



Shared Business Services

Order Form – Digital Health Advisory

Framework agreement reference: 10225

Date of order	[]	Order Number	1697 (Purchase order number to be confirmed following contract award and signing) To be quoted on all correspondence relating to this Order
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FROM

Customer	NHS England on behalf of NHS South, Central and West CSU
Customer's Address	Omega House, 112 Southampton Road, Eastleigh, SO50 5PB
Invoice Address	NHS South, Central and West CSU, ODF Payables M425, PO BOX 312, Leeds, LS11 1HP
Contact Ref:	Name: [REDACTED] Email: [REDACTED]

TO

Supplier	Axiologik Limited "Supplier"
Supplier's Address	Parkhill Studios, Walton Road, Wetherby, LS22 5DZ
Account Manager	Name: [REDACTED] Address: 4 St David's Court, David Street Holbeck Leeds LS11 5QA t: 0113 323 1455 m: 07815 052 758 Email: [REDACTED]

GUARANTEE

Guarantee to be provided	No
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Where a guarantee is to be provided then this Contract is conditional upon the provision of a Guarantee to the Customer from the Guarantor in respect of the Supplier. Details of the Guarantor (if any) are set out below:

[Parent Company	[]	"Guarantor"
Parent Company address	[]	
Account Manager	Name: [] Address: [] Phone: [] Email: [] Fax: []	

1. TERM
<p>(1.1) Commencement Date</p> <p>Date of last signature</p>
<p>(1.2) Expiry Date</p> <p>The Contract shall expire on 31 March 2025 with the option to extend (time only) by a further 6 months. This will be subject to the submission and approval of a further Scheme of Delegation business case and an NHSE business case for the extension funding, and provision of a purchase order).</p>

2. GOODS AND SERVICES REQUIREMENTS

(2.1) Services

Service Profile -

For the provision of Digital Prevention Services technical capability to support, the Digital Transformation of Screening (DToS) programme which is developing new digital services that will improve clinical effectiveness and productivity in screening services nationally.

All as detailed in the Invitation to Tender: Service Specification and Evaluation Criteria (Document 4) and agreed Statement of Works.

Background and Context

NHS South Central and West (“SCW”) provides support and transformation services to health and care systems, helping them achieve the best possible outcomes for people, communities, and populations. We are non-profit and dedicated to meeting the support and transformation needs of Integrated Care Boards, health and care providers such as NHS Trusts, Local Authorities, and NHS England (“NHSE”).

SCW currently provides a range of programme delivery and transformation services for the National Transformation Directorate in NHSE. This includes consolidating and transforming various internal support functions to enable the delivery of the three main programmes in the Digital Prevention Services portfolio, these being Digital Screening, Digital Vaccinations, and Digital Health Checks.

SCW has recently been asked by NHSE to provide technical leadership and capability for the Digital Prevention Services portfolio, and particularly to drive delivery of the Digital Transformation of Screening (DToS) programme which is developing new digital services that will improve clinical effectiveness and productivity in screening services nationally.

SCW is seeking to appoint a specialist digital technology partner to support the delivery of this important national programme.

Service Delivery Requirement

The DToS programme has been established to transform NHS screening services. This transformation will be enabled using modern digital and data approaches, such as user-centred design, to develop and implement a National Screening Platform with digital and data capabilities / services to support all current and planned national screening programmes.

There is a Strategic Technology Partner (“STP”) in place for DToS, responsible for providing capabilities and teams to develop the digital products and services required by the programme. However, there is also a need to establish an effective programme delivery function within DToS to lead the transformation of digital screening services. This programme delivery function will

assure digital technology delivery by the STP teams and ensure that the new products they develop successfully “land” within the NHS and are incorporated into day-to-day operations. This role must be independent of the STP to avoid potential conflicts of interest and must provide the wider change capability required.

SCW is seeking a specialist technical leadership and programme delivery partner (“PDP”) to perform this role until the end of the current fiscal year 2024-25.

DToS Overview

Five phases of development were identified during the feasibility and planning stage for DToS and detailed within the DToS Programme Business Case. These phases have been broken into 4 large programme increments to allow an agile delivery approach which will incrementally deliver the business benefits and outcomes.

- **Release 0:** Infrastructure, Cohorting, and Business Intelligence services for the Breast Cancer screening programme and the Diabetic Eye Screening (DES) screening programme.
- **Release 1:** Pre-screening invitations and post-screening delivery of results across digital channels including the NHS App.
- **Release 2:** Pre-screening management of appointments and post-screening management of Further Investigation process.
- **Release 3:** Capacity management, open appointment booking, appointment allocation, and post-screening management of final tests. [Please note: Release 3 is a later requirement that is not in scope for this procurement].

SCW is seeking a PDP to provide the capabilities and services required to successfully oversee Releases 0-2 through the remainder of the current fiscal year. With a view to achieving successful Releases, the appointed PDP will be responsible for coordinating delivery of the overarching programme, including the effective management and leadership of the delivery teams across multiple NHS England Directorates, as well as third-party providers of professional services and third-party solution providers.

The PDP

The PDP will provide a team to act as partner to NHSE, overseeing the STP, and providing direction and assurance. To achieve this, a team is envisaged comprising a number of senior, client-side roles including, but not limited to: Transformation Lead, Chief Architect, Head of Delivery, Head of Service Design, Head of Product, and Head of Business Change – with additional roles provided as required e.g. Solution Architect, Service Designer.

Role of the PDP

The PDP will be responsible for the following aspects of programme delivery.

- Maintain, own and configuration-manage the delivery plans for the initiative such that all activities support the delivery of the benefits as set out in the approved Programme Business Case. Management of this baseline will also include planning of future phases and releases and delivery of subsequent business cases to support onward delivery across the Screening estate.

- Lead and manage holistic change, bringing together all the NHSE teams involved across multiple Directorates.
- Establish an approach and signal resource requirements to enable the transition from existing legacy contracts and service models to those aligned to the new digital services developed by the STP.
- Track and report progress against the business case and delivery plans to support NHSE and external department governance requirements.
- Lead and support implementation of an effective Product Management approach to remove inertia and to assure focus effort on creation of the core capabilities required to deliver effective change.
- Shape, design, and lead the transformation elements of the programme.
- Develop and manage programme delivery plans balancing the need to absorb change against existing commitments.
- Align stakeholders, providing visibility of progress against strategic goals.
- Provide assurance across key functions: product management, customer experience, service design, architecture, and delivery.
- Provide recommendations and enable significant decisions to be taken using the information available, balancing the needs of the now with needs of the future.
- Manage and orchestrate dependencies.
- Provide a clear and independent view of progress and risk across the whole programme.

TECHNICAL LEADERSHIP:

- Lead the design and development of IT solutions, with a whole solution and system-of-systems perspective, specifically large-scale population health programmes.
- Integration of all aspects of design and development in solution development.
- Provision of advice and guidance to the NHSE Digital Prevention Services Portfolio relating to DToS programme delivery.
- Lead and participate in large multi-disciplinary, multi-partner teams involved in service and programme delivery.

SOLUTION ARCHITECTURE AND DESIGN:

- Lead the design and implementation of the solution architectures, that interface with all relevant NHS applications, data, and information systems.
- Lead the design of the pathways and services associated with the solution.
- Lead on data architecture; the development of data models, ensuring data quality and security, and integrating diverse data sources.
- Set data standards, enabling data-driven decision-making, and aligning data architecture with business strategies to support analytics and operational needs.

PRODUCT MANAGEMENT:

- Lead the management of delivery, including implementing a 'product approach' and

defining/establishing the programme structure(s) and ways of working needed to build the new digital products.

Outcomes

The capabilities deployed by the PDP to deliver the services will be needed to enable the following outcomes:

- A programme approach implemented that integrates the development of the set of digital services into the transformation of national screening services - maximising the overall benefits to the system of the investment.
- Solution architecture(s) developed, providing modular solutions that maximise the reuse of the products developed and that are compatible with the wider NHS digital ecosystem – maximising the value for money of the investment.
- New digital products designed to replace the legacy IT systems and contracts for all 11 national screening services – maximising the value for money of the investment.
- Digital services and pathways that include screening service participants built as part of the new products – increasing the uptake and effectiveness of the screening programmes and the clinical outcomes for the population.

The PDP will also be responsible for facilitating the following outcomes:

- Strategic Alignment: the programme's transformation initiatives align with the programme's strategic goals and objectives. This may involve realigning business processes, resources, and priorities to support the overarching strategy.
- Process Optimisation: Streamlining and improving Screening business processes to enhance efficiency, productivity, and quality.
- Technology Adoption and Integration: Introducing new digital services to support business operations and drive innovation. Successful migration from legacy platforms to new.
- Change Management: Managing the human side of change by effectively communicating the rationale for change, engaging stakeholders, addressing resistance, and providing support and training to facilitate adoption of new processes, systems, and behaviours.
- Performance Improvement: Driving measurable improvements in key performance indicators (KPIs). This will involve setting targets, tracking progress, and implementing corrective actions as needed.
- Customer Experience Enhancement: Enhancing the overall customer experience by improving digital services across various touchpoints. This includes understanding customer needs and pain points, collecting feedback, and implementing changes to meet or exceed customer expectations.
- Risk Management and Compliance: Identifying and mitigating risks associated with the transformation initiatives, including regulatory compliance, data security, and operational

risks. This may involve implementing controls, monitoring processes, and ensuring adherence to relevant standards and regulations.

- **Sustainability and Resilience:** Building resilience and sustainability into the organisation by fostering adaptive capabilities, diversifying revenue streams, and promoting environmental and social responsibility.

