interests of the Authority and the interests of the Provider and/or bring the Authority into disrepute (a “**Reputational Concern Event**”).
- 10.2 The Provider shall notify the Authority in writing as soon as reasonably practicable, and in any event within ten (10) Working Days, of:
- 10.2.1 any actual or potential conflict of interest arising from its involvement in this Framework Agreement;
 - 10.2.2a Reputational Concern Event. The Provider shall provide details of:
 - (a) the identity of any person;
 - (b) the details of the Reputational Concern Event; and
 - (c) the Provider shall regularly update the Authority until the conclusion of the Reputational Concern Event.
- 10.3 The Provider shall comply with any reasonable instructions of the Authority to:
- 10.3.1 end, avoid or mitigate the effect of any actual or potential conflict of interest; and
 - 10.3.2 end, avoid or mitigate the effect of the Reputational Concern Event.

11. SAFEGUARD AGAINST FRAUD

The Provider shall safeguard the Authority’s funding of this Framework Agreement against fraud generally and, in particular, fraud on the part of the Staff, or the Provider’s directors and suppliers. The Provider shall notify the Authority immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

12. CALL-OFF CONTRACT PERFORMANCE

- 12.1 The Provider shall perform all Call-Off Contracts entered into with any Contracting Body in accordance with:-
- 12.1.1 the requirements of this Framework Agreement; and
 - 12.1.2 the terms and conditions of the respective Call-Off Contracts.

12.2 In the event of, and only to the extent of, any conflict between the terms and conditions of this Framework Agreement and the terms and conditions of a Call-Off Contract, the terms and conditions of this Framework Agreement shall prevail.

13. PRICING

13.1 The prices offered by the Provider for Call Off Contracts to Contracting Bodies for Services shall be the prices listed in the Pricing Matrix at Schedule 2 and shall be firm for the duration of the Initial Term.

13.2 All prices in the Pricing Matrix shall be subject to review at least three (3) months before the expiry date of this Framework Arrangement whereupon the parties shall seek to agree new prices for any Extension Periods in accordance with the provisions of Schedule 2.

14. STATUTORY REQUIREMENTS

The Provider shall be responsible for obtaining and maintaining all licences, authorisations, consents or permits required in relation to the performance of this Framework Agreement and any Call-Off Contract.

15. STANDARDS

15.1 The Provider shall comply with the Standards in performing its obligations under this Framework Agreement and any Call-off Contracts.

15.2 The Provider shall maintain the Standards and requirements set out in the Specifications at Schedule 1. All quality assessments and reports shall be disclosed to the Authority when requested.

16. NON-DISCRIMINATION

16.1 The Provider shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation or otherwise) in employment.

16.2 The Provider shall take all reasonable steps to secure the observance of clause 16.1 by all servants, employees or agents of the Provider and all suppliers employed in the execution of this Framework Agreement.

PART THREE: PROVIDER'S INFORMATION OBLIGATIONS

17. PROVISION OF MANAGEMENT INFORMATION

17.1 The Provider shall, at no additional cost to the Authority or any Contracting Body:

17.1.1 provide the Management Information as detailed at Schedule 6 (Management Information Requirements);

17.1.2 attend the meetings as detailed at Schedule 6 (Management Information Requirements); and

17.1.3 provide such other meetings and provide such other Management Information as reasonably requested by the Authority.

17.2 The Provider is to assign a single point of contact to ensure the successful performance of this Framework Agreement. The Provider will provide the Authority with the details of the nominated single point of contact no later than the Commencement Date. The single point of

contact will provide access to Management Information and review/monitor performance against this Framework Agreement

- 17.3 The onus for monitoring performance against this Framework Arrangement is placed on the Provider. The Authority will agree an appropriate format and content of management information prior to commencement of this Framework Arrangement.
- 17.4 The Authority may share the Management Information supplied by the Provider with any Contracting Body or Crown body.
- 17.5 The Authority may make changes to the Management Information which the Provider is required to supply and shall give the Provider at least one (1) Month's written notice of any changes.

18. RECORDS AND REPORTS

- 18.1 The Provider shall, during the Term and for a period of six (6) years following expiry or termination of this Framework Agreement, retain and maintain complete and accurate documents and records in relation to the performance of its obligations under this Framework Agreement and any Call-Off Contracts:
 - 18.1.1 in accordance with the requirements of the National Audit Office and Good Industry Practice;
 - 18.1.2 in chronological order;
 - 18.1.3 in a form that is capable of audit; and
 - 18.1.4 at its own expense.
- 18.2 The Provider shall make such records available for inspection by the Authority on request subject to the Authority giving reasonable notice and the Authority shall be entitled to make copies of any such records.
- 18.3 The Provider shall ensure that any records reasonably required by the Authority under this Clause are available to the Authority on-line and capable of being printed.

19. CONFIDENTIALITY

- 19.1 Except to the extent set out in this clause 19 or where disclosure is expressly permitted elsewhere in this Framework Agreement, each Party shall:
 - 19.1.1 treat the other Party's Confidential Information as confidential and safeguard it accordingly; and
 - 19.1.2 not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.
- 19.2 Clause 19.1 shall not apply to the extent that:
 - 19.2.1 such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to clause 22 (Freedom of Information);
 - 19.2.2 such Confidential Information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - 19.2.3 such Confidential Information was obtained from a third party without obligation of confidentiality;

- 19.2.4 such Confidential Information was already in the public domain at the time of disclosure otherwise than by a breach of this Framework Agreement; or
- 19.2.5 it is independently developed without access to the other Party's Confidential Information.
- 19.3 The Provider may only disclose the Authority's Confidential Information to the Staff who are directly involved in the provision of the Services and who need to know the Confidential Information, and shall ensure that such staff are aware of these obligations of confidentiality (by the provision of training, the display of notices, the imposition of individual confidentiality agreements or other appropriate means), and shall comply with those obligations.
- 19.4 The Provider shall not, and shall procure that staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of this Framework Agreement.
- 19.5 At the written request of the Authority, the Provider shall procure that Staff who need to know the Authority's Confidential Information signs a confidentiality undertaking on terms no less stringent than the obligations set out in this Clause 19 (Confidentiality) prior to commencing any work in accordance with this Framework Agreement.
- 19.6 Nothing in this Framework Agreement shall prevent the Authority from disclosing the Provider's Confidential Information:
- 19.6.1 to any Crown body or any Contracting Body. All Crown bodies or Contracting Bodies receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown bodies or Contracting Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown body or any Contracting Body;
- 19.6.2 to any consultant, contractor or other person engaged by the Authority or any person conducting a gateway review (or any equivalent audit or review carried out by a public body) provided that such disclosure shall not be made to any such person who may reasonably be regarded as a competitor to the Provider;
- 19.6.3 for the purpose of the examination and certification of the Authority's accounts; or
- 19.6.4 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.
- 19.7 The Authority shall notify the Provider of the recipient, and the scope of such Provider's Confidential Information as soon as reasonably practicable prior to its disclosure and use all reasonable endeavours to ensure that any Crown body, Contracting Body, employee, or third party to whom the Provider's Confidential Information is disclosed pursuant to clause 19.6 is made aware of the Authority's obligations of confidentiality.
- 19.8 Nothing in this clause 19 (Confidentiality) shall prevent either Party from using any techniques, ideas or know-how gained during the performance of this Framework Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of IPR.

20 OFFICIAL SECRETS ACTS

- 20.1 The Provider undertakes to abide by, and ensure that its staff abide by, the provisions of the Official Secrets Acts 1911 to 1989.
- 20.2 In the event that the Provider or any of its Staff fail to comply with this clause 20, the Authority reserves the right to terminate this Framework Agreement by giving notice in writing to the Provider.

20.3 The provisions of clause 20.1 shall apply during the continuance of this Framework Agreement and indefinitely after its expiry or termination.

21. DATA PROTECTION

21.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is a Controller and the Provider is a Controller and the Processor. The only processing that the Provider is authorised to do is listed in Annex 1 to this Schedule (Processing Personal Data).

21.2 The Provider shall notify the Authority immediately if it considers that any of the Authority instructions infringe the Data Protection Legislation

21.3 The Provider shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority include:

- (i) a systematic description of the envisaged processing operations and the purpose of the processing;
- (ii) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
- (iii) an assessment of the risks to the rights and freedoms of Data Subjects; and
- (iv) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

21.4 The Provider shall, in relation to any Personal Data processed in connection with its obligations under this Framework Agreement:

- (a) process that Personal Data only in accordance with Annex 1 (Processing Personal Data), unless the Provider is required to do otherwise by Law. If it is so required the Provider shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures which have been reviewed and approved by the Authority as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that:
 - (i) the Provider Personnel do not process Personal Data except in accordance with this Framework Agreement (and in particular Annex 1 (Processing Personal Data));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Provider Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Provider's duties under this Clause;
 - (B) are subject to appropriate confidentiality undertakings with the Provider or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Authority or as otherwise permitted by this Contact; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;

- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
 - (i) the Authority or the Provider has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Authority;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and
 - (iv) the Provider complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;
- (e) at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the this Contract unless the Provider is required by Law to retain the Personal Data.

21.5 Subject to Clause 21.7, the Provider shall notify the Authority immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event.

21.6 The Provider's obligation to notify under Clause 21.5 shall include the provision of further information to the Authority in phases, as details become available

21.7 Taking into account the nature of the processing, the Provider shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 21.5 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

- (a) the Authority with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Authority following any Data Loss Event;
- (e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.

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

- (a) the Authority determines that the processing is not occasional;

- (b) the Authority determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - (c) the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 21.9 The Provider shall allow for audits of its Data Processing activity by the Authority or the Authority's designated auditor.
- 21.10 The Provider shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 21.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Provider must:
- (a) notify the Authority in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Authority;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 1.11 such that they apply to the Sub-processor; and
 - (d) provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.
- 21.12 The Provider shall remain fully liable for all acts or omissions of any Sub-processor.
- 21.13 The Provider may, at any time on not less than 30 Working Days' notice, revise this Clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
- 21.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Provider amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office
- 21.15 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Provider is the Processor. The only processing that the Provider is authorised to do is listed in Annex 1 (Processing Personal Data) by the Authority and may not be determined by the Provider
- 21.16 The Provider shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation
- 21.17 The Provider shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 21.18 The Provider shall, in relation to any Personal Data processed in connection with its obligations under this Call Off Contract:
- (a) process that Personal Data only in accordance with Annex 1 (Processing Personal Data), unless the Provider is required to do otherwise by Law. If it is so required, the Provider shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;

- (b) ensure that it has in place Protective Measures which have been reviewed and approved by the Authority as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that :
 - (i) the Provider Personnel do not process Personal Data except in accordance with this Call Off Contract (and in particular Annex 1 (Processing Personal Data));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Provider Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Provider's duties under this Clause;
 - (B) are subject to appropriate confidentiality undertakings with the Provider or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Authority or as otherwise permitted by this Call Off Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
 - (i) the Authority or the Provider has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Authority;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and
 - (iv) the Provider complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;
- (e) at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Call Off Contract unless the Provider is required by Law to retain the Personal Data.

21.19 Subject to Clause 21.21, the Provider shall notify the Authority immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory Authority in connection with Personal Data processed under this Call Off Contract;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

- (f) becomes aware of a Data Loss Event.
- 21.20 The Provider's obligation to notify under Clause 21.19 shall include the provision of further information to the Authority in phases, as details become available.
- 21.21 Taking into account the nature of the processing, the Provider shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 1.19 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:
- (a) the Authority with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Authority following any Data Loss Event;
 - (e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.
- 21.22 The Provider shall maintain complete and accurate records and information to demonstrate its compliance with this Clause. This requirement does not apply where the Provider employs fewer than 250 staff, unless:
- (a) the Authority determines that the processing is not occasional;
 - (b) the Authority determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - (c) the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 21.23 The Provider shall allow for audits of its Data Processing activity by the Authority or the Authority's designated auditor
- 21.24 The Provider shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 21.25 Before allowing any Sub-processor to process any Personal Data related to this Call Off Contract, the Provider must:
- (a) notify the Authority in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Authority;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 21.25 such that they apply to the Sub-processor; and
 - (d) provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.
- 21.26 The Provider shall remain fully liable for all acts or omissions of any Sub-processor.
- 21.27 The Provider may, at any time on not less than 30 Working Days' notice, revise this Clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Call Off Contract).
- 21.28 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Provider amend this Call Off Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

22. FREEDOM OF INFORMATION

- 22.1 The Provider acknowledges that the Authority is subject to the requirements of FOIA and the Environmental Information Regulations and shall assist and co-operate with the Authority to enable the Authority to comply with its Information disclosure obligations.
- 22.2 The Provider shall and shall procure that its Staff shall:
- 22.2.1 transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;
 - 22.2.2 provide the Authority with a copy of all Information in its possession, or power in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may specify) of the Authority's request; and
 - 22.2.3 provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 22.3 The Authority shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Framework Agreement or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of FOIA or the Environmental Information Regulations.
- 22.4 In no event shall the Provider respond directly to a Request for Information unless expressly authorised in writing to do so by the Authority.
- 22.5 The Provider acknowledges that (notwithstanding the provisions of clause 19 (Confidentiality)) the Authority may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA or the Environmental Information Regulations to disclose any Information concerning the Provider this Framework Agreement:
- 22.5.1 in certain circumstances without consulting the Provider; or
 - 22.5.2 following consultation with the Provider and having taken their views into account,
 - 22.5.3 provided always that where clause 22.5.1 applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Provider advanced notice, or failing that, to draw the disclosure to the Provider's attention after any such disclosure.
- 22.6 The Provider shall ensure that all Information is retained for disclosure in accordance with clause 18 (Records) and shall permit the Authority to inspect such records as requested from time to time.

23 PUBLICITY

- 23.1 The Provider shall not:
- 23.1.1 make any press announcements or publicise this Framework Agreement or its contents in any way; or

- 23.1.1 use the Authority's name or brand in any promotion or marketing or announcement of orders,

without the prior written consent of the Authority, unless such disclosure is made pursuant to a court order or required by applicable Law in which case it shall promptly notify the Authority of such disclosure.

- 23.2 Each Party acknowledges to the other that nothing in this Framework Agreement either expressly or by implication constitutes an endorsement of any Services of the other Party and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.

PART FOUR: FRAMEWORK AGREEMENT TERMINATION AND SUSPENSION

24 TERMINATION

Termination on Default

- 24.1 The Authority may terminate this Framework Agreement, or terminate any part of this Framework Agreement by written notice to the Provider with immediate effect if the Provider commits a Default and if:

24.1.1 the Provider has not remedied the Default to the satisfaction of the Authority within twenty Working Days, or such other period as may be specified by the Authority, after issue of a written notice specifying the Default and requesting it to be remedied; or

24.1.2 the Default is not capable of remedy; or

24.1.3 the Default is a fundamental breach of this Framework Agreement.

- 24.2 In the event that through any Default of the Provider, data transmitted or processed in connection with this Framework Agreement is either lost or sufficiently degraded as to be unusable, the Provider shall be liable for the cost of reconstitution of that data and shall provide a full credit in respect of any charge levied for its transmission.