Milestones 1,2 and 3

Our Ref	Your Ref	Milestone Description	Milestone Requirements	Acceptance Criteria	Milestone Date
1	2	Release 1 - High Level Architecture	Architecture definition of Release 1 agree with Screening Senior Leadership team (SLT) and Design Authority.	High-level architecture for Release 1 approved by design and architecture governance.	31 Oct 2024
2	3	Release 1 – Delivery Plan	Creation and maintenance of a high-level plan showing key activities for all teams required to delivery Release 1. Plan to include assurance milestones.	High-level delivery plan for Release 1 approved by Programme Board and relevant assurers.	31 Oct 2024
3	9	Release 1 Change Plan	Creation, baseline and management of Change and Adoption Plan for Release 1	Change and Adoption plan reviewed and accepted by Programme Board	31 Oct 2024

Milestones 4 and 5

Our Ref	Your Ref	Milestone Description	Milestone Requirements	Acceptance Criteria	Milestone Date
4	1	Release 0 (Part 1) – Delivered	Management of tasks to effectively deliver Release 0 (Part 1) to agreed definition of 'Live'.	All aspects of Release 0 delivery plan complete.	30th November 2024
5	6	Data Architecture Discovery	Initial Assessment and Current State Analysis <ul style="list-style-type: none"> • Conduct a comprehensive review of the current data architecture. • Document existing data sources, data flow, data 	Discovery report submitted to Screening SLT and DA for review and agreement.	30th November 2024

			<p>storage, and data management practices.</p> <ul style="list-style-type: none"> Assess data quality and data governance practices. 		
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Milestones 6 and 7

Our Ref	Your Ref	Milestone Description	Milestone Requirements	Acceptance Criteria	Milestone Date
6	1	Release 0 (Part 2) – Delivered	Management of tasks to effectively deliver Release 0 (Part 2) to agreed definition of 'Live'.	All aspects of Release 0 delivery plan complete.	30th Jan 2025
7	10	Release 2 Change Plan	Creation, baseline and management of Change and Adoption Plan for Release 2	Change and Adoption plan reviewed and accepted by Programme Board	30th Jan 2025

Milestone 8

Our Ref	Your Ref	Milestone Description	Milestone Requirements	Acceptance Criteria	Milestone Date
8	7	Data Strategy	<p>Define Data Strategy and Vision</p> <ul style="list-style-type: none"> Document a DToS data strategy Document a vision for DToS data architecture, including scalability, flexibility, and security. 	Data Strategy and Vision documents reviewed and accepted by DA and Screening SLT	28 Feb 2025

Milestones 9,10 and11

Our Ref	Your Ref	Milestone Description	Milestone Requirements	Acceptance Criteria	Milestone Date
9	4	Release 2 - High Level Architecture	Architecture definition of Release 2 agree with Screening Senior Leadership team (SLT) and Design Authority.	High-level architecture for Release 2 approved by design and architecture governance.	31 Mar 2025

10	5	Release 2 – Delivery Plan	Creation and maintenance of a high-level plan showing key activities for all teams required to delivery Release 2. Plan to include assurance milestones.	High-level delivery plan for Release 2 approved by Programme Board and relevant assurers.	31 Mar 2025
11	8	Data Blueprint	Data Architecture Blueprint <ul style="list-style-type: none"> Document the conceptual and logical Screening data model, apportioning data management across identified screening products and services Document the Screening dimensional model to be used in analytical platforms 	Data Blueprint initial issue reviewed and accepted by DA and Screening SLT	31 March 2025

Release of retention

- Release of the final fixed payment is contingent upon successful completion of the 11 milestones, and completion of handover activities.

Our Ref	Your Ref	Milestone Description	Milestone Requirements	Acceptance Criteria	Milestone Date
12	N/A	Handover	<ul style="list-style-type: none"> Completion of handover documentation Where appropriate, and in agreement with CSU <ul style="list-style-type: none"> Knowledge transfer sessions Key role shadowing 	Completed to agreed definition of done.	31 Mar 2025

Required capabilities and experience

The overall requirement is for provision of technical and product capabilities that will continue driving development of the DToS solution with minimum disruption on an interim basis, until a long-term solution can be implemented. To perform the defined role effectively, the following experience and capabilities will be required from the appointed PDP.

- Experience and expertise in leading the development of large scale, transformational digital population health solutions across the NHS, including deep domain expertise of product and solution development and implementation.
- Experience of working with the NHS national health screening programmes, including in-depth knowledge of programmes, systems, processes, and pathways.
- Detailed understanding of complex technical programme delivery in the NHS to understand trade-offs and which levers are available to drive progress, manage risk, and achieve the

desired outcomes.

- Exceptional negotiation and stakeholder management capabilities.
- Experience of working in blended teams with NHS and other delivery partners
- Breadth of perspective, analytical skills, big picture thinking and bravery to make decisions.
- The vision to push boundaries, allied with the experience and pragmatism to understand what really works.
- Expertise across key leadership and assurance needs including delivery management, service design, architecture, user research, product management, and engineering.
- Ability to deliver the service outcomes and milestones defined above.

Transition from current arrangements

By the start of this agreement, the following milestones will have been completed by the incumbent supplier, which will enable the delivery of the milestones and outcomes referenced in this specification. All deliverables relating to these milestones and outcomes will be made available to the newly appointed supplier.

Monitoring and Reporting

A monthly review of delivery by the supplier will be conducted, including progress towards and achievement of deliverables, milestones, and outcomes. This will be facilitated via production of a progress report by the supplier and through a monthly contract review meeting between the supplier and SCW.

The supplier will work with SCW to provide all reasonable data and information to support these processes and ensure that relevant stakeholders attend the contract review meetings.

The supplier will:

- Prepare and submit highlight reports according to an agreed schedule.
- Facilitate and prepare for monthly contract review meetings.
- Attend and support calls/meetings review specific areas in scope and, where necessary, actively support and resolve any challenges arising outside of the monthly reporting and review process.

IR35

To comply with the off payroll working rules (“IR35”), and as part of the contracting process, SCW may require the bidders(s) to provide an IR35 Status Determination Statement (SDS) and/or conduct a joint assessment of IR35 status and risks relating to delivery of the supplier’s delivery of services under this contract. Such assessments will be used to ensure that each worker provided via a third party is fully assessed in terms of contractual arrangements and any potential liabilities and, where necessary, and mitigations implemented.

Skills and Knowledge Transfer

The supplier will be expected to work with SCW and other partners in blended teams to achieve programme aims, deliverables and outcomes. The supplier will be expected to design knowledge transfer and capability development into their delivery approach, to ensure that skills and capability are continually developed within SCW and NHS England teams involved in delivery of the DToS programme, to support sustainability within the NHS.

Key personnel and substitution

The supplier will provide strategic advice and support to SCW and the DToS programme to enable them to use supplier capabilities to the best effect. Where the supplier needs to make changes to the key personnel deployed to deliver the services, which will be permissible under this service-based contract, SCW requires a minimum of 2 weeks' notice of these changes and assurance that necessary mitigations are in place in order to minimise impact on service delivery including arranging any appropriate handovers and knowledge transfer.

Assistance on Expiry or Termination

If an assignment expires or is terminated, the supplier will be required (where requested by SCW), to help migrate the provision of the services to a replacement service provider or to the NHS England and/or SCW team promptly. The objective will be to ensure a smooth and safe transition of services the supplier(s) has been providing. To this end, the supplier(s) will prepare a Service Transfer Plan for review by the Customer, to be signed by each party no later than one month before the expiry or termination date.

Social Value

The supplier will be expected to use opportunities under the contract to enhance social value and deliver the following Policy Outcome and Model Award Criteria (MAC):

- MAC 4.1 Deliver additional environmental benefits in the performance of the contract including working towards net zero greenhouse gas emissions.
- MAC 6.2: Support in-work progression to help people, including those from disadvantaged or minority groups, to move into higher paid work by developing new skills relevant to the contract.

For further information on Model Award Criteria (MAC) please see the following reference table: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/940828/Social-Value-Model-Quick-Reference-Table-Edn-1.1-3-Dec-20.pdf

For further info on the PPN 06/20 that outlines our requirement to include Social Value elements in procurements, along with an article from CCS about the importance of social value, please reference the following:

[Procurement Policy Note 06/20 – taking account of social value in the award of central government contracts - GOV.UK \(www.gov.uk\)](#)

[Social value in procurement – Procurement Essentials - CCS \(crowncommercial.gov.uk\)](#)

<p>(2.2) Premises</p> <p>Generally remote working with the expectation of attendance to the NHS England's Leeds office (Wellington Place) or London (South Colonnade in Canary Wharf) 1 or 2 days a week to work with delivery teams in person.</p>												
<p>(2.3) Lease/ Licenses</p> <p>N/A</p>												
<p>(2.4) Standards</p> <p><u>Industry Standards or Accreditations (equivalents)</u></p> <p>The supplier is required to ensure that resources deployed to deliver the service are suitably qualified and capable, holding industry standards and accreditations relevant to this specification. These may include recognised digital qualifications and accreditations, and project and programme management accreditations.</p> <p>As a minimum, the supplier must be accredited to or comply with relevant standards and policies as indicated below.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width: 50%;">ISO 9001 Quality Management</td> <td style="width: 50%;">Accredited</td> </tr> <tr> <td>ISO 14001 Environmental Management</td> <td>Accredited</td> </tr> <tr> <td>ISO 27001 Information Security Management</td> <td>Accredited</td> </tr> <tr> <td>Cyber Essentials Plus</td> <td>Accredited</td> </tr> <tr> <td>General Data Protection Regulation (GDPR)</td> <td>Compliant With</td> </tr> <tr> <td>All services and outputs delivered by the supplier must adhere to and align with the Government Technology Code of Practice (TCoP) and associated standards.</td> <td>Compliant With</td> </tr> </table> <p>Delivery must be in line with the Government Technology Code of Practice: <u>The Technology Code of Practice - GOV.UK (www.gov.uk)</u></p>	ISO 9001 Quality Management	Accredited	ISO 14001 Environmental Management	Accredited	ISO 27001 Information Security Management	Accredited	Cyber Essentials Plus	Accredited	General Data Protection Regulation (GDPR)	Compliant With	All services and outputs delivered by the supplier must adhere to and align with the Government Technology Code of Practice (TCoP) and associated standards.	Compliant With
ISO 9001 Quality Management	Accredited											
ISO 14001 Environmental Management	Accredited											
ISO 27001 Information Security Management	Accredited											
Cyber Essentials Plus	Accredited											
General Data Protection Regulation (GDPR)	Compliant With											
All services and outputs delivered by the supplier must adhere to and align with the Government Technology Code of Practice (TCoP) and associated standards.	Compliant With											
<p>(2.5) Security Requirements</p> <p>Security Policy</p>												

[information-security-policy-v4.0.pdf \(england.nhs.uk\)](#)

Data Security and Protection Toolkit assessment guides - NHS England Digital

Additional Security Requirements

N/A

Processing personal data under or in connection with this contract

No personal or pseudonymized data will be processed by the supplier(s).

Should the processing of personal or pseudonymized data be required at any stage during delivery of the services, the supplier will be required to support completion of and adherence with the requirements set out in Data Privacy Impact Assessments, Data Protection Protocols or other agreements and processes necessary to ensure that all parties operate in compliance with GDPR.

(2.6) Exit Plan (where required)

Yes - Exit Plan to be agreed by the end of January 2025 so that it can be executed in February/March 2025

(2.7) Environmental Plan

No

3. SUPPLIER SOLUTION

(3.1) Supplier Solution

Suppliers Tender Response:

Pass/fail Question:

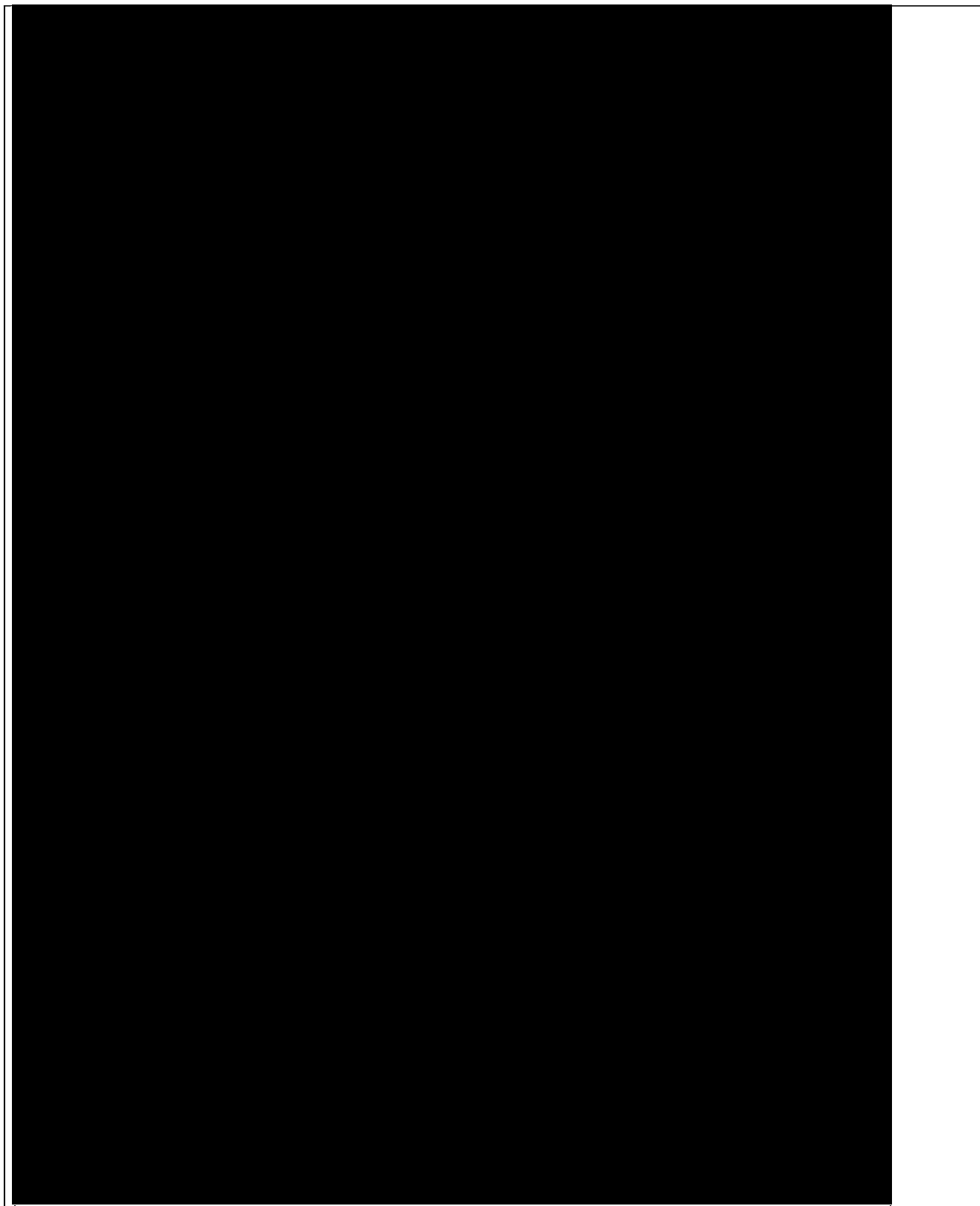
Where an answer of “No” is provided your bid will be excluded and will not be evaluated further.

No	Question	
1	Please confirm that your Total Fixed Lump Sum costs stated within your financial offer is within and does not exceed the total maximum budget of £1,558,300.00 excluding VAT	Yes

*delete as applicable

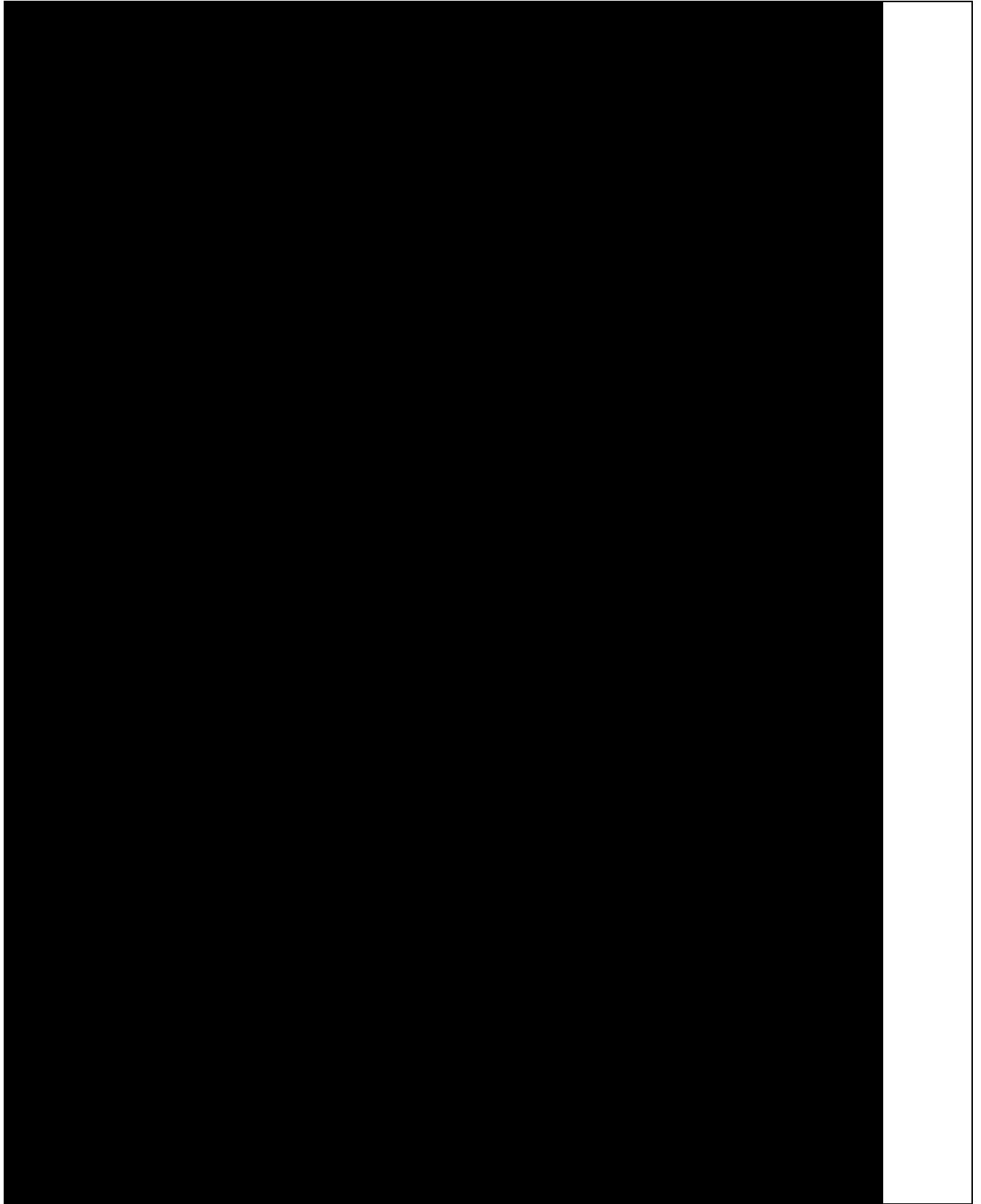
The attachment of appendices must only be submitted where specifically requested (i.e., only question 2 below) and do not contribute to the word count. Any attachments submitted which have not been specifically requested will not be evaluated.

No	Question	Weighting
1	<p>Please detail how your organisation would approach the delivery of the specified programme as part of a blended team with SCW and our partners in NHS England. Please describe within your response how you would approach delivering the outcomes and milestones referenced in the specification and how this approach will add value for SCW and NHS England.</p> <p>(Max word limit: 1000)</p>	20%
	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <ul style="list-style-type: none"> [Redacted] [Redacted] [Redacted] <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <ul style="list-style-type: none"> [Redacted] [Redacted] [Redacted] [Redacted] [Redacted] 	