- 24.3 The Provider may terminate this Framework Agreement if the Authority is in material breach of its obligations to pay undisputed charges by giving the Authority sixty (60) Working Days' notice specifying the breach and requiring its remedy.

Termination on Financial Standing

- 24.4 The Authority may terminate this Framework Agreement by serving notice on the Provider in writing with effect from the date specified in such notice where (in the reasonable opinion of the Authority), there is a material detrimental change in the financial standing and/or the credit rating of the Provider which may adversely impact on the Provider's ability to supply Services under this Framework Agreement.

Termination on Insolvency and Change of Control

- 24.5 The Authority may terminate this Framework Agreement with immediate effect by notice in writing where in respect of the Provider: -

24.5.1 a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or

- 24.5.2 a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
 - 24.5.3 a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to Section 98 of the Insolvency Act 1986; or
 - 24.5.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
 - 24.5.5 an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
 - 24.5.6 it is or becomes insolvent within the meaning of Section 123 of the Insolvency Act 1986; or
 - 24.5.7 being a "small company" within the meaning of Section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
 - 24.5.8 any event similar to those listed in clause 24.5.1 to clause 24.5.7 occurs under the law of any other jurisdiction.
- 24.6 The Provider shall notify the Authority immediately if the Provider undergoes a change of control within the meaning of Section 416 of the Income and Corporation Taxes Act 1988 ("**Change of Control**"). The Authority may terminate this Framework Agreement by giving notice in writing to the Provider with immediate effect within six (6) Months of:-
- 24.6.1 being notified that a Change of Control has occurred; or
 - 24.6.2 where no notification has been made, the date that the Authority becomes aware of the Change of Control;
- but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.

Termination by the Authority

- 24.7 The Authority shall have the right to terminate this Framework Agreement, or to terminate the provision of any part of this Framework Agreement at any time by giving three (3) months' written notice to the Provider.

25 SUSPENSION OF PROVIDER'S APPOINTMENT

Without prejudice to the Authority's rights to terminate this Framework Agreement in clause 24 above, if a right to terminate this Framework Agreement arises in accordance with clause 24, the Authority may suspend the Provider's appointment to supply Services to Contracting Bodies by giving notice in writing to the Provider. If the Authority provides notice to the Provider in accordance with this clause 25, the Provider's appointment shall be suspended for the period set out in the notice or such other period notified to the Provider by the Authority in writing from time to time.

26 CONSEQUENCES OF TERMINATION AND EXPIRY

- 26.1 Notwithstanding the service of a notice to terminate this Framework Agreement, the Provider shall continue to fulfil its obligations under this Framework Agreement until the date of expiry or termination of this Framework Agreement or such other date as required under this clause 26.

- 26.2 Termination or expiry of this Framework Agreement shall not cause any Call-Off Contracts to terminate automatically. For the avoidance of doubt, all Call-Off Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms.
- 26.3 Within thirty (30) Working Days of the date of termination or expiry of this Framework Agreement, the Provider shall return to the Authority any data and Confidential Information belonging to the Authority in the Provider's possession, power or control, either in its then current format or in a format nominated by the Authority (in which event the Authority will reimburse the Provider's reasonable data conversion expenses), together with all training manuals and other related documentation, and any other information and all copies thereof owned by the Authority, save that it may keep one copy of any such data or information for a period of up to twelve (12) Months to comply with its obligations under this Framework Agreement, or such period as is necessary for such compliance.
- 26.4 The Authority shall be entitled to require access to data or information arising from the provision of the Services from the Provider until the latest of: -
- 26.4.1 the expiry of a period of twelve (12) Months following termination or expiry of this Framework Agreement; or
- 26.4.2 the expiry of a period of three (3) Months following the date on which the Provider ceases to provide Services under any Call-Off Contract.
- 26.5 Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this Framework Agreement prior to termination or expiry.
- 26.6 The provisions of clauses 1 (Interpretation), 7 (Warranties and Representations), 8 (Prevention of Corruption and Anti-Bribery), 9 (Transparency), 10 (Conflicts of Interest and Reputation of the Authority), 17 (Provision of Management Information), 18 (Records and Reports), 19 (Confidentiality), 20 (Official Secrets Acts), 21 (Data Protection), 22 (Freedom of Information), 27 (Intellectual Property Rights), 26 (Consequences of Termination and Expiry), 28 (Liability), 29 (Insurance) and 40 (Law and Jurisdiction) shall survive the termination or expiry of this Framework Agreement, together with any other provision which is either expressed to or by implication is intended to survive termination.

PART FIVE: INTELLECTUAL PROPERTY, INSURANCE AND LIABILITY

27. INTELLECTUAL PROPERT RIGHTS (IPR)

- 27.1 The Provider shall indemnify and keep indemnified and hold the Authority harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Customer may suffer or incur as a result of any claim that provision of the Services infringes or allegedly infringes a third party's Intellectual Property Rights ("**Claim**").
- 27.2 The Authority shall notify the Provider in writing of the Claim and the Authority shall not make any admissions which may be prejudicial to the defence or settlement of the Claim. The Provider shall at its own expense conduct all negotiations and any litigation arising in connection with the Claim provided always that the Provider:
- 27.2.1 shall consult the Authority on all substantive issues which arise during the conduct of such litigation and negotiations;
- 27.2.2 shall take due and proper account of the interests of the Authority; and
- 27.2.3 shall not settle or compromise the Claim without the Authority's prior approval (not to be unreasonably withheld or delayed).

28. LIABILITY

28.1 Neither Party limits its liability for:

- 28.1.1 death or personal injury caused by its negligence, or that of its employees, agents (as applicable); or
- 28.1.2 fraud or fraudulent misrepresentation by it or its employees, agents (as applicable); or
- 28.1.3 breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982.

Financial Limits

28.2 Subject to clause 28.1, the Provider's total aggregate liability:

- 28.2.1 in respect of clause 27 (Intellectual Property Rights), shall be unlimited;
- 28.2.2 in respect of all other claims, losses or damages, whether arising from tort (including negligence), breach of contract or otherwise under or in connection with this Framework Agreement shall in no event exceed £2,000,000 for any one incident, exclusive of VAT and subject to indexation.

28.3 The Provider acknowledges and accepts that the Authority's responsibility under this Framework Agreement is to procure that Contracting Bodies procure any Call-Off Contracts in a fair and open manner. Accordingly, but subject to clause 28.1, the Authority's total aggregate liability:

- 28.3.1 for all Defaults by the Authority resulting in loss of or damage to the property or assets (including technical infrastructure, assets or equipment) of the Provider shall in no event exceed £2,000,000 (subject to indexation); and
- 28.3.2 in respect of all other Defaults by the Authority shall in no event exceed £2,000,000 (subject to indexation).

28.4 Subject to clauses 28.1 and 0, neither Party will be liable to the other party for:

- 28.4.1 any indirect, special or consequential loss or damage; or
- 28.4.2 any loss of profits, turnover, business opportunities or damage to goodwill (whether direct or indirect).

28.5 The Authority may, amongst other things, recover as a direct loss:

- 28.5.1 any reasonable and necessary additional operational and/or administrative costs and expenses arising from the Provider's Default;
- 28.5.2 any wasted expenditure or charges rendered unnecessary and/or incurred by the Authority arising from the Provider's Default; and
- 28.5.3 the additional reasonable and necessary cost of procuring a replacement provider for the remainder of the Term.

28.6 The Parties expressly agree that if any limitation or provision contained or expressly referred to in this clause 28 is held to be invalid under any Law, it will be deemed omitted to that extent, and if any Party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this clause 28.

28.7 Nothing in this clause 28 shall act to reduce or affect a Party's general duty to mitigate its loss.

INSURANCE

- 29.1 The Provider shall effect and maintain policies of insurance to provide a level of cover sufficient for all risks which may be incurred by the Provider under this Framework Agreement including death or personal injury, or loss of or damage to property.
- 29.2 The Provider shall effect and maintain the following insurances for the duration of this Framework Agreement in relation to the performance of this Framework Agreement:-
- 29.2.1 public liability insurance adequate to cover all risks in the performance of this Framework Agreement from time to time;
- 29.2.2 product liability insurance adequate to cover all risks in the performance of this Framework Agreement from time to time; and
- 29.2.3 employers' liability insurance with a minimum limit of indemnity as required by Law from time to time.
- 29.3 Any excess or deductibles under such insurance (referred to in clause 29.1 and clause 29.2) shall be the sole and exclusive responsibility of the Provider.
- 29.4 The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities arising under this Framework Agreement.
- 29.5 The Provider shall produce to the Authority, on request, copies of all insurance policies referred to in this clause 29 or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 29.6 If, for whatever reason, the Provider fails to give effect to and maintain the insurances required by this Framework Agreement then the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Provider.
- 29.7 The Provider shall maintain the insurances referred to in clause 29.1 and clause 29.2 for a minimum of six (6) years following the expiration or earlier termination of this Framework Agreement.

PART SIX: OTHER PROVISIONS**30 TRANSFER AND SUB-CONTRACTING**

- 30.1 The Framework Agreement is personal to the Provider and the Provider shall not assign, novate or otherwise dispose of this Framework Agreement or any part thereof without the previous consent in writing of the Authority. The Provider shall not be entitled to sub-contract any of its rights or obligations under this Framework Agreement.
- 30.2 The Authority shall be entitled to: -
- 30.2.1 assign, novate or otherwise dispose of its rights and obligations under this Framework Agreement or any part thereof to any Contracting Body or Crown body; or
- 30.2.2 novate this Framework Agreement to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Authority;

provided that such assignment, novation or disposals shall not increase the burden of the Provider's obligations under this Framework Agreement.

31 VARIATIONS TO THE FRAMEWORK AGREEMENT

- 31.1 The Authority may propose a variation to this Framework Agreement under this clause 31 only where the variation does not amount to a material change in this Framework Agreement or the Services.
- 31.2 the Authority may propose a variation using the procedure contained in this clause 31.
- 31.3 In order to propose a variation, the Authority shall serve the Provider with written notice of the proposal to vary this Framework Agreement (“Notice of Variation”).
- 31.4 The Notice of Variation shall
- contain details of the proposed variation providing sufficient information to allow the Provider to assess the variation and consider whether any changes shall be to the prices set out in its Pricing Matrices are necessary.
- 31.5 Upon receipt of the Notice of Variation, the Provider has: -
- 31.5.1 twenty (20) Working Days to respond to the Authority in writing with any objections to the variation; and
- 31.5.2 forty (40) Working Days to notify the Authority of any proposed changes to the prices set out in its Pricing Matrices.
- 31.6 Where the Authority does not receive any written objections to the variation within the timescales detailed in clause 31.5, the Authority may then serve the Provider with a written agreement detailing the variation to be signed and returned by the Provider within 10 Working Days of receipt.
- 31.7 Upon receipt of a signed agreement from the Provider, the Authority shall notify the Provider in writing of the commencement date of the variation.

Objections to a Variation

- 31.8 In the event that the Authority receives one or more written objections to a variation, the Authority may:-
- 31.8.1 withdraw the proposed variation; or
- 31.8.2 propose an amendment to the variation (in respect to which the same procedural requirements set out in clause 31 (regarding notice and agreement to variation) apply).

Changes to the Pricing Matrix

- 31.9 Where the Provider can demonstrate to the Authority’s satisfaction that a variation would result in a change to the prices set out in its Pricing Matrix, the Authority may require further evidence from the Provider that any additional costs to the Provider will be kept to a minimum. This would only be considered where a Provider can demonstrate that due to financial duress, withdrawal from the agreement could occur.
- 31.10 The Authority may require the Provider to meet and justify any proposed changes to the Pricing Matrix that would result from a variation.
- 31.11 Where a change to the Pricing Matrix is agreed by the Authority, the Authority shall notify its acceptance of the change to the Provider in writing.

31.12 In the event that the Authority and the Provider cannot agree to the changes to the prices set out in the Pricing Matrix, the Authority may:-

31.12.1 withdraw the variation; or

31.12.2 propose an amendment to the variation.

Variations which are not permitted

31.13 In addition to the provisions contained in clause 31.1 the Authority may not propose any variation which: -

31.13.1 may prevent the Provider from performing its obligations under this Framework Agreement; or

31.13.2 is in contravention of any Law.

32 RIGHTS OF THIRD PARTIES

Save as provided in clauses 3, and 6 and the rights specified in this Framework Agreement for the benefit of Contracting Bodies, a person who is not party to this Framework Agreement ("**Third Party**") has no right to enforce any term of this Framework Agreement under the provisions of the Contracts (Rights of Third Parties) Act 1999 but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act. If the Parties rescind this Framework Agreement or vary any of its terms in accordance with the relevant provisions of this Framework Agreement, such rescission or variation will not require the consent of any Third Party.

33 SEVERABILITY

If any provision of this Framework Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed without effect to the remaining provisions.

34 CUMULATIVE REMEDIES

Except as otherwise expressly provided by this Framework Agreement, all remedies available to either Party for breach of this Framework Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

35 WAIVER

35.1 The failure of either Party to insist upon strict performance of any provision of this Framework Agreement, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by this Framework Agreement.

35.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause 35.

35.3 A waiver of any right or remedy arising from a breach of this Framework Agreement shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of this Framework Agreement.

36 ENTIRE AGREEMENT

36.1 This Framework Agreement constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with in it and supersedes, cancels or nullifies any previous agreement between the Parties in relation to such matters.

36.2 Each of the Parties acknowledges and agrees that in entering into this Framework Agreement it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Framework Agreement. The only remedy available to either Party of such statements, representation, warranty or understanding shall be for breach of contract under the terms of this Framework Agreement.

36.3 Nothing in this clause 36 shall operate to exclude Fraud or fraudulent misrepresentation.

37 NOTICES

37.1 Except as otherwise expressly provided within this Framework Agreement, no notice or other communication from one Party to the other shall have any validity under this Framework Agreement unless made in writing by or on behalf of the Party sending the communication.

37.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, post, registered post or by the recorded delivery service), by facsimile transmission or electronic mail. Such letters shall be addressed to the other Party in the manner referred to in clause 37.3. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail or facsimile transmission or sooner where the other Party acknowledges receipt of such letters, facsimile transmission or item of electronic mail.