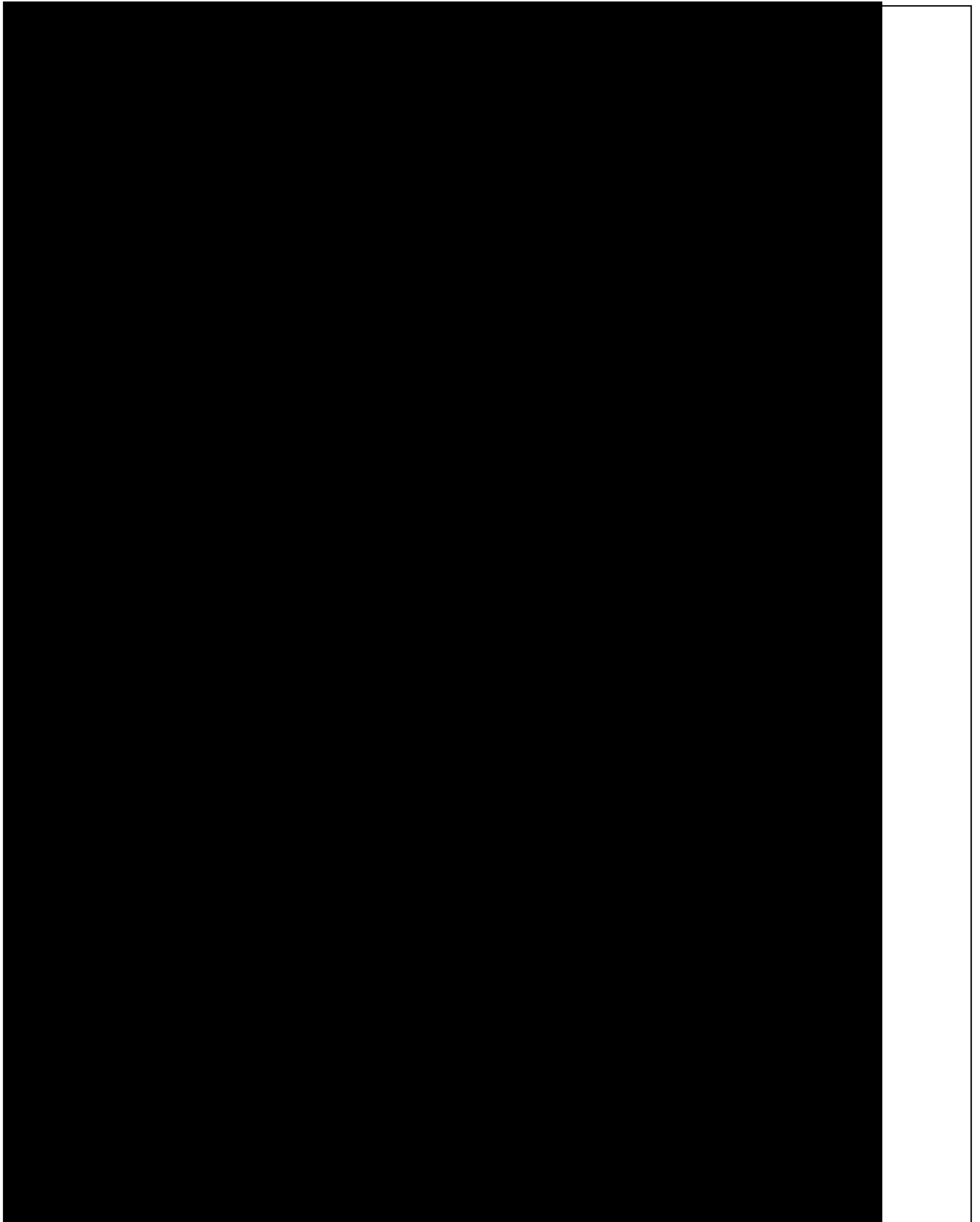
2	<p>Please detail how your organisation will identify capable and suitable resources to deliver the required services across all areas of the specification, including but not limited to subject matter expertise and experience in leading the development and delivery of large scale, transformational digital population health solutions across the NHS.</p> <p>Please provide a maximum of 4 sample Curriculum Vitae (CVs), illustrating the expertise that would be deployed and the relevance of these individuals’ experience in relation to delivering the specified outcomes and milestones and to demonstrate they have the required capabilities and experience as detailed above.</p> <p>(Max word limit: 500, not including attached CVs)</p>	15%

<div></div>		
3	<p>Please provide 2 case studies that demonstrate experience of leading the development of large scale, transformational digital population health solutions across the NHS (or similar at-scale solutions in the NHS).</p> <p><i>No testimonials are required. Should any be submitted, please note that they will not be shared with the evaluation team and/or considered as part of formal evaluation.</i></p> <p>(Max word limit: 500 words for each case study – 1000 words in total)</p> <div></div>	15%





4	<p>Please describe your plan for delivery across the areas of the specification including how you will:</p> <ul style="list-style-type: none">a. Mobilise resourcesb. Monitor progress against agreed deliverables, quality measures, desired outcomes / critical success factors and timelinesc. Evidence delivery of agreed deliverables, quality measures, desired outcomes / critical success factors and timelinesd. Ensure high quality deliverye. Provide reporting against agreed KPIs <p>Please include details of any support and resource that you would need SCW or NHS England to provide in helping you to deliver the outcomes.</p> <p>(Max word limit: 750)</p>	5%



<div></div>		
5	<div>All services and outputs delivered by the supplier must adhere to and align with the Government Technology Code of Practice (TCoP) and associated standards. Please describe:</div> <div><ul style="list-style-type: none">• how your organisation will ensure that all delivery is in line with the Government TCoP.• how you will seek and provide assurance of compliance with the TCoP and associated standards.</div> <div>(Max word limit: 500)</div>	5%
<div></div>		

<div></div>		
6	<p>Please describe the commitment your organisation will make to ensure that opportunities under the contract enhance social value and deliver the Policy Outcome and Model Award Criteria (MAC) below:</p> <ul style="list-style-type: none">• MAC 4.1 Deliver additional environmental benefits in the performance of the contract including working towards net zero greenhouse gas emissions.• MAC 6.2: Support in-work progression to help people, including those from disadvantaged or minority groups, to move into higher paid work by developing	10%

	new skills relevant to the contract. (Max word limit: 500)		
<div></div>			



Financial Template		
NHS South, Central and West (SCW) Commissioning Support Unit		
Contract for the provision of	Digital Prevention Services Technical Capability Support	
Project no.	1697	
Bidder organisational name	Axiologik Limited	

Information to Bidders
<p>Bidders must complete this "Total Cost" and share it as part of their bid response.</p> <p>Contract Budget</p> <p>Your total costs must not exceed the maximum budget of £1,558,300.00 excluding VAT.</p> <p>The contract will be based on the total fixed cost where the payment profile will be monthly across 8.5 equal payments as detailed in the Invitation to Tender, with a final performance-linked payment equal to one month on completion of the contract.</p> <p>Please use the comment box at the bottom to explain any assumptions, or provide any points of clarity you wish to inform the commissioner of.</p> <p>Costs should exclude VAT but include expenses.</p>

Ref	Milestone Description	Total Fixed Cost
Total cost must be all inclusive to deliver the requirements stated in the Invitation to Tender and aligned to the Milestone Table		
1	Release 0 – Delivered	
2	Release 1 - High Level Architecture	
3	Release 1 – Delivery Plan	
4	Release 2 - High Level Architecture	
5	Release 2 – Delivery Plan	
6	Data Architecture Discovery	
7	Data Strategy	
8	Data Blueprint	
9	Release 1 Change Plan	
10	Release 2 Change Plan	
TOTAL		

Comments and Points of Clarity

Fixed monthly payments will be pro rata, based on date of contract signing/contract commencement date

Clarifications Log Version 4 – 23/07/24

- Provision of Digital Prevention Services Technical Capability Support

Question No.	Question	Answer
1	Question three makes specific request for case studies within the NHS. Whilst we have individuals with experience, as an organisation we do not have NHS specific case studies. Would you accept case studies for comparable projects, which may not be NHS specific, with healthcare and project specific competencies demonstrated in the response to the remaining questions.	We are looking for a partner specifically with NHS experience, as an understanding of the NHS architecture & digital ecosystem will be essential to effectively delivery of the specification in the timescale.
2	We hereby would like to request for an extension of at least one week i.e. till 26th July, 2024, which will give us more time to produce Quality response catering your specific requirements.	Unfortunately, the project timeline doesn't allow for an extension. Updated: Deadline for receipt of bids as been extended to Fruday 26 July 2024 at 12pm
3	Can you please clarify whether exhibits/figures are included in the word count for this response?	Exhibits/figures are included in the word count.
4	Can you please clarify whether exhibits/figures are included in the word count for this response?	As above
5	We understand you're asking for specific roles to be filled within this specification. Where do we provide the costing breakdown for these specific roles?	The contract is based on fulfilment of the requirements, outcomes and milestones as detailed within the specification. Although we state "The PDP will provide a team to act as partner to NHSE, overseeing the STP, and providing direction and assurance. To achieve this, a team is envisaged comprising a number of senior, client-side roles including, but not limited to: Transformation Lead, Chief Architect, Head of Delivery, Head of Service Design, Head of Product, and

		Head of Business Change – with additional roles provided as required e.g. Solution Architect, Service Designer.”, we are not specifically looking for specific roles to be fulfilled. The expectation is that the successful PDP will provide a suitably experienced and qualified Team to successfully deliver the outcomes to a high standard.
6	Do you have any details on how you will score the pricing element of this response?	This is detailed within Section 6: Contract award criteria of the ITT and the Financial Template.
7	We understand we will need to provide a timed action plan as part of the Social Value response. With only 500 words limit for the response, could you please confirm the words in the Action plan will not be counted towards this 500 limit?	<p>Question 6 states: Please describe the commitment your organisation will make to ensure that opportunities under the contract enhance social value and deliver the Policy Outcome and Model Award Criteria (MAC) below:</p> <ul style="list-style-type: none"> • MAC 4.1 Deliver additional environmental benefits in the performance of the contract including working towards net zero greenhouse gas emissions. • MAC 6.2: Support in-work progression to help people, including those from disadvantaged or minority groups, to move into higher paid work by developing new skills relevant to the contract. <p>Should you wish to include an Action Plan, this will be included in the word count.</p>
8	The ITT doc Invitation to Tender mentions ‘The contract will be awarded on the basis of the most economically advantageous offer judged on the evaluation criteria contained within the Service Specification (document no.4). Please ensure you demonstrate within your offer how your organisation meets the evaluation	Your responses to the Quality Questions must demonstrate how your organisation meets the evaluation criteria and the requirements of the specification.

	criteria.' We are not clear on what is being asked here and will this have any implications on our final submittals. Please guide.	
9	<p>The ITT doc mentions the following. We assume at this stage we don't need to submit any proofs and will be requested by you after vendor selection:</p> <p>'As a minimum, the supplier must be accredited to or comply with relevant standards and policies as indicated below.</p> <p>ISO 9001 Quality Management Accredited</p> <p>ISO 14001 Environmental Management Accredited</p> <p>ISO 27001 Information Security Management Accredited</p> <p>Cyber Essentials Plus Accredited</p> <p>General Data Protection Regulation (GDPR) Compliant With</p> <p>All services and outputs delivered by the supplier must adhere to and align with the Government Technology Code of Practice (TCoP) and associated standards.</p> <p>Compliant With Delivery must be in line with the Government Technology Code of Practice:</p> <p>The Technology Code of Practice - GOV.UK (www.gov.uk)'</p>	We do not require bidders to submit evidence at tender stage. However, the successful supplier may be requested to provide evidence as part of the condition of the award and during the lifetime of the contract to demonstrate compliance as condition of contract.
10	<p>The instruction on images mentions 'Images within documents should be appropriately compressed to ensure document sizes do not become unmanageable.' We assume diagrams are allowed for the responses and the words used in it do not count towards the response word limit. Pl confirm.</p>	Diagrams are allowed within the body of your response and will count towards the word count limit.
11	Please confirm the page limit for the 4 CVs asked in Q2.	There are no page limits for the CV's, however, for the purposes of brevity the detail provided must be relevant in responding to the requirements of the question.

12	<p>Please confirm the following is the right list of submittals:</p> <ol style="list-style-type: none"> 1. Document 5: <ol style="list-style-type: none"> a) Only 'Financial template v3' in response to Doc 5 Part A b) Part B responses to 6 exam questions 2. Supplier Information Document. 3. Form of Offer declaration (Document 6) 	Yes
13	Do we need to fill in details for 'Oracle Supplier Setup information:' in the 'Supplier Information document v3'?	Yes
14	Could you please clarify if resources are to Inside or Outside IR35? Our interpretation is Inside IR35	Please refer to answer to Clarification Question 4 – This contract will fall outside of the scope of IR35.
15	Is there any Terms and Conditions document that we can get access to or is the sample Order form the only document for us to review legally?	Please refer to the embedded draft order form on page 10 (Document 3).
16	In continuation to the question '7. Do we need to fill in details for 'Oracle Supplier Setup information:' in the 'Supplier Information document v3'?' could you please further clarify if we have to submit 'Oracle Supplier Setup information:' which is part of the 'Supplier Information document v3' do we need to submit it separately in company header doc or we are okay to submit the format as provided by you.	Please complete the Supplier Information Document. The Oracle Supplier Setup information must be completed and submitted on Company Headed paper saved as a PDF document for compliance reasons. They can be a single document.
17	When responding, where you like the supplier details and bank account details uploaded to? Should this be in the same area as the supplier declaration?	Yes, that would be fine.

<div></div>
<p>(3.2) Account structure including Key Personnel</p> <p>Account Manager: <div></div></p> <p>Solution Principal: <div></div></p> <p>Key Personnel:</p> <ul style="list-style-type: none"><div></div><div></div><div></div><div></div>
<p>(3.3) Sub-contractors to be involved in the provision of the Services</p> <p>TPXimpact Ltd The Hickman, 2 Whitechapel Rd, London E1 1EW</p>
<p>(3.4) Outline Security Management Plan</p> <p>N/A</p>

3.5) Relevant Convictions
N/A
(3.6) Implementation Plan
N/A
4. PERFORMANCE QUALITY

4.1) Key Performance Indicators

The following KPIs will apply to this service. These KPIs will facilitate an assessment of supplier performance in relation to the key programme aims and success criteria. Performance against these KPIs will be regularly evaluated by SCW through the term of the agreement. Reporting and monitoring mechanisms will be agreed with the supplier during contract mobilisation.

Ref	KPI Description	Criteria	Measurement Frequency
1	Quality of service delivery	<p>Quality of engagement and involvement in blended team working with the Customer, NHS England, and other programme partners.</p> <p>Effective resources, plans and processes deployed to deliver the services and achieve programme milestones.</p> <p>Information sharing, knowledge transfer and compliance with programme reporting requirements.</p> <p>Delivery of the role and function of the partner in line with service requirements specified.</p> <p>Services rated at least 'good' in relation to customer satisfaction feedback from SCW and NHS England.</p>	Monthly
2	Achievement of milestones	Achievement of milestones set out in the service requirements.	Quarterly
3	Achievement of outputs and outcomes	Achievement of the outcomes and outputs set out in the service requirements.	Quarterly
4	Contract review process	<p>Provision of monitoring and reporting information to agreed quality and schedule.</p> <p>Appropriate attendance at and input to monthly contract review meetings.</p>	Monthly

(4.2) Service Levels and Service Credits

N/A

5. PRICE AND PAYMENT

(5.1) Contract Price is payable by the Customer in accordance with the commercial schedule set out in the framework agreement (including applicable discount but excluding VAT), payment profile and method of payment (e.g. Government Procurement Card (GPC) or BACS))

Payment of the contract price and supplier fees of **£1,468,850.00 excluding VAT** will be apportioned equally across the period of delivery plus one month. The final payment will be made following confirmation that all agreed milestones, deliverables and outputs have been successfully met.

Fees will be payable monthly in arrears (within 30 days) following submission of a valid invoice by the supplier.

(5.2) Invoicing and Payment

The Supplier shall issue invoices monthly in arrears. The Customer shall pay the Supplier within thirty (30) days of receipt of a Valid Invoice, submitted in accordance with this paragraph 5.2, the payment profile set out in paragraph 5.1 above and the provisions of the Contract.

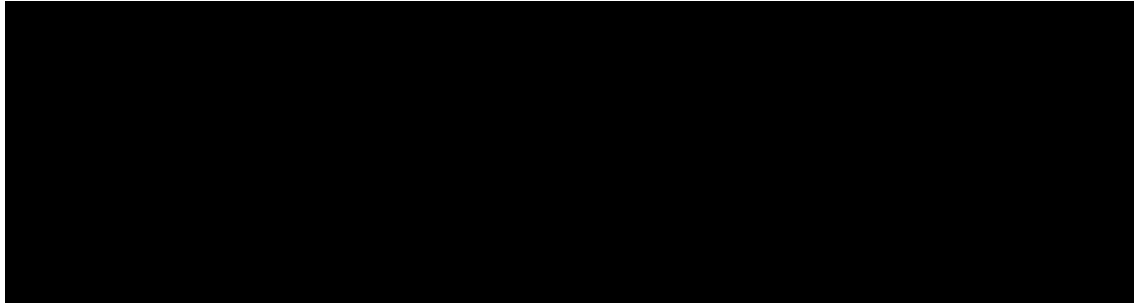
6. SUPPLEMENTAL AND/OR ADDITIONAL CLAUSES

(6.1) Supplemental requirements

N/A

BY SIGNING AND RETURNING THIS ORDER FORM THE SUPPLIER AGREES to enter a legally binding contract with the Customer to provide the Goods and/or Services. The Parties hereby acknowledge and agree that they have read the NHS Conditions of Contract for purchase of goods and/or Services and by signing below agree to be bound by the terms of this Contract.

For and on behalf of the Supplier:



For and on behalf of the Customer:

Job Title/Role: Chief Financial Officer



Appendix A.

Call-off Terms and Conditions for the Supply of Goods

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

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

The Supplier shall supply to the Authority, and the Authority shall receive and pay for, the Goods on the terms of the Contract.

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

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

Schedules

Schedule 1 of these Call-off Terms and Conditions	Key Provisions
Schedule 2 of these Call-off Terms and Conditions	General Terms and Conditions
Schedule 3 of these Call-off Terms and Conditions	Information and Data Provisions
Schedule 4 of these Call-off Terms and Conditions	Definitions and Interpretations

Schedule 1 of these Call-off Terms and Conditions

Key Provisions

1 Application of the Key Provisions

1.1 The standard Key Provisions at Clauses 1 to 7 of this Schedule 1 of these Call-off Terms and Conditions shall apply to this Contract.

1.2 Extra Key Provisions shall only apply to this Contract where such provisions are set out as part of the Order Form.

2 Term

2.1 This Contract commences on the Commencement Date.

2.2 The Term of this Contract shall be as set out in the Order Form.

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

3 Contract Managers

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

4 Names and addresses for notices

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

5 Management levels for escalation and dispute resolution

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

Level	Authority representative	Supplier representative
1	Contract Manager	Contract Manager
2	Assistant Director or equivalent	Assistant Director or equivalent
3	Director or equivalent	Director or equivalent

6 Order of precedence

6.1 Subject always to Clause 1.10 of Schedule 4 of these Call-off Terms and Conditions, should there be a conflict between any other parts of this Contract the order of priority for construction purposes shall be:

- 6.1.1 the Order Form
- 6.1.2 the applicable provisions of the Framework Agreement other than the Specification and Tender Response Document;
- 6.1.3 the provisions on the front page of these Call-off Terms and Conditions for the Provision of Services;
- 6.1.4 Schedule 1 of these Call-off Terms and Conditions: Key Provisions;
- 6.1.5 the Specification and Tender Response Document (but only in respect of the requirements);
- 6.1.6 Schedule 2 of these Call-off Terms and Conditions: General Terms and Conditions;
- 6.1.7 Schedule 3 of these Call-off Terms and Conditions: Information Governance Provisions;
- 6.1.8 Schedule 4 of these Call-off Terms and Conditions: Definitions and Interpretations;
- 6.1.9 any other documentation forming part of the Contract in the date order in which such documentation was created with the more recent documentation taking precedence over older documentation to the extent only of any conflict.

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

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

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

- 7.2.1 the Supplier will, within seven (7) days of becoming aware of that fact, give notice in writing to the Authority;
- 7.2.2 the Authority or Third Party may offer employment to such person within twenty-eight (28) days of the notification by the Supplier;
- 7.2.3 if such offer of employment is accepted, the Supplier or a Sub-contractor shall immediately release the person from their employment;
- 7.2.4 if after that period specified in Clause 7.2.2 of this Schedule 1 of these Call-off Terms and Conditions has elapsed, no offer of employment has been made by the Authority or Third Party, or such offer has been made by the Authority or Third Party but not accepted within a reasonable time, the Supplier or Sub-contractor shall employ that person in accordance with its obligations and duties under TUPE and shall be responsible for all liabilities arising in respect of any such person and shall (where relevant) be bound to apply

Fair Deal for Staff Pensions in respect of any such person in accordance with the requirements of Part D of Schedule 7 of the NHS Terms and Conditions for the Provision of Services (Contract Version) (January 2018).

Annex 1 to Schedule 1

Order Form - This document

Schedule 1 of these Call-off Terms and Conditions

General Terms and Conditions

Contents

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

1 Provision of Services

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

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

1.2 The Supplier shall comply with the Implementation Requirements (if any) in accordance with any timescales as may be set out in the Specification and Tender Response Document., Without limitation to the foregoing provisions of this Clause 1.2 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall if specified in the Order Form implement the Services fully in accordance with the Implementation Plan. If the Implementation Plan is an outline plan, the Supplier shall, as part of implementation, develop the outline plan into a full plan and agree this with the Authority. Once this is agreed, the Supplier shall comply with the full Implementation Plan.

1.3 The Supplier shall commence delivery of the Services on the Services Commencement Date.

1.4 The Supplier shall comply fully with its obligations set out in the Specification and Tender Response Document and/or the Order Form, including without limitation the KPIs.

1.5 The Supplier shall ensure that all relevant consents, authorisations, licences and accreditations required to provide the Services are in place at the Actual Services Commencement Date and are maintained throughout the Term.