37.3 For the purposes of clause 37.2, the address of each Party shall be:

37.3.1 For the Authority:-

Address: Police & Fire Workforce Pensions Unit
6th Floor, Fry Building
Marsham Street,
London,
SW1P 4DF

For the attention of: Philip Perry

Tel: 07958 594362

Email: philip.perry@homeoffice.gov.uk

37.3.2 For the Provider:-

Address: Duradiamond Healthcare Ltd
Tribune House
Bell Lane
Uckfield
East Sussex
TN22 1QL

For the attention of: Jo Thurley

Tel: 01273 023035

Email: jo.thurley@duradiamondhealthcare.com

37.4 Either Party may change its address for service by serving a notice in accordance with this clause 37.

38 COMPLAINTS HANDLING AND RESOLUTION

- 38.1 The Provider shall notify the Authority of any Complaint made by Contracting Bodies within two (2) Working Days of becoming aware of that Complaint and such notice shall contain full details of the Provider's plans to resolve such Complaint.
- 38.2 Complaints to be addressed to:
- Police Workforce Pensions Unit
Home Office 6th Floor,
Fry Building, London, SW1P 4DF
- 38.3 Without prejudice to any rights and remedies that a complainant may have at Law, including under this Framework Agreement or a Call-Off Contract, and without prejudice to any obligation of the Provider to take remedial action under the provisions of this Framework Agreement or a Call-Off Contract, the Provider shall use its best endeavours to resolve the Complaint within ten (10) Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.
- 38.4 Within two (2) Working Days of a request by the Authority, the Provider shall provide full details of a Complaint to the Authority, including details of steps taken to its resolution.

39 DISPUTE RESOLUTION

- 39.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Framework Agreement within twenty (20) Working days of either Party notifying the other of the dispute such efforts shall involve the escalation of the dispute to the finance director (or equivalent) of each Party.
- 39.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of the competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 39.3 If the dispute cannot be resolved by the Parties pursuant to clause 39.1 the dispute shall be referred to mediation pursuant to the procedure set out in sub clause 39.5.
- 39.4 The performance of this Framework Agreement shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Provider (or employee, agent, supplier shall comply fully with the requirements of this Framework Agreement at all times.
- 39.5 The procedure for mediation and consequential provisions relating to mediation are as follows:
- (a) A neutral adviser or mediator ("the Mediator") shall be chosen by agreement between the Parties and shall be appropriately qualified to act as a mediator. If the Parties are unable to agree upon a Mediator within ten (10) Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within ten (10) Working Days from the date of the proposal to appoint a Mediator or within ten (10) Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution ("CEDR") to appoint a Mediator.
 - (b) The Parties shall within fourteen (14) days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from CEDR to provide guidance on a suitable procedure.
 - (c) Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.

- (d) If the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by their duly authorised representatives.
- (e) Failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties.
- (f) If the Parties fail to appoint a Mediator within one month or reach agreement in the structured negotiations within sixty (60) Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then either Party may exercise any remedy it has under applicable law.

40 **LAW AND JURISDICTION**

The Authority and the Provider accept the exclusive jurisdiction of the English and Welsh courts and agree that this Framework Agreement is to be governed by and construed according to English law.

This Framework Agreement has been duly executed by the Parties on the date which appears on the first page.

41. **SERVICE CREDITS**

- 41.1 The Provider and Authority shall hold a meeting (a “Quarterly Review Meeting”) within 3 weeks (or the equivalent period in business/working days) of the production of the KPI report for that relevant quarter (a “Quarterly KPI Report”) to discuss any issues relating to the provision of the Services and the content of the Quarterly KPI Report.
- 41.2 The Provider shall provide management information to the Authority that displays their performance against the key performance indicators for each completed case within the reporting period.
- 41.3 The Provider shall comply with Schedule 6 (Management Information & Key Performance Indicators)

42. **STAFF TRANSFER**

- 42.1 The Parties agree that:
 - 42.1.1 Where the commencement of the provision of the Services or any part of the Services results in one or more Relevant Transfers, Call Off Schedule A3 (Staff Transfer) shall apply as follows:
 - (a) Where the Relevant Transfer involves the transfer of Transferring Customer Employees, Part A of Call Off Schedule A3 (Staff Transfer) shall apply;
 - (b) Where the Relevant Transfer involves the transfer of Transferring Former Supplier Employees, Part B of Call Off Schedule A3 (Staff Transfer) shall apply;
 - (c) Where the Relevant Transfer involves the transfer of Transferring Customer Employees and Transferring Former Supplier Employees, Parts A and B of Call Off Schedule A3 (Staff Transfer) shall apply; and
 - (d) Part C of Call Off Schedule A3 (Staff Transfer) shall not apply.
 - (i) Where commencement of the provision of the Services or a part of the Services does not result in a Relevant Transfer, Part C of Call Off

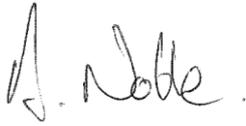
Schedule A3 (Staff Transfer) shall apply and Parts A and B of Call Off Schedule A3 (Staff Transfer) shall not apply; and

(ii) Part D of Call Off Schedule A3 (Staff Transfer) shall apply on the expiry or termination of the Services or any part of the Services.

42.2 The Supplier shall both during and after the Call Off Contract Period indemnify the Customer against all Employee Liabilities that may arise as a result of any claims brought against the Customer by any person where such claim arises from any act or omission of the Supplier or any Supplier Personnel.

The Provider

SIGNED for and on behalf of [name]

A handwritten signature in black ink that reads "A. Noble". The signature is written in a cursive style with a large initial 'A'.

Signature:

Name (block capitals): Andrew Noble

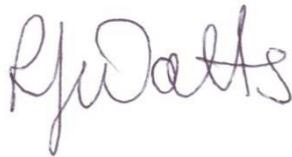
Position: [Director] Managing Director

The Authority

SIGNED for and on behalf of the

**Secretary of State for the Home
Department**

Signature:

A handwritten signature in black ink that reads "R Watts". The signature is written in a cursive style with a large initial 'R'.

Name: Rebecca Watts

SENIOR COMMERCIAL MANAGER

14th August 2019

SCHEDULE 1 SPECIFICATION

1. THE AUTHORITY

- 1.1 The Secretary of State for the Home Department (“the Home Office”) has overall responsibility for policing in England and Wales and for the fire service in England only. Policing in Scotland and the fire service in both Wales and Scotland are devolved powers. However, the requirements under the contract being tendered relate to both policing and fire in England, Scotland and Wales.
- 1.2 The Police Workforce and Professionalism Unit within the Home Office has oversight of police and fire Medical Appeal Boards.
- 1.3 The Home Office is empowered to consider any appeal against a decision made by a police force Selected Medical Practitioner (SMP) or fire service Independent Qualified Medical Practitioner (IQMP) in relation to an ill-health pension or injury benefit award.
- 1.4 Acting on behalf of the Home Office, officials devolve this power, including the recruitment for and administration of Medical Appeal Boards, to a named Provider.

BACKGROUND TO THE REQUIREMENT

1.5 The Medical Appeals Process

Members of the police and fire pension schemes, (“members” in this document, although it should be noted that an individual only needs to be eligible for membership in order to qualify for injury benefit) are all either police officers or firefighters. Civilian employees are not eligible for the same pension schemes and have their own pension arrangements.

There are currently approximately 122,000 police officers in home police forces in England and Wales¹. The 43 police forces (39 in England and 4 in Wales) responsible for central services are police pension authorities. There are currently 32,340 firefighters in England employed by 45 fire authorities, and 1,400 in Wales employed by three fire authorities, all with pension authority responsibilities. All of these pension authorities have responsibility for administering procedures for medical retirement under all of the pension schemes and awards under the injury benefit schemes.

In Scotland, there is a single police force with approximately 17,000 officers, with the relevant police pension authority having responsibility for the administrative procedures to determine awards under the pension and injury benefit schemes. There is a single fire service employing 3,650 firefighters with equivalent pension responsibilities.

There are currently three police pension schemes and three fire pension schemes, each with their own set of regulations. Separate sets of regulations govern police and

¹ Home police forces in England and Wales are the 43 forces for the areas defined in Schedule 1 to the Police Act 1996. They do not include the British Transport Police and other non-territorial forces.

fire injury benefits. Similar sets of regulations govern pensions and injury benefits in Scotland. All of these regulations are listed at paragraph 3.2. below.

When a member is assessed as being permanently disabled from performing their duties, the pension authority may, at their discretion, compulsorily retire that individual. A member retired in this way is entitled to an ill-health pension payable immediately upon retirement.

An individual assessed as being permanently disabled is eligible for early payment of his or her pension².

There are some differences between the schemes in terms of the ill-health retirement benefits and procedures. In the fire schemes, there is a two-tier system for ill health pension. The lower tier is a basic unenhanced pension, whilst the higher tier is an additional pension payable when firefighters are unfit not only for the duties of the role of firefighter, but also for any regular work. There is a similar two-tier system in the two most recent police schemes, but not in the 1987 police scheme.

If a member's permanent disablement is the result of an injury on duty, his or her benefits may be further increased by an injury award consisting of a gratuity and an injury pension. Appeals to the Medical Appeal Board can accordingly arise under the appropriate injury benefit regulations as well as under the pensions regulations.

The pension authority initiates procedures for medical retirement, with the initial (medical) decision being obtained in writing from a qualified medical practitioner selected by the pension authority – the SMP or IQMP. If the member is dissatisfied with the SMP / IQMP decision as set out in the report, he or she has the right to appeal to a Medical Appeal Board.

THE MEDICAL APPEALS BOARD SERVICES REQUIREMENT

1.6 The Home Office requires a Provider to manage boards of medical referees who will conduct medical appeals under the regulations listed below, in England, Wales and Scotland.

1.7 The required services comprise the provision of regional Medical Appeal Boards for the police and fire services in England, Wales and Scotland, which act in accordance with the following pensions regulations:

The Police Pensions Regulations 1987 (SI 1987 No 257);

The Police Pensions Regulations 2006 (SI 2006 No 3415);

The Police Pension Regulations 2015 (SI 2015 No 445)

The Police Pensions (Scotland) Regulations 2007 (SSI 2007 No 201);

The Police Pensions (Scotland) Regulations 2015 (SSI 2015 No 142);

The Firemen's Pension Scheme Order 1992 (SI 1992 No 129)

² A deferred pension is a pension right held by someone who has left the pension scheme before the age at which an pension is normally payable to them. An ordinary pension is payable at 60 in the case of the 1987 scheme and 65 in the case of the 2006 scheme.

The Firefighters' Pension Scheme (England) Order 2006 (SI 2006 No 3432)
The Firefighters' Pension Scheme (England) Regulations 2014 (SI 2014 No 2848)
The Firefighters' Pension Scheme (Wales) Order 2007 (SI 2007 No 1072)
The Firefighters' Pension Scheme (Wales) Regulations 2015 (SI 2015 No 622)
Injury provisions apply in accordance with the following regulations:
The Police (Injury Benefit) Regulations 2006 (SI 2006 No 932);
The Police (Injury Benefit) (Scotland) Regulations 2007 (SSI 2007 No 68)
The Firefighters' Compensation Scheme (England) Order 2006 (SI 2006 No 1811)
The Firefighters' Compensation Scheme (Scotland) Order 2006 (SSI 2006 No 338)
Firefighters' Compensation Scheme (Wales) Order 2007 (SI 2007 No 1073)

- 1.8 The Home Office has responsibility for policy and legislation in respect of police pensions in England and Wales and in respect of fire pensions in England.
- 1.9 The Scottish Public Pensions Agency, an executive Agency of the Scottish Government, regulates the police and fire pension schemes in Scotland.
- 1.10 The Welsh Government regulates the fire pension scheme in Wales.

SCOPE

- 1.11 The scope of the Framework Agreement includes the following:
- Administering Police and Fire Medical Appeal Boards;
 - Recruitment and training of members with appropriate expertise;
 - Monitoring and reporting of key performance indicators;
 - Producing annual and quarterly reports submitted formally to the Home Office; and
 - Providing stakeholders, such as pension authorities, selected medical practitioners, fire trades unions and the Police Federation with at least one day of training per year in relation to Medical Appeal Boards. This training will be based on stakeholder needs and feedback from board members and is distinct from training provided by parent organisations.
- 1.12 The questions to be addressed by the board are as follows:
- Whether a member has been disabled
 - Whether any disablement is likely to be permanent
 - Whether a member has become incapable of performing their normal duties

- Whether a member is capable of regular employment outside the police / fire service
- Whether any disablement has been occasioned by a qualifying injury
- Any other issue wholly or partly of a medical nature
- Whether the appeal was frivolous, vexatious or manifestly ill-founded, giving the reasons for their decisions

1.13 The Provider is to provide the boards with access to legal advice both before and after the hearings, whether from its own legally qualified staff or from hired legal advisers.

1.14 The services to be provided will also include the Provider undertaking some post-decision casework in a limited number of cases.

REQUIRED SERVICES

1.15 The Provider shall provide the following services throughout the duration of the Framework Agreement:

The Provider will take all necessary steps to ensure the appointment and management of medical appeal boards, and the efficient running of medical appeal hearings, in accordance with the requirements under the applicable Pensions and Injury Benefit Regulations at (3.2) as may be amended from time to time. Steps will include but are not intended to be limited to the subsequent requirement provisions.

Appeal Board Membership

The Provider will be responsible for the recruitment and appointment of all board members and will ensure that they have the necessary qualifications and experience. The Provider must have a fair, open and transparent process for the appointment and selection of board members.

The provider will be responsible for making relief arrangements in cases of sickness or other absences by board members.

The Provider will ensure that, in appointing the chairperson of the board, the chairperson is responsible for the conduct and procedural order of an appeal and ensures that:

the hearing is conducted in accordance with the applicable pensions and injury benefit regulations listed at paragraph 3.2;

all relevant issues as raised by both Parties are considered by the board;

all relevant medical evidence, including the findings of the medical examination by the third member, is fully considered;

the board reaches a clear and unambiguous decision;

the decision is not given to either party on the day of the appeal; and

a detailed decision including explanation of how the verdict was reached is recorded in writing, agreed by all board members and sent to all Parties within 15 working days.

The provider must ensure that board members do not have conflicts of interest in any appeal that they may be hearing.

An appeal board will normally consist of three members, who will have the following qualifications and experience:

Chairperson: a consultant occupational physician who is a Fellow or member of the Faculty of Occupational Medicine (or equivalent);

Second member: a consultant occupational physician or senior occupational physician who is at least an Associate member of the Faculty of Occupational Medicine (or equivalent); and

Third member: a consultant physician with the medical expertise relevant to the particular medical condition(s) to be heard in the appeal case;

If the appeal concerns two or more different medical conditions, a consultant physician with medical expertise relevant to each of the medical conditions will be appointed to the board, sometimes at short notice. A consultant physician may deal with more than one related medical condition where he or she has the relevant expertise.

The Home Office will provide initial guidance to the Provider at the commencement of the Framework Agreement. It will be arranged for chairpersons and second members to visit one or more Police Forces and Fire Authorities within England, Wales and Scotland, to give an insight into the operational duties of police officers and firefighters, including those in specialist roles. .

Ongoing training of board members at the commencement of the Framework Agreement will be the responsibility of the Provider. The Provider will maintain records of all relevant training activities and include this information in quarterly reports to the Home Office. The Provider will be responsible for meeting all [training costs incurred by board members in performance of their role.

1.16 Training

Medical Appeal Boards have a quasi-judicial role. The Provider will ensure all staff are comprehensively trained to a standard which enables them to fulfil the required services.

For Board members this will include training in the relevant case law, pension regulations and familiarity with occupational health in policing and fire. The training to be provided by the Provider at the earliest opportunity and in advance of the first hearing taking place. This training is in addition to arrangements outlined at 5.2.1.8 which is intended to be a supplement to training provided by the Provider.

The Provider shall provide stakeholders, such as pension authorities, selected Medical Practitioners, the Police Federation, the Local Government Association and fire trades unions with the opportunity to attend at least one training day per year in relation to Medical Appeal Boards. This training will be based on stakeholder needs and feedback from board members and will be delivered in a format agreed in consultation with the Home Office and such stakeholders.

1.17 Appeal Board accommodation

Boards consider cases from all parts of England, Wales and Scotland. The locations for boards will be decided in consultation with the Home Office and based upon demand. There will be a minimum of seven locations nationally to be agreed between the Home Office and the contractor including but not limited to Bristol, London, Birmingham, Leeds, Manchester, and Edinburgh. There should be provision for further locations to be added should demand for boards increase.

The Provider will be responsible for ensuring that all accommodation used for medical appeals fully meets the requirements for such activities, allowing for the hearing, privacy of all Parties and waiting areas, allowing for all current legislation on Health and Safety, disability and discrimination.

The Provider will ensure that the appeal will be heard by the board which is located nearest to the force against which the appellant has brought the claim. However, there will be exceptions when:

the appellant and pension authority have agreed otherwise in advance and have informed the Provider accordingly;

the appellant is able to travel only a short distance due to his or her relevant medical condition, in which case the appeal will be heard by the board which is located nearest to the appellant's home. In exceptional circumstances, the appellant may not be able to travel at all and in these cases the appeal should be considered at the member's home. The Provider will be responsible for determining fitness to travel in the absence of agreement between the Parties; and

where the appellant lives outside England, Wales or Scotland and his or her medical condition is sufficiently serious to prevent travel to England, Wales or Scotland. The Provider will be responsible for determining fitness to travel in the absence of agreement between the Parties and providing for appropriate hearing arrangements as required.

1.18 Appeal Board administration

The Provider will be required to ensure that deadlines are met, that papers are submitted on time and to prevent unnecessary delay in scheduling and completing appeal hearings. To achieve this, the Provider will be required to liaise effectively with pension authorities and appellants and their representatives.

1.19 Appeal case papers

All mandatory appeal case papers will be sent to the Provider by the pension authority, which will include a copy of their original decision letter, opinion of the SMP / IQMP and their certificate of independence, copies of GP and occupational health records, other medical records referred to in the papers, the appellant's

notice of appeal and consent for release of medical information. In cases where the board are being asked to consider degree of disablement calculations, additional details and information on the role of the member will be provided. For all appeals, the correspondence will confirm the grounds of appeal, that the appellant and authority have been notified, the role of the appellant and the reference number allocated to the case. If further documentation is requested by the Board this will be obtained by the Provider at their own expense.

The Provider is responsible for providing quarterly feedback to the Home Office on the case papers submitted by all pension authorities. Specifically highlighting best practice and where the information provided by forces could be improved or standardised. This feedback will be in a format agreed with the Home Office.

The Provider will act promptly upon receiving the papers from the pension authority.

The Provider will ensure that any papers sent to the appellant and pension authority are copied to board members.

The Provider will provide to the pension authority, within five working days of receipt, a written receipt of the appeal case papers which must include the date, name of the appellant, Provider's reference number of the case and confirmation that the papers are complete.

1.20 Appeal hearings and submission of written evidence

The Provider will appoint a time and place for a hearing, taking into account the required notice periods within the applicable Pensions and Injury Benefit Regulations. The appeal hearing will be held within such time as to enable the board's final report to be issued within 16 weeks of receipt by the Provider of papers from the pension authority.

The Provider will notify all Parties in writing of the arrangements for the hearing, including the date and time, the address where it is to be held and the names of the board members. The notification to the appellant will be sent via email with a request for confirmation of receipt. If either party specifically objects to this method of delivery or believes it to be insecure papers will be sent by special delivery.

At this point, the requirements differ according to the regulatory framework under which the appeal is taking place.

The Provider will give the required period of notice of the hearing / medical examination and the Parties for police appeals will be required to confirm their attendance within ten working days of this notice (within one month in the case of fire appeals). The notification will inform all Parties that a submission of written evidence setting out the case must be provided to the board and to the other party by the required number of days before the hearing and that any responses to those submissions must also be sent to the board by the required number of days before the hearing. These required periods are set out in the following table:

For information purposes only, the required periods for notice, submission of papers and requests for hearing date changes under the applicable Pensions and Injury Benefit Regulations as at the date of the Framework Agreement are set out in the following table.

	Required notice to give of hearing date	Required period before hearing for submission of papers	Required period before hearing for submission of response	Where 'a hearing is cancelled, adjourned or postponed at the request of, or due to the actions or omissions of' a party giving less than the notice stipulated below, this may result in a charge
Police Pensions Regs 1987	2 months	35 days	7 days	11 working days
Police Pensions Regs 2006	2 months	35 days	7 days	11 working days
Police Pension Regs 2015	2 months	35 days	7 days	22 days
Police Injury Regs 2006	2 months	35 days	7 days	11 working days
Police Pensions Regs (Scotland) 2007	2 months	10 days	5 days	22 working days
Police Pensions Regs (Scotland) 2015	2 months	35 days	7 days	22 days
Police Injury Regs (Scotland) 2007	21 days	35 days	7 days	Not specified
Fire Pension Order 1992	2 months	7 days	Up to date of hearing if other side's evidence is less than 9 days before hearing	22 working days
Fire Pension Order 2006	2 months	28 days	Up to date of hearing if other's side's evidence is late	22 days
Fire Pension Regs 2015	2 months	28 days	Up to date of hearing if other's side's evidence is late	22 working days
Fire Compensation Order 2006	21 days	7 days	Up to date of hearing if other side's evidence is less than 9 days before hearing	21 working days
Fire Pension Order (Scotland) 2007	2 months	28 days	Up to date of hearing if other's side's evidence is late	22 working days
Fire Pension Regs (Scotland) 2015	2 months	28 days	Up to date of hearing if other's side's evidence is late	22 working days
Fire Compensation Order (Scotland) 2006	21 days	7 days	Up to date of hearing if other side's evidence is less than 9 days before hearing	21 working days
Fire Pension Order (Wales) 2007	2 months	28 days	Up to date of hearing if other's	22 working days

			side's evidence is late	
Fire Pension Regs (Wales) 2015	2 months	28 days	Up to date of hearing if other's side's evidence is late	22 working days
Fire Compensation Order (Wales) 2007	21 days	7 days	Up to date of hearing if other side's evidence is less than 9 days before hearing	21 working days

The Provider will require the Parties to the appeal to give notice of who will attend and will be responsible for ensuring that the number of attendees will not prevent the orderly hearing of the appeal. The appellant, the SMP / IQMP and any medical representative for each party will have the right to attend. If the SMP / IQMP is unable to attend, the pension authority may send their medical adviser or other medical representative in his or her place. The appellant's non-medical representatives or companions are also allowed to attend.

The Provider shall ensure that the third member will conduct a medical examination of the appellant with the other board members present. The medical examination will be completed in private during the hearing.

The Provider will also comply with any further guidance on attendance at appeals, entitlement to be present at the medical examination and conduct of appeals which the Home Office may provide after the award of the Framework Agreement.

The Provider will inform board members of the date and time of the hearing and provide board members with all necessary case documentation. Any additional costs incurred because the Provider failed to ensure that all necessary documentation was available to the board on the day of the hearing will be the responsibility of the Provider.

1.21 Withdrawal of appeal or cancellation of hearing

Any decision by the appellant to withdraw an appeal or by the pension authority to cancel a meeting once papers have been received by the Provider or once a hearing date has been set may incur a charge according to a pre-set of charges (Please see Annex B of this – Statement of Requirements). Charges are to be recovered by the Provider in line with applicable Pensions and Injury Benefit Regulations

1.22 Adjournment or postponement of hearing

A request for an adjournment or postponement from either party which allows the specified number of days before the hearing will not incur a cancellation charge. The period for each set of regulations is given in the table at paragraph 5.6.5 above. The Provider will inform the other party immediately where such a request is being considered and, (where applicable), will liaise with both Parties in setting a revised date. The decision on any request for postponement will rest with the chairperson of the board. A scale of charges will apply as Annex B of this – Statement of Requirements. This scale of charges will also apply when the board

decides that adjournment or postponement is necessary due to fresh submissions being made less than 21 working days before the hearing.

1.23 Decision that an appeal is frivolous or vexatious

Where the board decides in favour of the pension authority, the board may report that in its opinion the appeal was frivolous or vexatious. The board will consider any points made by the pension authority in this context, but the decision whether an appeal is frivolous or vexatious rests with the board. Where the board rejects a suggestion by the pension authority that an appeal is frivolous or vexatious, it will explain why. The Provider should record each instance where a frivolous or vexatious claim is raised (whether proven or not). This information should be provided as part of the quarterly report submitted to the Home Office.

Where the board reports that in its opinion the appeal was frivolous or vexatious, it will invite comments from the Parties within 14 calendar days as to the award of costs to the pension authority. If the board decide a claim was frivolous or vexatious the pension authority may require the appellant to meet the Provider's costs either wholly or in part unless the board, after taking account of any representations from either party, decides that there are exceptional reasons.

1.24 Report by the Board

For each appeal case, the Provider shall ensure that the board will produce a written report which must include the decision by the board signed by all the board members; reasons for the decision (including any calculations used in degree of disablement cases); details of the evidence produced by both Parties and a short record of the appeal proceedings. Where the board decides in favour of the pension authority, it shall state in the report whether in the board's opinion the appeal was frivolous or vexatious. The format of the board's written report will be based upon the existing report structure.

LEGAL ADVICE AND POST-DECISION CASEWORK

1.25 Access to legal advice

The Provider shall ensure that the boards are provided with access to legal advice both before and after the hearings, whether from its own legally qualified staff or from external legal advisers. It will not normally be practicable to take legal advice during a hearing

Procedural issues may arise on which a board will wish to take the views of the Parties and, if necessary, the Home Office, the Scottish Public Pensions Agency or the Welsh Government, as appropriate.

The Provider shall ensure that the board's legal advisers will where necessary review the robustness of decisions in order to minimise risk of judicial review or employment tribunal.

1.26 Judicial Review

A board's decision may be the subject of judicial review or employment tribunal proceedings brought by an appellant or a pension authority. The procedure for dealing with applications for judicial review can be set out in more detail upon request.

1.27 Further consideration of appeals

The police and fire pensions regulations and the police Injury Benefit Regulations allow for an appeal decision to be reconsidered by the board if both Parties agree that this should be done (e.g. if there is new medical evidence or a point of law raising doubts about the original decision). The further report, in the format outlined in paragraph 5.10.1 should be issued within 14 days. The pricing structure (Represented in Annex C –Other Charges) allows for a specified charge in a case where the Board reconsiders a decision without a further hearing.

1.28 Retention of papers

The Provider will keep all relevant papers for each appeal case for 12 months after completion of the report and then securely destroy them. During this period the Provider will be responsible for dealing with the applicable data protection legislation.

FRAMEWORK AGREEMENT MILESTONES

The Provider shall ensure that the following information related to key Framework Agreement milestones post award of the Medical Appeal Board Services Framework Agreement is made available to the authority.

On commencement of the Framework Agreement the successful Provider will:

- 7.1 Provide a detailed staff recruitment and training plan to outline timescales relating to how the services will be delivered in the shortest possible time. For example, board recruitment and training, administrative handover etc.
- 7.2 Provide an outline to describe how any backlog of cases created in the transition to the new Provider will be dealt with expediently. For example, provision for additional appeal panels in the first month of operation.
- 7.3 The Provider will be expected to hold the first Medical Appeal Board hearing within 13 weeks of award of the Framework Agreement.
- 7.4 The Provider should note that these milestones are fixed as they are important to the delivery of the Medical Appeal Board Services Framework Agreement.

ANNEX A HISTORICAL VOLUMES

CASES/YEAR	2014	2015	2016	2017	2018
POLICE	55	104	125	104	75
FIRE	10	16	15	10	11

THE HISTORICAL VOLUMES SHOULD BE USED FOR INFORMATION ONLY AND IS NOT AN INDICATOR OF EXPECTED VOLUMES UNDER ANY FUTURE AGREEMENT.

ANNEX B- OTHER CHARGES

Postponement, adjournment or cancellation charges	
Description	Cost to be charged (as a percentage of the tendered price for a Standard Police Medical Appeal Board)
Failure to attend, same day notice or one Working Days' notice	100% of Appeal cost
Two Working Days' notice	100% of Appeal cost
Three to five Working Days' notice	70% of Appeal cost
Six to ten Working Days' notice	50% of Appeal cost
More than ten Working Days' notice and up to 21 calendar Days' notice	15% of Appeal cost
More than 21 Calendar Days' notice	0%
NOTES	
The Provider should note that there will be no charge to the Authority during this instance.	
If, as a result of any act or omission by the Board, an appeal hearing is postponed without adequate notice or adjourned (for example, but not by way of limitation, if a Board is not properly constituted), the Provider will pay the reasonable expenses of the Appellant and the SMP for attending the hearing which have been incurred as a result of the postponement or adjournment.	
In the event of the Provider and the Police/Fire Pension Authority being unable to agree what costs will be incurred or have been incurred by the Provider, or whether Services have been provided within the prescribed timescales, the Provider will refer the matter to the Authority for a decision.	
If as a result of any act or omission by the Board, a case is re-referred for a further appeal the Provider will incur the cost of the further hearing rather than the Police/Fire Pension Authority.	

SCHEDULE 2 PRICE MATRIX AND OTHER CHARGES

2. General

- 2.1 The framework prices set out in tables at clause 1.3 of this Framework schedule 2 (Pricing Matrices) are the maximum that the Provider may charge pursuant to any CallOff Agreement.
- 2.2 Framework Prices are exclusive of VAT.
3. Table A - SERVICE CHARGES

TABLE A – Service charges	Cost Per Appeal
Service provided	
A1 - Standard Appeal heard by 3 Board Member (total cost of Appeal)	Redacted-Commercially sensitive information
A2 - Additional cost (per appeal) per member if additional consultant physician(s) required (as per– Statement of Requirements)	Redacted-Commercially sensitive information

Table B: Postponement, adjournment or cancellation charges

The table below provides the Provider with information relating to the scale of charges that can be charged to the Police Pension Authority in cases when the appeal did not go ahead and which are outside the control of the Provider.

TABLE B - Postponement, adjournment or cancellation charges	
Description	Cost to be charged (as a percentage of the tendered price for a Standard Police Medical Appeal Board)
Failure to attend, same day notice or one Working Days' notice	100% of Appeal cost
Two Working Days' notice	100% of Appeal cost
Three to five Working Days' notice	70% of Appeal cost
Six to ten Working Days' notice	50% of Appeal cost
More than ten Working Days' notice and up to 21 calendar days' notice	15% of Appeal cost
More than 21 Calendar Days' notice	0%
NOTES	
The Provider should note that there will be no charge to the Authority during this instance.	
If, as a result of any act or omission by the Board, an appeal hearing is postponed without adequate notice or adjourned (for example, but not by way of limitation, if a Board is not properly constituted), the Provider will pay the reasonable expenses of the Appellant and the SMP for attending the hearing which have been incurred as a result of the postponement or adjournment.	
In the event of the Provider and the Police/Fire Pension Authority being unable to agree what costs will be incurred or have been incurred by the Provider, or whether Services have been	

provided within the prescribed timescales, the Provider will refer the matter to the Authority for a decision.