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

- 1.7 The Supplier shall notify the Authority forthwith in writing:
- 1.7.1 of any pending inspection of the Services, or any part of them, by a regulatory body immediately upon the Supplier becoming aware of such inspection; and

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

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

1.9 Upon receipt of notice pursuant to Clause 1.7 of this Schedule 2 of these Call-off Terms and Conditions or any report or communication pursuant to Clause 1.8 of this Schedule 2 of these Call-off Terms and Conditions, the Authority shall be entitled to request further information from the Supplier and/or a meeting with the Supplier, and the Supplier shall cooperate fully with any such request.

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

1.11 The Supplier shall be relieved from its obligations under this Contract to the extent that it is prevented from complying with any such obligations due to any acts, omissions or defaults of the Authority. To qualify for such relief, the Supplier must notify the Authority promptly (and in any event within five (5) Business Days) in writing of the occurrence of such act, omission, or default of the Authority together with the potential impact on the Supplier's obligations.

2 Premises, locations and access

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

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

2.3 Subject to Clause 2.4 of this Schedule 2 of these Call-off Terms and Conditions, any access granted to the Supplier and its Staff under Clause 2.2 of this Schedule 2 of these Call-off Terms and Conditions shall be non-exclusive and revocable. Such access shall not be deemed to create any greater rights or interest than so granted (to include, without limitation, any relationship of landlord and tenant) in the Premises and Locations. The Supplier warrants that it shall carry out all such reasonable further acts to give effect to this Clause 2.3 of this Schedule 2 of these Call-off Terms and Conditions.

2.4 Where, in order to provide the Services, the Supplier requires any greater rights to use or occupy any specific Premises and Locations over and above such reasonable access rights granted in accordance with Clause 2.2 and Clause 2.3 of this Schedule 2 of these Call-off Terms and Conditions, such further rights shall be limited to any rights granted to the Supplier by the Authority in accordance with any licence and/or lease entered into by the Supplier as referred to in any Order Form.

2.5 Where it is provided for by a specific mechanism set out in the Specification and Tender Response Document and/or the Order Form, the Authority may increase, reduce or otherwise vary the Premises and Locations in accordance with such mechanism subject to the provisions of any licence or lease entered into by the Parties as referred to at Clause 2.4 of this Schedule 2 of these Call-off Terms and Conditions. Where there is no such specific mechanism set out in the Specification and Tender Response Document and/or the Order Form, any variations to the Premises and Locations where the Services are to be provided shall be agreed by the Parties in accordance with Clause 21 of this Schedule 2 of these Call-off Terms and Conditions. If agreement cannot be reached the matter shall be referred to, and resolved in accordance with, the dispute resolution process set out in Clause 5 of the Key Provisions and Clause 22.3 of this Schedule 2 of these Call-off Terms and Conditions.

3 Cooperation with third parties

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

4 Use of Authority equipment

4.1 Unless otherwise set out in the Specification and Tender Response Document or otherwise agreed by the Parties in writing, any equipment or other items provided by the Authority for use by the Supplier:

4.1.1 shall be provided at the Authority's sole discretion;

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

4.1.3 must be returned to the Authority within any agreed timescales for such return or otherwise upon the request of the Authority; and

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

5 Staff and Lifescience Industry Accredited Credentialing Register

5.1 Subject to the requirements of this Contract and any Law, the Supplier shall be entirely responsible for the employment and conditions of service of Staff. The Supplier shall ensure that such conditions of employment are consistent with its obligations under this Contract.

5.2 The Supplier will employ sufficient Staff to ensure that it complies with its obligations under this Contract. This will include, but not be limited to, the Supplier providing a sufficient reserve of trained and competent Staff to provide the Services during Staff holidays or absence.

5.3 The Supplier shall use reasonable endeavours to ensure the continuity of all Staff in the provision of the Services and, where any member of Staff is designated as key to the provision of the Services as set out in the Specification and Tender Response Document, the Order Form or as otherwise agreed between the Parties in writing, any redeployment and/or replacement of such member of Staff by the Supplier shall be subject to the prior written approval of the Authority, such approval not to be unreasonably withheld or delayed.

5.4 The Supplier shall ensure that all Staff are aware of, and at all times comply with, the Policies.

5.5 The Supplier shall:

5.5.1 employ only those Staff who are careful, skilled and experienced in the duties required of them;

5.5.2 ensure that every member of Staff is properly and sufficiently trained and instructed;

5.5.3 ensure all Staff have the qualifications to carry out their duties;

5.5.4 maintain throughout the Term all appropriate licences and registrations with any relevant bodies (at the Supplier's expense) in respect of the Staff;

5.5.5 ensure all Staff comply with such registration, continuing professional development and training requirements or recommendations appropriate to their role including those from time to time issued by the Department of Health or any relevant regulatory body or any industry body in relation to such Staff; and

5.5.6 comply with the Authority's staff vetting procedures and other staff protocols, as may be relevant to this Contract and which are notified to the Supplier by the Authority in writing.

5.6 The Supplier shall not deploy in the provision of the Services any person who has suffered from, has signs of, is under treatment for, or who is suffering from any medical condition which is known to, or does potentially, place the health and safety of the Authority's staff, patients, service users or visitors at risk unless otherwise agreed in writing with the Authority.

5.7 The Supplier shall ensure that all potential Staff or persons performing any of the Services during the Term who may reasonably be expected in the course of performing any of the Services under this Contract to have access to or come into contact with children or other vulnerable persons and/or have access to or come into contact with persons receiving health care services:

5.7.1 are questioned concerning their Convictions; and

5.7.2 obtain appropriate disclosures from the Disclosure and Barring Service (or other appropriate body) as required by Law and/or the Policies before the Supplier engages the potential staff or persons in the provision of the Services.

5.8 The Supplier shall take all necessary steps to ensure that such potential staff or persons obtain standard and enhanced disclosures from the Disclosure and Barring Service (or other appropriate body) and shall ensure all such disclosures are kept up to date. The obtaining of such disclosures shall be at the Supplier's cost and expense.

5.9 The Supplier shall ensure that no person is employed or otherwise engaged in the provision of the Services without the Authority's prior written consent if:

5.9.1 the person has disclosed any Convictions upon being questioned about their Convictions in accordance with Clause 5.7.1 of this Schedule 2 of these Call-off Terms and Conditions;

5.9.2 the person is found to have any Convictions following receipt of standard and/or enhanced disclosures from the Disclosure and Barring Service (or other appropriate body) in accordance with Clause 5.7.2 of this Schedule 2 of these Call-off Terms and Conditions; or

5.9.3 the person fails to obtain standard and/or enhanced disclosures from the Disclosure and Barring Service (or other appropriate body) upon request by the Supplier in accordance with Clause 5.7.2 of this Schedule 2 of these Call-off Terms and Conditions.

5.10 In addition to the requirements of Clause 5.7 to Clause 5.9 of this Schedule 2 of these Call-off Terms and Conditions, where the Services are or include regulated activities as defined by the Safeguarding Vulnerable Groups Act 2006 the Supplier:

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

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

5.10.3 shall ensure that no person is employed or otherwise engaged in the provision of the Services if that person is barred from carrying out, or whose previous conduct or records indicate that they would not be suitable to carry out, any regulated activities as defined by the Safeguarding Vulnerable Groups Act 2006 or may present a risk to patients, service users or any other person.

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

5.12 The Supplier shall immediately provide to the Authority any information that the Authority reasonably requests to enable the Authority to satisfy itself that the obligations set out in Clause 5.7 to Clause 5.11 of this Schedule 2 of these Call-off Terms and Conditions have been met.

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

5.14 Unless otherwise confirmed by the Authority in writing, the Supplier shall ensure full compliance (to include with any implementation timelines) with any Guidance issued by the Department of Health and Social Care and/or any requirements and/or Policies issued by the Authority (to include as may be set out as part of any procurement documents leading to the award of this Contract) in relation to the adoption of, and compliance with, any scheme or schemes to verify the credentials of Supplier representatives that visit NHS premises (to include use of the Lifescience Industry Accredited Credentialing Register). Once compliance with any notified implementation timelines has been achieved by the Supplier, the Supplier shall, during the Term, maintain the required level of compliance in accordance with any such Guidance, requirements and Policies.

6 Business continuity

6.1 Throughout the Term, the Supplier will ensure its Business Continuity Plan provides for continuity during a Business Continuity Event. The Supplier confirms and agrees such Business

Continuity Plan details and will continue to detail robust arrangements that are reasonable and proportionate to:

- 6.1.1 the criticality of this Contract to the Authority; and
- 6.1.2 the size and scope of the Supplier's business operations, regarding continuity of the provision of the Services during and following a Business Continuity Event.

6.2 The Supplier shall test its Business Continuity Plan at reasonable intervals, and in any event no less than once every twelve (12) months or such other period as may be agreed between the Parties taking into account the criticality of this Contract to the Authority and the size and scope of the Supplier's business operations. The Supplier shall promptly provide to the Authority, at the Authority's written request, copies of its Business Continuity Plan, reasonable and proportionate documentary evidence that the Supplier tests its Business Continuity Plan in accordance with the requirements of this Clause 6.2 of this Schedule 2 of these Call-off Terms and Conditions and reasonable and proportionate information regarding the outcome of such tests. The Supplier shall provide to the Authority a copy of any updated or revised Business Continuity Plan within fourteen (14) Business Days of any material update or revision to the Business Continuity Plan.

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

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

7 The Authority's obligations

7.1 Subject to the Supplier providing the Services in accordance with this Contract, the Authority will pay the Supplier for the Services in accordance with Clause 9 of this Schedule 2 of these Call-off Terms and Conditions.

7.2 The Authority shall, as appropriate, provide copies of or give the Supplier access to such of the Policies that are relevant to the provision of the Services.

7.3 The Authority shall comply with the Authority's Obligations.

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

8 Contract management

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

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

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

- 8.3.1 details of the performance of the Supplier when assessed in accordance with the KPIs since the last such performance report;
- 8.3.2 details of any complaints from or on behalf of patients or other service users, their nature and the way in which the Supplier has responded to such complaints since the last review meeting written report;
- 8.3.3 the information specified in the Specification and Tender Response Document;
- 8.3.4 a status report in relation to the implementation of any current Remedial Proposals by either Party; and
- 8.3.5 such other information as reasonably required by the Authority.