If as a result of any act or omission by the Board, a case is re-referred for a further appeal the Provider will incur the cost of the further hearing rather than the Police/Fire Pension Authority.

Table C: Reconsiderations

TABLE C - Reconsiderations	
Description	Cost to be charged (as a percentage of the tendered price for a Standard Police/Fire Medical Appeal)
Reconsideration of appeals with a further hearing (when the reason for a further hearing is not the default of the Provider).	100% of Appeal cost
Reconsideration of appeals without a further hearing (when the reason for a further hearing is not the default of the Provider).	20% of Appeal cost

SCHEDULE 3

ORDER FORM (Pricing valid for the Initial Term)

The Contract shall be in accordance with the call off Terms and Condition as set out in the Framework Agreement, unless amended by mutual agreement of the Parties.

**ONLY THE SERVICES DETAILED BELOW ARE AVAILABLE FOR PURCHASE
OFF THIS FRAMEWORK AGREEMENT.**

The Provider's own Terms and Conditions will not apply to the Contract.

(Note: The following details the minimum content of the order forms that should apply to orders placed under this Framework Agreement. It is acknowledged that some Contracting Authorities may have different procedures that may necessitate further discussion and agreement between parties)

Framework Reference Number:.....

Order Number:.....

Order Date:.....

Description of Order

Total value of Order:.....

Customer-Contracting Pension Authority.....

[Delivery Location-Provider Office/Hearing Location]

[Delivery Date]

Expiry Date.....

Invoice address (if different from delivery address)

Authorised to sign for and on behalf of the Customer

Signature

Date

Name in Capitals

Address

Authorised to sign for and on behalf of the Provider

Signature

Date

Name

Address

SCHEDULE 4

CALL-OFF TERMS AND CONDITIONS

1. GENERAL PROVISIONS

1.1 Definitions

In this Contract, unless the context otherwise requires the following provisions shall have the meanings given to them below:-

"Approval" and "Approved"	means the written consent of the Customer
"Auditor"	means the National Audit Office or an auditor appointed by the Audit Commission as the context requires
"Customer"	means the customer(s) identified in the Order Form
"Contract Commencement Date"	means the date on which the Customer is in receipt of the Provider's Written Acceptance of the Order
"Contract Period"	has the meaning given to that term in Clause 2
"Confidential Information"	means:- <ul style="list-style-type: none">(a) any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party and all personal data and sensitive personal data within the meaning of the DPA; and(b) the Specifications and does not include any information:- <ul style="list-style-type: none">(i) which was public knowledge at the time of disclosure (otherwise than by breach of Clause 6.7 (Confidential Information));(ii) which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;(iii) which is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or

(iv) is independently developed without access to the Confidential Information

"Contract"	means the written agreement between the Customer and the Provider consisting of the Order Form and these clauses save that, for the purposes of Clause 1.5.4 only, reference to 'Contract' shall not include the Order Form
"Contract Price"	means the price (exclusive of any applicable VAT), payable to the Provider by the Customer under the Contract, as set out in the Order Form, for the full and proper performance by the Provider of its obligations under this Contract
"Contracting Authority"	has the meaning given to Contracting Authorities under Regulation 2 of the Public Contracts Regulations 2015 (as amended)
"Crown"	means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf
"Default"	means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject-matter of the Contract and in respect of which such Party is liable to the other
"Environmental Information Regulations"	means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations
"FOIA"	means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation
"Force Majeure"	means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding:-

(a) any industrial action occurring within the Provider's organisation; or

"Framework Agreement"	means the framework agreement for the provision of Police & Fire Medical Appeal Boards and associated Training Services between The Secretary of State for The Home Department and the Provider dated [day/month/2016].
"Fraud"	means any offence under Laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud the Customer
"Good Industry Practice"	means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances
"Information"	has the meaning given under Section 84 of the FOIA
"Intellectual Property Rights" and "IPRs"	means patents, inventions, trade marks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off
"Law"	means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body of which the Provider is bound to comply
"Month"	means calendar month
"Order"	means the order submitted by the Customer to the Provider in accordance with the Framework Agreement
"Order Form"	means the order submitted to the Provider by the Customer in accordance with the Framework

Agreement which sets out the description of the Services to be supplied

"Parent Company"

means any company which is the ultimate Holding Company of the Provider or any other company of which the ultimate Holding Company of the Provider is also the ultimate Holding Company and which is either responsible directly or indirectly for the business activities of the Provider or which is engaged by the same or similar business to the Provider. The term "**Holding Company**" shall have the meaning ascribed in Section 736 of the Companies Act 1985 or any statutory re-enactment or amendment thereto

"Party"

means the Provider or the Customer and "**Parties**" shall be construed accordingly

"Pension & Injury Benefit Regulations"

means regulations governing awards & benefits set out in 3.2 of Schedule of Requirements in Schedule 1 of the Framework Agreement

"Premises"

means the address where the Services are to be provided, as set out in the Order Form

"Provider"

means the person, firm or company with whom the Customer enters into the Contract as identified in the Order Form

"Quality Standards"

means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent body, (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Provider would reasonably and ordinarily be expected to comply with (as may be further detailed in the Order Form) and any other quality standards that apply to the Services set out in the Order Form

"Regulatory Bodies"

means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Customer

"Replacement Provider"

means any third party provider of Services appointed by the Customer to supply any Services which are substantially similar to any of the Services, and which the Customer receives in substitution for any of the Services following the expiry, termination or partial termination of the Contract

"Request for Information"	shall have the meaning set out in the FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term "Request" shall apply)
"Services"	means the services to be supplied as specified in the Order Form
"Specifications"	means the specifications for the Services as set out at Schedule 1 of Framework Agreement between The Secretary of State for The Home Department and the Provider dated [day/month/2016]. as amended from time to time.
"Staff"	means all persons employed by the Provider to perform its obligations under the Contract together with the Provider's staff, agents, and suppliers used in the performance of its obligations under the Contract
"Standards"	means any standards described in the Specifications and any other standard as mutually agreed between the Parties in writing from time to time.as described at Schedule 1. of Framework Agreement between The Secretary of State for The Home Department and the Provider .
"Tender"	means the document(s) submitted by the Provider to the Customer in response to the Customer's invitation to suppliers for offers to supply it with Services pursuant to the Framework Agreement
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994
"Working Day"	means any day other than a Saturday or Sunday or public holiday in England and Wales

1.2 Interpretation

1.2.1 In this Contract, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) reference to a gender includes the other gender and the neuter;
- (c) references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;
- (d) any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words;
- (e) the headings in this Contract are for ease of reference only and shall not affect its interpretation;
- (f) references to clauses, schedules and appendices are, unless otherwise provided, references to the clauses of and schedules and appendices to this Contract;

- (g) if there is any conflict between the clauses and the schedules and/or any appendices to the schedules and/or any other documents referred to in this Contract, the Clauses shall prevail over the remainder of the Schedules;
- (h) where an amount or sum is expressed to be "subject to indexation" at a point in time, it shall be adjusted by reference to the percentage change in the Retail Prices Index (all items excluding mortgages) over the most recent twelve (12) months for which published data is available at that point in time; and
- (i) neither Party shall be liable for any Default of its obligations under this Contract to the extent that such Default is caused by a failure or delay by the other party in performing its obligations under this Contract, provided and to the extent that the affected Party notifies the other party of such failure or delay within twenty (20) Working Days of the affected Party becoming aware of its occurrence and of its likely impact.

1.3 Provider's Status

At all times during the Contract Period the Provider shall be an independent contractor and nothing in the Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and, accordingly, neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Contract.

1.4 Customer's Obligations

Save as otherwise expressly provided, the obligations of the Customer under the Contract are obligations of the Customer in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation upon, or in any other way fetter or constrain the Customer in any other capacity, nor shall the exercise by the Customer of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Customer to the Provider.

1.5 Entire Agreement

- 1.5.1 This Contract constitutes the entire agreement and understanding between the Parties in respect of the matters dealt within them and supersedes, cancels or nullifies any previous agreement between the Parties in relation to such matters.
- 1.5.2 Each of the Parties acknowledges and agrees that in entering into this Contract it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Contract. The only remedy available to either Party for any such statements, representation, warranty or understanding shall be for breach of contract under the terms of this Contract.
- 1.5.3 Nothing in Clauses 1.5.1 and 1.5.2 shall operate to exclude Fraud or fraudulent misrepresentation.
- 1.5.4 In the event of and only to the extent of any conflict between the Order Form, the clauses of this Contract and any document referred to in those clauses, the conflict shall be resolved in accordance with the following order of precedence:-
 - (a) the Framework Agreement;
 - (b) the Order Form;
 - (c) the clauses of this Contract; and

- (d) any other document (other than the Framework Agreement) referred to in the clauses of this Contract.

1.5.5 This Contract may be executed in counterparts each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

1.6 Notices

1.6.1 Except as otherwise expressly provided within this Contract, no notice or other communication from one Party to the other shall have any validity under the Contract unless made in writing by or on behalf of the Party sending the communication.

1.6.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, post, registered post or by the recorded delivery service), by facsimile transmission or electronic mail. Such letters shall be addressed to the other Party in the manner referred to in Clause 1.6.3. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail or facsimile transmission or sooner where the other Party acknowledges receipt of such letters, facsimile transmission or item of electronic mail.

1.6.3 For the purposes of Clause 1.6.2 the address of each Party shall be:-

- (a) for the Customer: the address set out in the Order Form;
- (b) for the Provider: the address set out in this Contract.

1.6.4 Either Party may change its address for service by serving a notice in accordance with this clause.

1.7 Mistakes in Information

The Provider shall be responsible for the accuracy of all documentation and information supplied to the Customer by the Provider in connection with the supply of the Services and shall pay the Customer any extra costs occasioned by any discrepancies, errors or omissions therein.

1.8 Conflicts of Interest

1.8.1 In providing the Services, the Provider shall (and shall procure that the Staff shall) not do any act or thing nor permit any situation to arise whereby a conflict or a potential conflict arises or may arise between the interests of the Customer and the interests of the Provider and/or bring the Customer into disrepute (a "**Reputational Concern Event**").

1.8.2 The Provider shall notify the Customer in writing as soon as reasonably practicable, and in any event within ten (10) Working Days, of:

1.8.3 any actual or potential conflict of interest arising from its involvement in this Contract;

1.8.4 a Reputational Concern Event. The Provider shall provide details of:

- (a) the identity of any person;
- (b) the details of the Reputational Concern Event; and
- (c) the Provider shall regularly update the Customer until the conclusion of the Reputational Concern Event.

1.8.5 The Provider shall comply with any reasonable instructions of the Customer to:

- (a) end, avoid or mitigate the effect of any actual or potential conflict of interest; and
- (b) end, avoid or mitigate the effect of the Reputational Concern Event.

1.9 Prevention of Fraud

- 1.9.1 The Provider shall take all reasonable steps to prevent any Fraud by Staff and the Provider (including its shareholders, members and directors) in connection with the receipt of monies from the Customer.
- 1.9.2 The Provider shall notify the Customer immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- 1.9.3 If the Provider or its staff commits any Fraud in relation to this Contract the Customer may:
 - (a) terminate this Contract with immediate effect by giving the Provider notice in writing and recover from the Provider the amount of any loss suffered by the Customer resulting from the termination including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Contract Period; and/or
 - (b) recover in full from the Provider any other loss sustained by the Customer in consequence of any breach of this clause.

2. CONTRACT PERIOD

This Contract shall take effect on the Contract Commencement Date and shall expire automatically on the date set out in the Order Form, unless it is otherwise terminated in accordance with the provisions of this Contract (the “**Contract Period**”).

3. SUPPLY OF GOODS-NOT USED

4 SUPPLY OF SERVICES

- 4.1 The Provider shall supply the Services to the Customer subject to and in accordance with the terms and conditions of this Contract, the requirements in the Framework Agreement, the requirements in, the Specifications as set out in Schedule 1 of the Framework Agreement and the Order Form.
- 4.2 The Provider shall ensure that the Services are fully compliant with the relevant Specifications as set out in Schedule 1 of the Framework Agreement and in compliance with the Standards as set out in clause 15 of the Framework Agreement
- 4.3 In supplying the Services, the Provider shall:
 - 4.3.1 co-operate with the Customer in all matters relating to the Services;
 - 4.3.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Provider’s industry, profession or trade;
 - 4.3.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Provider’s obligations are fulfilled in accordance with this Contract;
 - 4.3.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;
 - 4.3.5 observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer’s premises or other locations where Services may be delivered;

- 4.3.6 obtain and at all times maintain all necessary licences and consents required for the provision of the Services, and comply with all applicable Laws and regulations;
- 4.3.7 perform the Services with the best care, skill and diligence in accordance with Good Industry Practice; and
- 4.3.8 provide all documents, materials, equipment, tools and vehicles and other items as are required to provide the Services.

5 PAYMENT AND CONTRACT PRICE

5.1 Contract Price

- 5.1.1 In consideration of the Provider's performance of its obligations under this Contract, the Customer shall pay the Contract Price in accordance with Clause 5.2 (Payment and VAT).
- 5.1.2 The Customer shall, in addition to the Contract Price and following evidence of a valid VAT invoice, pay the Provider a sum equal to the VAT chargeable on the value of the Services supplied in accordance with this Contract.
- 5.1.3 The Provider shall provide management information to the Customer on a quarterly basis, based on completed cases within the reporting period in support of their performance against the key performance indicators.
- 5.1.4 Where KPI 1-5 failures have been identified against each case within the management information, Service Credits shall be payable to the Customer.

5.2 Payment and VAT

- 5.2.1 In consideration of the Provider performing its obligations under this Contract, the Customer shall pay all sums due to the Provider in cleared funds within 30 days of receipt of a valid and undisputed invoice, submitted in accordance with the payment profile set out in the Order Form.
- 5.2.2 The Provider shall ensure that each invoice contains all appropriate references and a detailed breakdown of the Services supplied and that it is supported by any other documentation reasonably required by the Customer to substantiate the invoice.
- 5.2.3 The Provider shall indemnify the Customer on a continuing basis against any liability, including any interest, penalties or costs incurred which is levied, demanded or assessed on the Customer at any time in respect of the Provider's failure to account for or to pay any VAT relating to payments made to the Provider under the Contract. Any amounts due under this Clause 5.2.4 shall be paid by the Provider to the Customer not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Customer.
- 5.2.4 The Provider shall not suspend the supply of the Services unless the Provider is entitled to terminate the Contract under Clause 10.2 (Termination on Default) for failure to pay undisputed sums of money.