8.4 Unless specified otherwise in the Specification and Tender Response Document, the Authority shall take minutes of each review meeting and shall circulate draft minutes to the Supplier within a reasonable time following such review meeting. The Supplier shall inform the Authority in writing of any suggested amendments to the minutes within five (5) Business Days of receipt of the draft minutes. If the Supplier does not respond to the Authority within such five (5) Business Days the minutes will be deemed to be approved. Where there are any differences in

interpretation of the minutes, the Parties will use their reasonable endeavours to reach agreement. If agreement cannot be reached the matter shall be referred to, and resolved in accordance with, the dispute resolution process set out in Clause 5 of the Key Provisions and Clause 22.3 of this Schedule 2 of these Call-off Terms and Conditions.

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

8.6 Upon receipt of management information supplied by the Supplier to the Authority and/or the Third Party Body, or by the Authority to the Third Party Body, the Parties hereby consent to the Third Party Body and the Authority:

- 8.6.1 storing and analysing the management information and producing statistics; and
- 8.6.2 sharing the management information or any statistics produced using the management information with any other Contracting Authority.

8.7 If the Third Party Body and/or the Authority shares the management information or any other information provided under Clause 8.6 of this Schedule 2 of these Call-off Terms and Conditions, any Contracting Authority receiving the management information shall, where such management information is subject to obligations of confidence under this Contract and such management information is provided direct by the Authority to such Contracting Authority, be informed of the confidential nature of that information by the Authority and shall be requested by the Authority not to disclose it to any body that is not a Contracting Authority (unless required to do so by Law).

8.8 The Authority may make changes to the type of management information which the Supplier is required to supply and shall give the Supplier at least one (1) month's written notice of any changes.

9 Price and payment

9.1 The Contract Price shall be calculated in accordance with the provisions of the Framework Agreement, as confirmed in the Order Form.

9.2 Unless otherwise stated in the Framework Agreement and/or the Order Form, the Contract Price:

9.2.1 shall be payable from the Actual Services Commencement Date;

9.2.2 shall remain fixed during the Term; and

9.2.3 is the entire price payable by the Authority to the Supplier in respect of the Services and includes, without limitation, any royalties, licence fees, supplies and all consumables used by the Supplier, travel costs, accommodation expenses, the cost of Staff and all appropriate taxes (excluding VAT), duties and tariffs and any expenses arising from import and export administration.

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

9.3.1 where the Framework Agreement and/or the Order Form confirms that the payment profile for this Contract is monthly in arrears, the Supplier shall invoice the Authority, within fourteen (14) days of the end of each calendar month, the Contract Price in respect of the Services provided in compliance with this Contract in the preceding calendar month; or

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

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

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

9.5 The Authority shall verify and pay each valid and undisputed invoice received in accordance with Clause 9.3 of this Schedule 2 of these Call off Terms and Conditions within thirty (30) days of receipt of such invoice at the latest. However, the Authority shall use its reasonable endeavours to pay such undisputed invoices sooner in accordance with any applicable government prompt payment targets. If there is undue delay in verifying the invoice in accordance with this Clause 9.5 of this Schedule 2, the invoice shall be regarded as valid and undisputed for the purposes this Clause 9.5 after a reasonable time has passed.

9.6 Where the Authority raises a query with respect to an invoice the Parties shall liaise with each other and agree a resolution to such query within thirty (30) days of the query being raised. If the Parties are unable to agree a resolution within thirty (30) days the query shall be referred to dispute resolution in accordance with Clause 22 of this Schedule 2 of these Call off Terms and Conditions. For the avoidance of doubt, the Authority shall not be in breach of any of any of its payment obligations under this Contract in relation to any queried or disputed invoice sums unless the process referred to in this Clause 9.6 of this Schedule 2 has been followed and it has been

determined that the queried or disputed invoice amount is properly due to the Supplier and the Authority has then failed to pay such sum within a reasonable period following such determination.

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

9.8 The Authority reserves the right to set-off:

9.8.1 any monies due to the Supplier from the Authority as against any monies due to the Authority from the Supplier under this Contract; and

9.8.2 any monies due to the Authority from the Supplier as against any monies due to the Supplier from the Authority under this Contract.

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

9.10 If a Party fails to pay any undisputed sum properly due to the other Party under this Contract, the Party due such sum shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

10 Warranties

10.1 The Supplier warrants and undertakes that:

10.1.1 it shall comply with the Framework Agreement;

10.1.2 it has, and shall ensure its Staff shall have, and shall maintain throughout the Term all appropriate licences and registrations with the relevant bodies to fulfil its obligations under this Contract;

10.1.3 it has all rights, consents, authorisations, licences and accreditations required to provide the Services and shall maintain such consents, authorisations, licences and accreditations throughout the Term;

10.1.4 it has and shall maintain a properly documented system of quality controls and processes covering all aspects of its obligations under this Contract and/or under Law and/or Guidance and shall at all times comply with such quality controls and processes;

10.1.5 it shall not make any significant changes to its system of quality processes in relation to the Services without notifying the Authority in writing at least twenty one (21) days in

advance of such change (such notice to include the details of the consequences which follow such change being implemented);

10.1.6 where any act of the Supplier requires the notification to and/or approval by any regulatory or other competent body in accordance with any Law and Guidance, the Supplier shall comply fully with such notification and/or approval requirements;

10.1.7 receipt of the Services by or on behalf of the Authority and use of the deliverables or of any other item or information supplied or made available to the Authority as part of the Services will not infringe any third party rights, to include without limitation any Intellectual Property Rights;

10.1.8 it will comply with all Law, Guidance, Policies and the Supplier Code of Conduct in so far as it is relevant to the provision of the Services;

10.1.9 it will provide the Services using reasonable skill and care and in accordance with Good Industry Practice and shall fulfil all requirements of this Contract using appropriately skilled, trained and experienced staff;

10.1.10 unless otherwise set out in the Specification and Tender Response Document and/or as otherwise agreed in writing by the Parties, it has and/or shall procure all resources, equipment, consumables and other items and facilities required to provide the Services;

10.1.11 without limitation to the generality of Clause 10.1.8 of this Schedule 2 of these Call-off Terms and Conditions, it shall comply with all health and safety processes, requirements safeguards, controls, and training obligations in accordance with its own operational procedures, Law, Guidance, Policies, Good Industry Practice, the requirements of the Specification and Tender Response Document and any notices or instructions given to the Supplier by the Authority and/or any competent body, as relevant to the provision of the Services and the Supplier's access to the Premises and Locations in accordance with this Contract;

10.1.12 without prejudice to any specific notification requirements set out in this Contract, it will promptly notify the Authority of any health and safety hazard which has arisen, or the Supplier is aware may arise, in connection with the performance of the Services and take such steps as are reasonably necessary to ensure the health and safety of persons likely to be affected by such hazards;

10.1.13 any equipment it uses in the provision of the Services shall comply with all relevant Law and Guidance, be fit for its intended purpose and maintained fully in accordance with the manufacturer's specification and shall remain the Supplier's risk and responsibility at all times;

10.1.14 unless otherwise confirmed by the Authority in writing (to include, without limitation, as part of the Specification and Tender Response Document), it will ensure that any products purchased by the Supplier partially or wholly for the purposes of providing the Services will comply with requirements five (5) to eight (8), as set out at Annex 1 of the Cabinet Office Procurement Policy Note - Implementing Article 6 of the Energy Efficiency

Directive (Action Note 07/14 3rd June 2014), to the extent such requirements apply to the relevant products being purchased;

10.1.15 it shall use Good Industry Practice to ensure that any information and communications technology systems and/or related hardware and/or software it uses are free from corrupt data, viruses, worms and any other computer programs or code which might cause harm or disruption to the Authority's information and communications technology systems;

10.1.16 it shall: (i) comply with all relevant Law and Guidance and shall use Good Industry Practice to ensure that there is no slavery or human trafficking in its supply chains; and (ii) notify the Authority immediately if it becomes aware of any actual or suspected incidents of slavery or human trafficking in its supply chains;

10.1.17 it shall at all times conduct its business in a manner that is consistent with any anti-slavery Policy of the Authority and shall provide to the Authority any reports or other information that the Authority may request as evidence of the Supplier's compliance with this Clause 10.1.17 and/or as may be requested or otherwise required by the Authority in accordance with its anti-slavery Policy;

10.1.18 it will fully and promptly respond to all requests for information and/or requests for answers to questions regarding this Contract, the provision of the Services, any complaints and any Disputes at the frequency, in the timeframes and in the format as requested by the Authority from time to time (acting reasonably);

10.1.19 all information included within the Supplier's responses to any documents issued by the Authority as part of the procurement relating to the award of this Contract (to include, without limitation, as referred to in the Specification and Tender Response Document and/or Order Form) and all accompanying materials is accurate;

10.1.20 it has the right and authority to enter into this Contract and that it has the capability and capacity to fulfil its obligations under this Contract;

10.1.21 it is a properly constituted entity and it is fully empowered by the terms of its constitutional documents to enter into and to carry out its obligations under this Contract and the documents referred to in this Contract;

10.1.22 all necessary actions to authorise the execution of and performance of its obligations under this Contract have been taken before such execution;

10.1.23 there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition, business or operations of the Supplier;

10.1.24 there are no material agreements existing to which the Supplier is a party which prevent the Supplier from entering into or complying with this Contract;

10.1.25 it has and will continue to have the capacity, funding and cash flow to meet all its obligations under this Contract; and

10.1.26 it has satisfied itself as to the nature and extent of the risks assumed by it under this Contract and has gathered all information necessary to perform its obligations under this Contract and all other obligations assumed by it.

10.2 The Supplier warrants that all information, data and other records and documents required by the Authority as set out in the Specification and Tender Response Document shall be submitted to the Authority in the format and in accordance with any timescales set out in the Specification and Tender Response Document.

10.3 Without prejudice to the generality of Clause 10.2 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier acknowledges that a failure by the Supplier following the Actual Services Commencement Date to submit accurate invoices and other information on time to the Authority may result in the commissioner of health services, or other entity responsible for reimbursing costs to the Authority, delaying or failing to make relevant payments to the Authority. Accordingly, the Supplier warrants that, from the Actual Services Commencement Date, it shall submit accurate invoices and other information on time to the Authority.

10.4 The Supplier warrants and undertakes to the Authority that it shall comply with any eProcurement Guidance as it may apply to the Supplier and shall carry out all reasonable acts required of the Supplier to enable the Authority to comply with such eProcurement Guidance.

10.5 The Supplier warrants and undertakes to the Authority that, as at the Commencement Date, it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance. If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:

10.5.1 notify the Authority in writing of such fact within five (5) Business Days of its occurrence; and

10.5.2 promptly provide to the Authority:

(i) details of the steps which the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and

(ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

10.6 The Supplier further warrants and undertakes to the Authority that it will inform the Authority in writing immediately upon becoming aware that any of the warranties set out in Clause 10 of this Schedule 2 of these Call-off Terms and Conditions have been breached or there is a risk that any warranties may be breached.