5.3 Recovery of Sums Due

- 5.3.1 Wherever under the Contract any sum of money is recoverable from or payable by the Provider (including any sum which the Provider is liable to pay to the Customer in respect of any breach of the Contract), the Customer may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Provider under the Contract or under any other agreement or contract with the Customer.

- 5.3.2** Any overpayment by either Party, whether of the Contract Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- 5.3.3** The Provider shall make any payments due to the Customer without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Provider has a valid court order requiring an amount equal to such deduction to be paid by the Customer to the Provider.
- 5.3.4** All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

6 STATUTORY OBLIGATIONS AND REGULATIONS

6.1 Prevention of Bribery and Anti-Corruption

- 6.1.1** The Provider shall not offer or give, or agree to give, to the Customer or any other public body or any person employed by or on behalf of the Customer or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other contract with the Customer or any other public body, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract.
- 6.1.2** The Provider warrants that it has not paid commission or agreed to pay commission to the Authority or any other public body or any person employed by or on behalf of the Customer or any other public body in connection with the Contract.
- 6.1.3** The Provider shall:
- 6.1.3.1** comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (the “Relevant Requirements”);
 - 6.1.3.2** not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom;
 - 6.1.3.3** have and shall maintain in place throughout the Contract Period its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and clause 6.1.3.2 and shall enforce them where appropriate;
 - 6.1.3.4** promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by the Provider in connection with the performance of this Contract
 - 6.1.3.5** immediately notify the Customer in writing if a foreign public official becomes an officer or employee of the Provider or acquires a direct or indirect interest in the Provider, and the Provider warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the Contract Commencement Date;
 - 6.1.3.6** within three (3) months of the Contract Commencement Date, and annually thereafter, certify to the Customer in writing signed by an officer of the Provider, compliance with this clause 6.1.3.6 by the Provider and all persons associated with it under clause 6.1.3. The Provider shall provide such supporting evidence of compliance as the Customer may reasonably request.

6.1.4 The Provider shall ensure that any person associated with the Provider who is performing services in connection with this Contract so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Provider in clause 6.1.2(the "Relevant Terms"). The Provider shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Customer for any breach by such persons of any of the Relevant Terms.

6.1.5 If the Provider, its Staff or anyone acting on the Provider's behalf, engages in conduct prohibited by clause 6.1.1 or 6.1.2 or commits any offence under the Bribery Act 2010, the Customer may:

6.1.5.1 terminate the Contract and recover from the Provider the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services under a new contract and any additional expenditure incurred by the Customer throughout the remainder of the Contract Period; or

6.1.5.2 recover in full from the Provider any other loss sustained by the Customer in consequence of any breach of clauses 6.1.2 to 6.1.3.

For the purpose of this clauses 6.1.2 to 6.1.4, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purpose of clauses 6.1.2 to 6.1.4, a person associated with the Provider.

6.2 Discrimination

6.2.1 The Provider shall not unlawfully discriminate within the meaning and scope of any Law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise).

6.2.2 The Provider shall take all reasonable steps to secure the observance of Clause 6.2.1 by all servants, employees or agents of the Provider and all suppliers employed in the execution of the Contract.

6.3 The Contracts (Rights of Third Parties) Act 1999

A person who is not a Party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties, but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act and does not apply to the Crown.

6.4 Environmental Requirements

The Provider shall perform its obligations under the Contract in accordance with the Customer's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

6.5 Data protection

6.5.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Provider is the Processor. The only processing that the Provider is authorised to do is listed in Annex 1 to this Schedule (Processing Personal Data) by the Customer and may not be determined by the Provider

- 6.5.2 The Provider shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
- 6.5.3 The Provider shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 6.5.4 The Provider shall, in relation to any Personal Data processed in connection with its obligations under this Framework Agreement:
- (a) process that Personal Data only in accordance with Annex 1 (Processing Personal Data), unless the Provider is required to do otherwise by Law. If it is so required the Provider shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures which have been reviewed and approved by the Customer as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - (c) ensure that :
 - (i) the Provider Personnel do not process Personal Data except in accordance with this Framework Agreement (and in particular Annex 1 (Processing Personal Data));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Provider Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Providers duties under this Clause;
 - (B) are subject to appropriate confidentiality undertakings with the Provider or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Customer or as otherwise permitted by this Contact; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
 - (d) not transfer Personal Data outside of the EU unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - (i) the Customer or the Provider has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Customer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or,

if it is not so bound, uses its best endeavours to assist the Customer in meeting its obligations); and

- (iv) the Provider complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the this Contract unless the Provider is required by Law to retain the Personal Data.

6.5.5 Subject to Clause 6.5.7, the Provider shall notify the Customer immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event.

6.5.6 The Providers obligation to notify under Clause 6.5.5 shall include the provision of further information to the Customer in phases, as details become available.

6.5.7 Taking into account the nature of the processing, the Provider shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 6.5.5 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:

- (a) the Customer with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Customer following any Data Loss Event;
- (e) assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.

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

- (a) the Customer determines that the processing is not occasional;
- (b) the Customer determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- (c) the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

6.5.9 The Provider shall allow for audits of its Data Processing activity by the Customer or the Customer's designated auditor.

- 6.5.10 The Provider shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 6.5.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Provider must:
- (a) notify the Customer in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Customer;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 1.11 such that they apply to the Sub-processor; and
 - (d) provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.
- 6.5.12 The Provider shall remain fully liable for all acts or omissions of any Sub-processor.
- 6.5.13 The Provider may, at any time on not less than 30 Working Days' notice, revise this Clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
- 6.5.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Provider amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 6.5.15 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Provider is the Processor. The only processing that the Provider is authorised to do is listed in Annex 1 (Processing Personal Data) by the Customer and may not be determined by the Provider.
- 6.5.16 The Provider shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
- 6.5.17 The Provider shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 6.5.18 The Provider shall, in relation to any Personal Data processed in connection with its obligations under this Call Off Contract:
- (a) process that Personal Data only in accordance with Annex 1 (Processing Personal Data), unless the Provider is required to do otherwise by Law. If it is so required the Provider shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures which have been reviewed and approved by the Customer as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;

- (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that :
- (i) the Provider Personnel do not process Personal Data except in accordance with this Call Off Contract (and in particular Annex 1 (Processing Personal Data));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Provider Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Provider's duties under this Clause;
 - (B) are subject to appropriate confidentiality undertakings with the Provider or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Customer or as otherwise permitted by this Call Off Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (i) the Customer or the Provider has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Customer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Customer in meeting its obligations); and
 - (iv) the Provider complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Call Off Contract unless the Provider is required by Law to retain the Personal Data.

6.5.19 Subject to Clause 6.5..21, the Provider shall notify the Customer immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory Customer in connection with Personal Data processed under this Call Off Contract;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event.

6.5.20 The Provider's obligation to notify under Clause 6.5.19 shall include the provision of further information to the Customer in phases, as details become available.

- 6.5.21 Taking into account the nature of the processing, the Provider shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 1.19 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:
- (a) the Customer with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Customer following any Data Loss Event;
 - (e) assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.
- 6.5.22 The Provider shall maintain complete and accurate records and information to demonstrate its compliance with this Clause. This requirement does not apply where the Provider employs fewer than 250 staff, unless:
- (a) the Customer determines that the processing is not occasional;
 - (b) the Customer determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - (c) the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 6.5.23 The Provider shall allow for audits of its Data Processing activity by the Customer or the Customer's designated auditor.
- 6.5.24 The Provider shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 6.5.25 Before allowing any Sub-processor to process any Personal Data related to this Call Off Contract, the Provider must:
- (a) notify the Customer in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Customer;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 6.5.25 such that they apply to the Sub-processor; and
 - (d) provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.
- 6.5.26 The Provider shall remain fully liable for all acts or omissions of any Sub-processor.
- 6.5.27 The Provider may, at any time on not less than 30 Working Days' notice, revise this Clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Call Off Contract).
- 6.5.28 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Provider amend this Call Off Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Official Secrets Acts 1911

- 6.6.16 The Provider undertakes to abide by, and ensure that its Staff abide by, the provisions of the Official Secrets Acts 1911 to 1989.
- 6.6.17 In the event that the Provider and its Staff fail to comply with this clause 6.6, the Customer reserves the right to terminate the Contract by giving notice in writing to the Provider.
- 6.6.18 The provisions of clause 6.6 shall apply during the continuance of the Contract and indefinitely after its expiry or termination.

Confidential Information

- 6.7.16 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each Party shall:
 - 6.7.16.1 treat the other Party's Confidential Information as confidential and safeguard it accordingly; and
 - 6.7.16.2 not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.

Clause 6.7.1 shall not apply to the extent that:

- 6.7.17.1 such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to clause 6.8 (Freedom of Information);
 - 6.7.17.2 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - 6.7.17.3 such information was obtained from a third party without obligation of confidentiality;
 - 6.7.17.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
 - 6.7.17.5 it is independently developed without access to the other Party's Confidential Information.
- 6.7.18 The Provider may only disclose the Customer's Confidential Information to its Staff who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.
 - 6.7.19 The Provider shall not, and shall procure that its Staff do not, use any of the Customer's Confidential Information received otherwise than for the purposes of this Contract.
 - 6.7.20 At the written request of the Customer, the Provider shall procure that those members of the Staff identified in the Customer's notice signs a confidentiality undertaking prior to commencing any work in accordance with this Contract.
 - 6.7.21 Nothing in this Contract shall prevent the Customer from disclosing the Provider's Confidential Information:
 - 6.7.21.1 to any Crown body or any other Contracting Authority. All Crown bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown bodies or 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 Crown body or any Contracting Authority;
- 6.7.21.2 to any consultant, contractor or other person engaged by the Customer or any person conducting a gateway review;
- 6.7.21.3 for the purpose of the examination and certification of the Customer's accounts;
- 6.7.21.4 for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer has used its resources.
- 6.7.22 The Customer shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, or third party to whom the Provider's Confidential Information is disclosed pursuant to clause 6.7.6 is made aware of the Customer's obligations of confidentiality.
- 6.7.23 Nothing in this clause 6.7 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of Intellectual Property Rights.

Freedom of Information

- 6.8.16 The Provider acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Customer to enable the Customer to comply with its Information disclosure obligations.
- 6.8.17 The Customer shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether any Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.
- 6.8.18 In no event shall the Provider respond directly to a Request for Information unless expressly authorised to do so by the Customer.
- 6.8.19 The Provider acknowledges that (notwithstanding the provisions of Clause 6.8.2) the Customer may, acting in accordance with the Secretary of State for Constitutional Affairs Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Provider or the Services
- 6.8.20 in certain circumstances without consulting the Provider; or
- 6.8.20.1 following consultation with the Provider and having taken their views into account;
- 6.8.20.2 provided always that where 6.8.2 applies the Customer shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Provider advanced notice, or failing that, to draw the disclosure to the Provider's attention after any such disclosure.
- 6.8.21 The Provider shall ensure that all Information is retained for disclosure and shall permit the Customer to inspect such records as requested from time to time.

Publicity, Media and Official Enquiries

- 6.9.16 The Provider shall not make any press announcements or publicise the Contract in any way without the Customer's prior Approval and shall take reasonable steps to ensure that its Staff, agents, suppliers, professional advisors and consultants comply with this Clause 6.9.
- 6.9.17 The Customer shall be entitled to publicise the Contract in accordance with any legal obligation upon the Customer, including any examination of the Contract by the Auditor.
- 6.9.18 The Provider shall not do anything or cause anything to be done, which may damage the reputation of the Customer or bring the Customer into disrepute.

Security

- 6.10.16 The Provider shall comply with all reasonable security requirements of the Customer while on the Premises and shall ensure that all Staff comply with such requirements.
- 6.10.17 The Customer shall provide the Provider upon reasonable request copies of its written security procedures and shall afford the Provider upon reasonable request an opportunity to inspect its physical security arrangements.

Intellectual Property Rights

- 6.11.16 The Provider shall indemnify and keep indemnified and hold the Customer harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Customer may suffer or incur as a result of any claim that provision of the Services infringes or allegedly infringes a third party's Intellectual Property Rights ("Claim").
- 6.11.17 The Customer shall notify the Provider in writing of the Claim and the Customer shall not make any admissions which may be prejudicial to the defence or settlement of the Claim. The Provider shall at its own expense conduct all negotiations and any litigation arising in connection with the Claim provided always that the Provider:
 - 6.11.18 shall consult the Customer on all substantive issues which arise during the conduct of such litigation and negotiations;
 - 6.11.19 shall take due and proper account of the interests of the Customer; and
 - 6.11.20 shall not settle or compromise the Claim without the Customer's prior approval (not to be unreasonably withheld or delayed).

Records and Audit Access

- 6.12.16 The Provider shall keep and maintain until six (6) years after the date of termination or expiry (whichever is the earlier) of the Contract (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of the Contract including the Services provided under it and the amounts paid.
- 6.12.17 The Provider shall keep the records and accounts referred to in Clause 6.12.1 above in accordance with good accountancy practice.
- 6.12.18 The Provider shall on request afford the Customer, the Customer's representatives and/or the Auditor such access to such records and accounts as may be required from time to time.
- 6.12.19 The Customer shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Provider or delay the supply of the Services, save insofar

as the Provider accepts and acknowledges that control over the conduct of audits carried out by the Auditor is outside of the control of the Customer.

6.12.20 Subject to the Customer's rights of Confidential Information, the Provider shall on demand provide the Auditor with all reasonable co-operation and assistance in relation to each audit, including:-

6.12.20.1 all information requested by the Customer within the scope of the audit;

6.12.20.2 reasonable access to sites controlled by the Provider and to equipment used in the provision of the Services; and

6.12.20.3 access to Staff.

6.12.21 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 6.12, unless the audit reveals a material Default by the Provider in which case the Provider shall reimburse the Customer for the Customer's reasonable costs incurred in relation to the audit.

7 CONTROL OF THE CONTRACT

7.1 Transfer and Sub-Contracting of this agreement is not permitted

7.2 Waiver

7.2.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.

7.2.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Clause 1.6 (Notices).

7.2.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract

7.3 Variation

7.3.1 Subject to the provisions of this Clause 7.3, the Customer may request a variation to Services ordered provided that such variation does not amount to a material change to the Order. Such a change is hereinafter called a "Variation".

7.3.2 The Customer may request a Variation by completing and sending the Variation form attached at Schedule 7 ("the Variation Form") to the Provider giving sufficient information for the Provider to assess the extent of the Variation and any additional cost that may be incurred. The Provider shall respond to a request for a Variation within the time limits specified in the Variation Form. Such time limits shall be reasonable having regard to the nature of the Order.

7.3.3 In the event that the Provider is unable to provide the Variation to the Services or where the Parties are unable to agree a change to the Contract Price, the Customer may:

7.3.3.1 agree to continue to perform their obligations under the Contract without the Variation; or

7.3.3.2 terminate the Contract with immediate effect, except where the Provider has already delivered part or all of the Order in accordance with the Order Form or where the Provider can show evidence of substantial work being carried out to fulfil the Order, and in such a case the Parties shall attempt to agree upon a

resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution Procedure detailed at Clause 12.2.

- 7.3.4 If the Parties agree the Variation and any variation in the Contract Price, the Provider shall carry out such Variation and be bound by the same provisions so far as is applicable, as though such Variation was stated in the Contract.

7.4 Severability

- 7.4.1 If any provision of the Contract is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.
- 7.4.2 In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Contract, the Customer and the Provider shall immediately commence good faith negotiations to remedy such invalidity.

7.5 Remedies in the event of inadequate performance

- 7.5.1 The Provider acknowledges that the Customer relies on the skill and judgment of the Provider in the supply of the Services and the performance of its obligations under this Contract.
- 7.5.2 In the event that the Customer is of the reasonable opinion that there has been a material breach of the Contract by the Provider, then the Customer may, without prejudice to any other remedies under this Contract or its rights under Clause 10.2 (Termination on Default), do any of the following:
- 7.5.2.1 without terminating the Contract, itself supply or procure the supply of all or part of the Services until such time as the Provider shall have demonstrated to the reasonable satisfaction of the Customer that the Provider will once more be able to supply all or such part of the Services in accordance with an Order or this Contract;
 - 7.5.2.2 without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Contract Price shall be made) and thereafter itself supply or procure a Replacement Provider to supply such part of the Services;
 - 7.5.2.3 terminate, in accordance with Clause 10.2 (Termination on Default), the whole of this Contract; and/or
 - 7.5.2.4 charge the Provider for and the Provider shall pay any costs reasonably incurred by the Customer (including any reasonable administration costs) in respect of the supply of any part of the Services by the Customer or a Replacement Provider to the extent that such costs exceed the payment which would otherwise have been payable to the Provider for such part of the Services and provided that the Customer uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Services.
- 7.5.3 If the Provider fails to supply any of the Services in accordance with the provisions of this Contract and such failure is capable of remedy, then the Customer shall instruct the Provider to remedy the failure and the Provider shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within ten (10) Working Days of the Customer's instructions or such other period of time as the Customer may direct.
- 7.5.4 In the event that the Provider:

- 7.5.4.1 fails to comply with Clause 7.5.3 above and the failure is materially adverse to the interests of the Customer or prevents the Customer from discharging a statutory duty; or
 - 7.5.4.2 persistently fails to comply with Clause 7.5.3 above;
 - 7.5.4.3 the Customer may terminate the Contract with immediate effect by giving the Provider notice in writing.
- 7.5.5 Without prejudice to any other right or remedy which the Customer may have, if any Services are not supplied in accordance with, or the Provider fails to comply with any of the terms of, the Contract the Customer shall be entitled to avail itself of any one or more of the following remedies at its discretion whether or not any part of the Services have been accepted by the Customer:
- 7.5.5.1 to rescind the order;
 - 7.5.5.2 to reject the Services (in whole or in part)
 - 7.5.5.3 at the Customer's option to give the Provider the opportunity at the Provider's expense to either remedy any defect in the Services or to supply replacement Services and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
 - 7.5.5.4 to refuse to accept any further Services but without any liability to the Customer;
 - 7.5.5.5 to carry out at the Provider's expense any work necessary to make the Services comply with the Contract; and
 - 7.5.5.6 to claim such damages as may have been sustained in consequence of the Provider's breach or breaches of the Contract.
- 7.5.6 This Clause 7.5 (Remedies in the event of inadequate performance) shall extend to any substituted or remedial Services supplied by the Provider.
- 7.5.7 The Customer's rights under this Contract are in addition to its rights and remedies implied by statute and common law.

7.6 Cumulative Remedies

Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

7.7 Monitoring of Contract Performance

The Provider shall comply with the monitoring arrangements as set out by the Customer including, but not limited to, providing such data and information as the Provider may be required to produce under the Contract.

8 LIABILITIES

Liability, Indemnity and Insurance

8.1 Neither Party limits its liability for:

- 8.1.1 death or personal injury caused by its negligence, or that of its employees, or agents (as applicable); or

- 8.1.2 fraud or fraudulent misrepresentation by it or its employees, or agents (as applicable); or
- 8.1.3 breach of any obligation as to title implied by section 2 of the Supply of Goods and Services Act 1982.

Financial Limits

- 8.2 Subject to clause 8.1, the Provider's total aggregate liability:
 - 8.2.1 in respect of Clause 5.2.3 (Payment and VAT) and Clause 6.11 (Intellectual Property Rights), shall be unlimited;
 - 8.2.2 for all loss of or damage to the Authority Premises, property or assets of the Customer caused by the Provider's Default shall in no event exceed £2,000,000 for any one incident (subject to indexation); and
 - 8.2.3 in respect of all other claims, losses or damages, whether arising from tort (including negligence), breach of contract or otherwise under or in connection with this Contract shall in no event exceed £5,000,000 for any one incident (subject to indexation).
- 8.3 Subject to clauses 8.1, 8.4 and 8.5, neither Party will be liable to the other Party for:
 - 8.3.1 any indirect, special or consequential loss or damage; or
 - 8.3.2 any loss of profits, turnover, business opportunities or damage to goodwill (whether direct or indirect).
- 8.4 The Customer may, amongst other things, recover as a direct loss:
 - 8.4.1 any reasonable and necessary additional operational and/or administrative costs and expenses arising from the Provider's Default;
 - 8.4.2 any wasted expenditure or charges rendered unnecessary and/or incurred by the Customer arising from the Provider's Default; and
 - 8.4.3 the additional reasonable and necessary cost of procuring replacement Services.
- 8.5 The Parties expressly agree that if any limitation or provision contained or expressly referred to in this clause 8 (Liabilities) is held to be invalid under any Law, it will be deemed omitted to that extent, and if any party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this clause 8 (Liabilities).
- 8.6 Nothing in this clause 8 (Liabilities) shall act to reduce or affect a party's general duty to mitigate its loss.

9 WARRANTIES AND REPRESENTATIONS

- 9.1 Each Party warrants, represents and undertakes that:
 - 9.1.1 it has full capacity and authority to enter into and to perform this Contract
 - 9.1.2 this Contract is executed by a duly authorised representative of that Party;
 - 9.1.3 there are no actions, suits or proceedings or regulatory investigations pending or, to that Party's knowledge, threatened against or affecting that Party before any court or administrative body or arbitration tribunal that might affect the ability of that Party to meet and carry out its obligations under this Contract; and
 - 9.1.4 once duly executed this Contract will constitute its legal, valid and binding obligations.

- 9.2 The Provider warrants, represents and undertakes for the duration of the Contract Period that:
- 9.2.1 it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform the Provider's obligations under this Contract; and
 - 9.2.2 it shall at all times comply with Law in carrying out its obligations under this Contract.
- 9.3 In the three (3) trading years prior to the Contract Commencement Date, the Provider warrants:
- 9.3.1 it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts; and
 - 9.3.2 it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established.
- 9.4 Except as expressly stated in this Contract, all warranties and conditions whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law.
- 9.5 For the avoidance of doubt the fact that any provision within this Contract is expressed as a warranty shall not preclude any right of termination the Customer may have in respect of breach of that provision by the Provider.

10 DEFAULT, DISRUPTION AND TERMINATION

10.1 Termination on insolvency and change of control

- 10.1.1 The Customer may terminate the Contract with immediate effect by giving notice in writing where the Provider is a company and in respect of the Provider:
- 10.1.1.1 a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
 - 10.1.1.2 a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
 - 10.1.1.3 a petition is presented for its winding up (which is not dismissed within ten working days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to Section 98 of the Insolvency Act 1986; or
 - 10.1.1.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
 - 10.1.1.5 an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
 - 10.1.1.6 it is or becomes insolvent within the meaning of Section 123 of the Insolvency Act 1986; or
 - 10.1.1.7 being a "small company" within the meaning of Section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
 - 10.1.1.8 any event similar to those listed in Clause 10.1.1.1 – 10.1.1.7 occurs under the law of any other jurisdiction.

- 10.1.2 The Customer may terminate the Contract with immediate effect by notice in writing where the Provider is an individual and:
- 10.1.2.1 an application for an interim order is made pursuant to Sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Provider's creditors; or
 - 10.1.2.2 a petition is presented and not dismissed within ten working days or order made for the Provider's bankruptcy; or
 - 10.1.2.3 a receiver, or similar officer is appointed over the whole or any part of the Provider's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets; or
 - 10.1.2.4 the Provider is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of Section 268 of the Insolvency Act 1986; or
 - 10.1.2.5 a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Provider's assets and such attachment or process is not discharged within ten working days; or
 - 10.1.2.6 being an individual, dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983; or
 - 10.1.2.7 the Provider suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business.
- 10.1.3 The Provider shall notify the Customer immediately if the Provider undergoes a change of control within the meaning of Section 416 of the Income and Corporation Taxes Act 1988 ("**Change of Control**"). The Customer may terminate the Contract by notice in writing with immediate effect within six (6) months of:
- 10.1.3.1 being notified that a Change of Control has occurred; or
 - 10.1.3.2 where no notification has been made, the date that the Customer becomes aware of the Change of Control;
- but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.

10.2 Termination on Default

- 10.2.1 The Customer may terminate the Contract by giving written notice to the Provider with immediate effect if the Provider commits a Default and if:
- 10.2.1.1 the Provider has not remedied the Default to the satisfaction of the Customer within ten (10) Working Days, or such other period as may be specified by the Customer, after issue of a written notice specifying the Default and requesting it to be remedied; or
 - 10.2.1.2 the Default is not, in the opinion of the Customer, capable of remedy; or
 - 10.2.1.3 the Default is a material breach of the Contract.
- 10.2.2 If the Customer fails to pay the Provider undisputed sums of money when due, the Provider shall notify the Customer in writing of such failure to pay. If the Customer fails to pay such undisputed sums within ninety (90) Working Days of the date of such written notice, the Provider may terminate the Contract in writing with immediate effect, save that such right

of termination shall not apply where the failure to pay is due to the Customer exercising its rights under Clause 5.3.1 (Recovery of Sums Due).

10.3 **Break**

The Customer shall have the right to terminate the Contract at any time by giving three (3) months written notice to the Provider.

10.4 **Termination of Framework Agreement**

The Customer may terminate the Contract by giving written notice to the Provider with immediate effect if the Framework Agreement is terminated for any reason whatsoever.

10.5 **Consequences of Expiry or Termination**

10.2.3 Where the Customer terminates the Contract under Clause 10.2 (Termination on Default) and then makes other arrangements for the supply of Services, the Customer may recover from the Provider the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Customer throughout the remainder of the Contract. The Customer shall take all reasonable steps to mitigate such additional expenditure. Where the Contract is terminated under Clause 10.2 (Termination on Default), no further payments shall be payable by the Customer to the Provider until the Customer has established the final cost of making those other arrangements.

10.2.4 Subject to Clause 8 where the Customer terminates the Contract under Clause 10.3 (Break), the Customer shall indemnify the Provider against any commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Provider by reason of the termination of the Contract, provided that the Provider takes all reasonable steps to mitigate such loss. Where the Provider holds insurance, the Provider shall reduce its unavoidable costs by any insurance sums available. The Provider shall submit a fully itemised and costed list of such loss, with supporting evidence, of losses reasonably and actually incurred by the Provider as a result of termination under Clause 10.3 (Break).

10.2.5 The customer shall not be liable under Clause 10.5.2 to pay any sum which:

10.2.5.1 was claimable under insurance held by the Provider, and the Provider has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or

10.2.5.2 when added to any sums paid or due to the Provider under the Contract, exceeds the total sum that would have been payable to the Provider if the Contract had not been terminated prior to the expiry of the Contract .

10.5.4 Save as otherwise expressly provided in the Contract:

10.5.4.1 termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and

10.5.4.2 termination of the Contract shall not affect the continuing rights, remedies or obligations of the Customer or the Provider under Clauses 1.1 (Definitions), 1.2 (Interpretation), 5.2 (Payment and VAT), 5.3 (Recovery of Sums Due), 6.1 (Prevention of Bribery and Corruption), 6.5 (Data Protection), 6.6 (Official Secrets Acts 1911 to 1989), 6.7(Confidential Information), 6.8(Freedom of Information), 6.11(Intellectual Property Rights), 6.12 (Records and Audit Access), 7.6 Cumulative Remedies), 8(Liabilities), 10.5 (Consequences of Expiry or Termination), and 12.1(Governing Law and Jurisdiction).

10.6 Disruption

- 10.6.1 The Provider shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Customer, its employees or any other contractor employed by the Customer.
- 10.6.2 The Provider shall immediately inform the Customer of any actual or potential industrial action, whether such action be by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- 10.6.3 In the event of industrial action by the Staff, the Provider shall seek the Customer's Approval to its proposals for the continuance of the supply of the Services in accordance with its obligations under the Contract.
- 10.6.4 If the Provider's proposals referred to in Clause 10.6.3 are considered insufficient or unacceptable by the Customer acting reasonably then the Contract may be terminated with immediate effect by the Customer by notice in writing.
- 10.6.5 If the Provider is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business by direction of the Customer, an appropriate allowance by way of extension of time will be approved by the Customer. In addition, the Customer will reimburse any additional expense reasonably incurred by the Provider as a direct result of such disruption.

10.7 Recovery upon Termination

- 10.7.1 On the termination of the Contract for any reason, the Provider shall:
- 10.7.1.1 immediately return to the Customer all Confidential Information and any IPRs belonging to the Customer, in its possession or in the possession or under the control of any permitted suppliers which was obtained or produced in the course of providing the Services;
 - 10.7.1.2 immediately deliver to the Customer all property (including materials, documents, information and access keys) that may have been provided to the Provider by the Customer. Such property shall be handed back in good working order (allowance shall be made for reasonable wear and tear);
 - 10.7.1.3 assist and co-operate with the Customer to ensure an orderly transition of the provision of the Services to the Replacement Provider and/or the completion of any work in progress.
 - 10.7.1.4 promptly provide all information concerning the provision of the Services which may reasonably be requested by the Customer for the purposes of adequately understanding the manner in which the Services have been provided or for the purpose of allowing the Customer or the Replacement Provider to conduct due diligence.
- 10.7.2 If the Provider fails to comply with clause 10.7.1.1 and 10.7.1.2 the Customer may recover possession thereof and the Provider grants a licence to the Customer or its appointed agents to enter (for the purposes of such recovery) any premises of the Provider or its permitted suppliers where any such items may be held.
- 10.7.3 Where the Contract ends due to the Provider's Default, the Provider shall provide all assistance under clause 10.7.1.3 and 10.7.1.4 free of charge. Otherwise, the Customer shall pay the Provider's reasonable costs of providing the assistance and the Provider shall take all reasonable steps to mitigate such costs.

10.8 Force Majeure

- 10.8.1 Neither Party shall be liable to the other Party for any delay in performing, or failure to perform, its obligations under the Contract (other than a payment of money) to the extent that such delay or failure is a result of Force Majeure. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations under the Contract for the duration of such Force Majeure. However, if such Force Majeure prevents either Party from performing its material obligations under the Contract for a period in excess of four (4) Months, either Party may terminate the Contract with immediate effect by notice in writing.
- 10.8.2 Any failure or delay by the Provider in performing its obligations under the Contract which results from any failure or delay by an agent, or supplier shall be regarded as due to Force Majeure only if that agent, or supplier is itself impeded by Force Majeure from complying with an obligation to the Provider.
- 10.8.3 If either Party becomes aware of a Force Majeure event or occurrence which gives rise to or which is likely to give rise to any such failure or delay on its part as described in Clause 10.8.1 it shall immediately notify the other by the most expeditious method then available and shall inform the other of the period during which it is estimated that such failure or delay shall continue.

11 TRANSPARENCY

- 11.1 The Provider shall provide to the Authority such assistance as the Authority may reasonably require in order to comply with its transparency obligations for meeting Government and EU policies on the availability and accuracy of information about the delivery of public services that are publicly funded.
- 11.2 Notwithstanding any other provision of this Framework Agreement, the Provider hereby gives its consent for the Authority to publish to the general public this Framework Agreement in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including any changes to this Framework Agreement agreed from time to time.
- 11.3 The Provider shall assist and co-operate with the Authority to enable the Authority to publish this Framework Agreement.

12 DISPUTES AND LAW

12.1 Governing Law and Jurisdiction

The Contract shall be governed by and interpreted in accordance with English law and the Parties submit to the exclusive jurisdiction of the English and Welsh courts.

12.2 Dispute Resolution

- 12.2.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the finance director (or equivalent) of each Party.
- 12.2.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 12.2.3 If the dispute cannot be resolved by the Parties pursuant to Clause 12.2.1 the Parties shall refer it to mediation pursuant to the procedure set out in Clause 12.2.5 unless:
- 12.2.4 the Customer considers that the dispute is not suitable for resolution by mediation; or to agree to mediation.

- 12.2.5** The obligations of the Parties under the Contract shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Provider and the Staff shall comply fully with the requirements of the Contract at all times.
- 12.2.6** The procedure for mediation and consequential provisions relating to mediation are as follows:-
- 12.2.6.1** a neutral adviser or mediator ("the Mediator") shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within ten (10) Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within ten (10) Working Days from the date of the proposal to appoint a Mediator or within ten (10) Working Days of notice to either Party that he is unable or unwilling to act, apply to CEDR to appoint a Mediator;
 - 12.2.6.2** the Parties shall within ten (10) Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from CEDR to provide guidance on a suitable procedure;
 - 12.2.6.3** unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
 - 12.2.6.4** if the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
 - 12.2.6.5** failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties; and
 - 12.2.6.6** if the Parties fail to reach agreement in the structured negotiations within sixty (60) Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the courts.

SCHEDULE 5

INVOICING REQUIREMENTS

- 1.** Each Contracting Body using the Framework Agreement will require individualised invoices to enable payment of hearing fees
- 2.** Each Contracting Body using the Framework Agreement will agree the methods of invoicing, payment and refund of Service Credits with the Provider.
- 3.** The Provider must be capable of providing either an individual invoice per order, or a monthly consolidated invoice, unless otherwise specified by the Customer.
- 4.** The Provider shall nominate a single point of contact to manage and resolve invoicing enquiries raised by the Customer
- 5.** At no additional cost to the Authority, and upon request by the Authority, the Provider will allow authorised Authority representatives access to its premises for the purposes of verifying Management Information.

SCHEDULE 6

MANAGEMENT INFORMATION REQUIREMENTS

FRAMEWORK MANAGEMENT AND KEY PERFORMANCE INDICATORS

Pursuant to Clause 17 (Provision of Management Information) the Provider shall provide the Authority with the following Management Information (as a minimum) during the Term:

- 1.1 The successful delivery of this Framework Agreement will require the Provider and the Authority to develop a strategic relationship immediately following the award of this Framework Agreement to the Provider and maintaining this relationship throughout the Framework Agreement.
- 1.2 To achieve this strategic relationship, the Provider will be required to adopt proactive framework management activities which will be informed by quality Management Information, and the sharing of information between the Provider and the Authority.
- 1.3 This Framework Schedule 6 outlines the general structures and management activities that the Parties will follow during the Framework Period.
- 1.4 The Provider shall put in place a structure to manage the Framework in accordance with Framework Schedule 1 (The Services) this Schedule 6 (Framework Management and Key Performance Indicators).
- 1.5 A full and comprehensive governance structure for the Framework will be agreed between the Parties during the Framework Agreement implementation stage.
- 1.6 Regular performance review meetings (Quarterly Review Meetings) will take place throughout the Framework period until the Framework expiry date.
- 1.7 The exact timings of Quarterly Review Meetings will be determined by the Authority following award of the Framework Agreement. Flexibility from both Parties will be expected over the timings of these meetings but at a minimum meetings will be held on a quarterly basis.
- 1.8 The purpose of the Quarterly Review Meetings will be to review the Provider's performance under the Framework Agreement. The agenda for each meeting shall be set by the Authority and communicated to the Provider in advance of that meeting.
- 1.9 Attendees at the Quarterly Review Meetings shall be agreed between the Parties during the Framework Agreement Implementation stage.
- 1.10 In addition to Quarterly Review Meetings, the Provider will be required to attend an Annual Framework Meeting after the fourth quarter of each Year. The agenda for each meeting shall be set by the Authority and communicated to the Provider in advance of the meeting.
- 1.11 Attendees at the Annual Framework Meeting shall be agreed between the Parties at the Framework Implementation stage.

1.12 The Authority reserves the right to call additional meetings, as required, and / or amend the frequency of any performance related meetings.

1.13 **Continuous Improvement**

1.13.1 The Provider is expected to continually improve the way in which the required Services are delivered throughout the term of the Framework.

1.13.2 The Provider should present new ways of working to the Authority during Quarterly Review Meetings.

1.13.3 Changes to the way in which the Services are to be delivered must be agreed by the Authority, prior to any changes being implemented.

1.13.4 The Authority reserves the right to attend Medical Appeal Board hearings from time to time. The Provider shall co-operate with the Authority to assist with this objective.

2. KEY PERFORMANCE INDICATORS (KPIs)

2.1 The Key Performance Indicators (KPIs) applicable to this Framework Agreement are set out in clause 2,12 below.

2.2 The Provider shall establish processes to monitor its performance against the agreed KPIs. The Provider shall at all times ensure compliance with the standards set by the KPIs.

2.3 The Authority shall review progress against these KPIs to evaluate the effectiveness and efficiency of which the Provider performs its obligations to fulfil the Framework Agreement.

2.4 The Provider's achievement of KPIs shall be reviewed during Quarterly Review Meetings, in accordance with paragraph 1 of this Schedule, and the review and ongoing monitoring of KPIs will form a key part of the framework management process as outlined in this Framework.

2.5 The Authority reserves the right to adjust, introduce new, or remove KPIs throughout the term of the Framework Agreement, however any significant changes to KPIs shall be agreed between the Authority and the Provider.

2.6 The Authority in its absolute and sole discretion reserves the right to use and publish the performance of the Provider against the KPIs without restriction.

2.7 The Provider shall produce a Quarterly KPI Report, the content and format of which will be agreed between the Parties during the Framework Agreement implementation stage. The Provider shall provide the Quarterly KPI Report to the Authority by the 5th of the following month

2.8 After the 4th quarter of each Year, the Provider shall produce an Annual KPI Report, the content and format of which will be agreed between the Parties during the Framework Agreement implementation stage. The timescales for the Authority's receipt of the Annual KPI Report will be specified by the Authority during the Framework Agreement implementation stage.

2.9 The Provider shall provide all KPI reports to the Authority at no additional charge.

- 2.10 The Provider shall provide any additional Framework Agreement related management information that the Authority determines is necessary for the purpose of monitoring activity on this Framework and provide such management information at no additional cost to the Authority.
- 2.11 The Provider shall nominate a single point of contact to ensure timely delivery of all KPI Reports to the Authority.
- 2.12 The Authority will use the following quantitative and qualitative Key Performance Indicators (KPIs) to assist in monitoring the Framework Agreement:

Quantitative KPIs Per Case

- KPI 1 Written acknowledgement of appeal case papers within five Working Days of receipt.
- KPI 2 Appeal hearing held and Board's report issued within 16 weeks of receipt of papers from Police/Fire Pension Authority.
- KPI 3 Despatch of Board decision within ten Working Days of appeal hearing.
- KPI 4 Acknowledgement of post-decision requests for clarification within two Working Days.
- KPI 5 Response to post-decision requests for clarification within ten Working Days.

Qualitative KPIs Per Case

- KPI 6 Attendees' level of satisfaction with the administrative arrangements leading up to the hearing, based on forms completed by the Parties after a hearing (at least 95% satisfied);
- KPI 7 Attendees' rating of the venue and administrative arrangements on the day of the board hearing, based on forms completed by the Parties after a hearing (extremely good to extremely poor) (at least 95% good or extremely good ratings);
- KPI 8 Attendees' level of satisfaction with the way the Board was conducted, based on forms completed by the Parties after a hearing (at least 95% satisfied or very satisfied);
- KPI 9 Attendees' rating of the professional conduct of Board members on the day of the board hearing, based on forms completed by the Parties after a hearing (at least 95% rating in the top two categories).
- 2.13 The Provider shall provide short questionnaires, by e-mail where possible, to those attending the Board (one to each Party), after the hearing is complete, for the purposes of assessing performance against KPIs 6-9.

These forms should not be completed at the hearing itself but provided afterwards. The Provider will create and present a draft feedback form to the Authority for approval before the first hearing considered following award of the Framework Agreement.

- 2.14 The Provider, in reporting performance against KPIs 6-9, will state the number of questionnaires completed by Appellants and Police Pension Authorities and the percentage completed of those issued over the reporting period.

3. FAILURE TO ACHIEVE KPI TARGETS

- 3.1 The Provider acknowledges that failure to meet any KPI may have a material adverse impact on the business and operations of the Customer and that any such failure shall entitle the Customer to Service Credits calculated in accordance with the provisions of table A and B of schedule 6 (Service Credits).

The Provider acknowledges and agrees that any Service Credits are a price adjustment and not an estimate of the loss that may be suffered by the Customer as a result of the Provider's failure to meet KPIs, and is without prejudice to any remedies the Customer may have under any Call-Off Contract or at Law resulting from, or otherwise arising in respect of, any breach by the Provider of the Call-Off Contract in relation to KPIs.

4 APPLICATION OF SERVICE CREDITS

- 4.1. Where Service Credits apply, they shall apply to each completed case within the reporting period (Quarter)
- 4.2. The Provider and the Authority shall hold a meeting (a "Quarterly Review Meeting") within 3 weeks (or the equivalent period in business/working days) of the production of the KPI report for that relevant quarter (a "Quarterly KPI Report") to discuss the performance and any issues relating to the provision of the Services and the content of the Quarterly KPI Report.
- 4.3. The Provider shall provide management information to the Authority that displays their performance against the KPI's in managing each completed case in the reporting period.
- 4.4. Where the Service Credits in table A are applied, as a result of quantitative KPI 1-5 failures identified against a case, they are to be re-imbursed to the Customer and not the Authority.
- 4.5. Where failure of the qualitative KPI's 6-9 is identified, the provider shall be required to explain the reasons for such failures. If the Authority (acting at its sole discretion) is not satisfied with the Provider's reasons for its poor performance, the Authority may require the Provider to implement a remedial action plan setting out how the service will be improved over the next quarter.

4.6. The Provider shall also be required to provide separate management information to each Customer in support of its performance against the KPI's in managing each completed case in the reporting period and re-imbursement of any Service Credits applicable.

Table A-Quantitive Key Performance Indicators

Reporting Requirements:

Performance shall be measured by the number of completed cases in the reporting period (Per Quarter)

1. KPI1 failure shall only apply where KPI2 has met its performance deadline
2. KPI2 failure shall take priority over KPI's 1 and 3 if one/both have failed as part of the 16-week deadline.
3. KPI3 failure shall only apply where KPI2 has passed.
4. KPI4 failure shall apply whatever the outcome of KPI's 1-3 (outside 16-week deadline)
5. KPI5 failure shall apply whatever the outcome of KPI's 1-3 (outside 16-week deadline)
6. Arrangements for Service Credits to be re-imbursed shall be made with the Customer/ Contracting Body and not the Authority

	Quantitive KPI's (per case per quarter)	Level 1 Failure (per case per quarter)	Level 1 Service Credit % Appeal fee Deduction per case	Level 2 Failure (per case per quarter)	Level 2 Service Credit % Appeal fee Deduction per case
KPI 1	Written acknowledgement of appeal case papers within 5 working days	Written acknowledgement of appeal case papers issued ≥ 6 but ≤ 7 working days	1%	Written acknowledgement of appeal case papers issued ≥ 8 but ≤ 9 working days	2%
KPI 2	Appeal hearing held, and Board's report issued within 16 weeks of receipt of papers from Police/Fire Pension Authority	Appeal hearing, and boards report issued ≥ 17 weeks but ≤ 20 weeks	5%	Appeal hearing, and boards report issued ≥ 20 weeks	10%
KPI 3	Despatch of Board decision within ten Working Days of appeal hearing.	Despatch of Board decision issued ≥ 11 but ≤ 15 Working Days of appeal hearing	1%	Despatch of Board decision issued ≥ 16 but ≤ 20 Working Days of appeal hearing	2%
KPI 4	Acknowledgement of post-decision requests for clarification within two Working Days	Acknowledgement of post-decision requests for clarification issued ≥ 3 but ≤ 4 Working Days	1%	Acknowledgement of post-decision requests for clarification issued ≥ 5 but ≤ 6 Working Days	2%
KPI 5	Response to post-decision requests for clarification within ten Working Days	Response to post-decision requests for clarification issued ≥ 11 but ≤ 15 Working Days	1%	Response to post-decision requests for clarification issued ≥ 16 but ≤ 20 Working Days	2%

Table B-Qualitative Key Performance Indicators

	Qualitative KPI's (per case per quarter)	Level 1 Failure (1 st Quarter)	Level 2 Failure (2 nd Quarter)
KPI6	Attendees' level of satisfaction with the administrative arrangements leading up to the hearing, based on forms completed by the Parties after a hearing (at least 95% satisfied);	Explanation for poor performance noted at contract review meeting	Presentation of remedial action plan to authority
KPI7	Attendees' rating of the venue and administrative arrangements on the day of the board hearing, based on forms completed by the Parties after a hearing (extremely good to extremely poor) (at least 95% good or extremely good ratings);	Explanation for poor performance noted at contract review meeting	Presentation of remedial action plan to authority
KPI8	Attendees' level of satisfaction with the way the Board was conducted, based on forms completed by the Parties after a hearing (at least 95% satisfied or very satisfied);	Explanation for poor performance noted at contract review meeting	Presentation of remedial action plan to authority
KPI9	Attendees' rating of the professional conduct of Board members on the day of the board hearing, based on forms completed by the Parties after a hearing (at least 95% rating in the top two categories).	Explanation for poor performance noted at contract review meeting	Presentation of remedial action plan to authority