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

11 Intellectual property

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

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

12 Indemnity

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

- 12.1.1 any injury or allegation of injury to any person, including injury resulting in death;
- 12.1.2 any loss of or damage to property (whether real or personal); and/or
- 12.1.3 any breach of Clause 10.1.7 and/or Clause 11 of this Schedule 2 of these Call-off Terms and Conditions; and/or
- 12.1.4 any failure by the Supplier to commence the delivery of the Services by the Services Commencement Date;

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

12.2 Liability under Clauses 12.1.1, 12.1.3 and 17.13 of this Schedule 2 of these Call-off Terms and Conditions and Clause 2.6 of Schedule 3 of these Call-off Terms and Conditions shall be unlimited. Liability under Clauses 12.1.2 and 12.1.4 of this Schedule 2 of these Call-off Terms and Conditions shall be subject to the limitation of liability set out in Clause 13 of this Schedule 2 of these Call-off Terms and Conditions.

12.3 In relation to all third party claims against the Authority, which are the subject of any indemnity given by the Supplier under this Contract, the Authority shall use its reasonable endeavours, upon a written request from the Supplier, to transfer the conduct of such claims to the

Supplier unless restricted from doing so. Such restrictions may include, without limitation, any restrictions:

- 12.3.1 relating to any legal, regulatory, governance, information governance, or confidentiality obligations on the Authority; and/or
- 12.3.2 relating to the Authority's membership of any indemnity and/or risk pooling arrangements.

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

13 Limitation of liability

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

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

13.2 Subject to Clauses 12.2, 13.1, 13.3, and 13.5 of this Schedule 2 of these Call-off Terms and Conditions, the total liability of each Party to the other under or in connection with this Contract whether arising in contract, tort, negligence, breach of statutory duty or otherwise shall be limited in aggregate to the greater of: (a) five million GBP (£5,000,000); or (b) one hundred and twenty five percent (125%) of the total Contract Price paid or payable by the Authority to the Supplier for the Services.

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

- 13.3.1 extra costs incurred purchasing replacement or alternative services;
- 13.3.2 costs associated with advising, screening, testing, treating, retreating or otherwise providing healthcare to patients;
- 13.3.3 the costs of extra management time; and/or
- 13.3.4 loss of income due to an inability to provide health care services,

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

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

13.5 If the total Contract Price paid or payable by the Authority to the Supplier over the Term:

13.5.1 is less than or equal to one million pounds (£1,000,000), then the figure of five million pounds (£5,000,000) at Clause 13.2 of this Schedule 2 of these Call-off Terms and Conditions shall be replaced with one million pounds (£1,000,000);

13.5.2 is less than or equal to three million pounds (£3,000,000) but greater than one million pounds (£1,000,000), then the figure of five million pounds (£5,000,000) at Clause 13.2 of this Schedule 2 of these Call-off Terms and Conditions shall be replaced with three million pounds (£3,000,000);

13.5.3 is equal to, exceeds or will exceed ten million pounds (£10,000,000), but is less than fifty million pounds (£50,000,000), then the figure of five million pounds (£5,000,000) at Clause 13.2 of this Schedule 2 of these Call-off Terms and Conditions shall be replaced with ten million pounds (£10,000,000) and the figure of one hundred and twenty five percent (125%) at Clause 13.2 of this Schedule 2 of these Call-off Terms and Conditions shall be deemed to have been deleted and replaced with one hundred and fifteen percent (115%); and

13.5.4 is equal to, exceeds or will exceed fifty million pounds (£50,000,000), then the figure of five million pounds (£5,000,000) at Clause 13.2 of this Schedule 2 of these Call-off Terms and Conditions shall be replaced with fifty million pounds (£50,000,000) and the figure of one hundred and twenty five percent (125%) at Clause 13.2 of this Schedule 2 of these Call-off Terms and Conditions shall be deemed to have been deleted and replaced with one hundred and five percent (105%).

13.6 Clause 13 of this Schedule 2 of these Call-off Terms and Conditions shall survive the expiry of or earlier termination of this Contract for any reason.

14 Insurance

14.1 Subject to Clauses 14.2 and 14.3 of this Schedule 2 of these Call-off Terms and Conditions and unless otherwise confirmed in writing by the Authority, as a minimum level of protection, the Supplier shall put in place and/or maintain in force at its own cost with a reputable commercial insurer, insurance arrangements in respect of employer's liability, public liability and professional indemnity in accordance with Good Industry Practice with the minimum cover per claim of the greater of five million pounds (£5,000,000) or any sum as required by Law unless otherwise agreed with the Authority in writing. These requirements shall not apply to the extent that the Supplier is a

member and maintains membership of each of the indemnity schemes run by the NHS Litigation Authority.

14.2 Without limitation to any insurance arrangements as required by Law, the Supplier shall put in place and/or maintain the different types and/or levels of indemnity arrangements specified in the Framework Agreement, if any.

14.3 Provided that the Supplier maintains all indemnity arrangements required by Law, the Supplier may self-insure in order to meet other relevant requirements referred to at Clauses 14.1 and 14.2 of this Schedule 2 of these Call-off Terms and Conditions on condition that such self-insurance arrangements offer the appropriate levels of protection and are approved by the Authority in writing prior to the Commencement Date.

14.4 The amount of any indemnity cover and/or self-insurance arrangements shall not relieve the Supplier of any liabilities under this Contract. It shall be the responsibility of the Supplier to determine the amount of indemnity and/or self-insurance cover that will be adequate to enable it to satisfy its potential liabilities under this Contract. Accordingly, the Supplier shall be liable to make good any deficiency if the proceeds of any indemnity cover and/or self-insurance arrangement is insufficient to cover the settlement of any claim.

14.5 The Supplier warrants that it shall not take any action or fail to take any reasonable action or (in so far as it is reasonable and within its power) permit or allow others to take or fail to take any action, as a result of which its insurance cover may be rendered void, voidable, unenforceable, or be suspended or impaired in whole or in part, or which may otherwise render any sum paid out under such insurances repayable in whole or in part.

14.6 The Supplier shall from time to time and in any event within five (5) Business Days of written demand provide documentary evidence to the Authority that insurance arrangements taken out by the Supplier pursuant to Clause 14 of this Schedule 2 of these Call-off Terms and Conditions and/or the provisions of the Framework Agreement are fully maintained and that any premiums on them and/or contributions in respect of them (if any) are fully paid.

14.7 Upon the expiry or earlier termination of this Contract, the Supplier shall ensure that any ongoing liability it has or may have arising out of this Contract shall continue to be the subject of appropriate indemnity arrangements for the period of twenty-one (21) years from termination or expiry of this Contract or until such earlier date as that liability may reasonably be considered to have ceased to exist.

15 Term and termination

15.1 This Contract shall commence on the Commencement Date and unless terminated

earlier in accordance with the terms of this Contract or the general law, shall continue until the end of the Term.

15.2 The Authority:

15.2.1 subject to Clause 15.2.2 of this Schedule 2 of these Call-off Terms and Conditions, shall be entitled to extend the Term on one or more occasions by giving the Supplier written notice no less than three (3) months prior to the date on which this Contract would otherwise have expired, provided that the duration of this Contract shall be no longer than the total term referred to in the Key Provisions; or

15.2.2 where the Term or any extension of the Term expires at a date the same as or after expiry of the Framework Agreement (including any extensions of the Framework Agreement in accordance with its terms), shall only be entitled to extend the Term with the prior written agreement of the Supplier, such agreement not to be unreasonably withheld or delayed.

15.3 In the case of a breach of any of the terms of this Contract by either Party that is capable of remedy (including, without limitation any breach of any KPI and, subject to Clause 9.6 of this Schedule 2 of these Call-off Terms and Conditions, any breach of any payment obligations under this Contract), the non-breaching Party may, without prejudice to its other rights and remedies under this Contract, issue a Breach Notice and shall allow the Party in breach the opportunity to remedy such breach in the first instance via a remedial proposal put forward by the Party in breach (**“Remedial Proposal”**) before exercising any right to terminate this Contract in accordance with Clause 15.4(ii) of this Schedule 2 of these Call-off Terms and Conditions. Such Remedial Proposal must be agreed with the non-breaching Party (such agreement not to be unreasonably withheld or delayed) and must be implemented by the Party in breach in accordance with the timescales referred to in the agreed Remedial Proposal. Once agreed, any changes to a Remedial Proposal must be approved by the Parties in writing. Any failure by the Party in breach to:

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

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

15.3.3 remedy the default or breach notwithstanding the implementation of such Remedial Proposal in accordance with the agreed timescales for implementation, shall be deemed, for the purposes of Clause 15.4(ii) of this Schedule 2 of these Call-off Terms and Conditions, a material breach of this Contract by the Party in breach not remedied in accordance with an agreed Remedial Proposal.

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

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

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

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

15.5.2 the Supplier, or any third party guaranteeing the obligations of the Supplier under this Contract, ceases or threatens to cease carrying on its business; suspends making payments on any of its debts or announces an intention to do so; is, or is deemed for the purposes of any Law to be, unable to pay its debts as they fall due or insolvent; enters into or proposes any composition, assignment or arrangement with its creditors generally; takes any step or suffers any step to be taken in relation to its winding-up, dissolution, administration (whether out of court or otherwise) or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) otherwise than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation; has a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed (in each case, whether out of court or otherwise) in respect of it or any of its assets; has any security over any of its assets enforced; or any analogous procedure or step is taken in any jurisdiction;

15.5.3 the Supplier undergoes a change of control within the meaning of sections 450 and 451 of the Corporation Tax Act 2010 (other than for an intra-group change of control) without the prior written consent of the Authority and the Authority shall be entitled to withhold such consent if, in the reasonable opinion of the Authority, the proposed change of control will have a material impact on the performance of this Contract or the reputation of the Authority;

15.5.4 the Supplier purports to assign, Sub-contract, novate, create a trust in or otherwise transfer or dispose of this Contract in breach of Clause 28.1 of this Schedule 2 of these Call-off Terms and Conditions;

15.5.5 pursuant to and in accordance with any termination rights set out in any Key Provisions and Clauses 15.6, 23.8; 25.2; 25.4 and 29.2 of this Schedule 2 of these Call-off Terms and Conditions; or

15.5.6 the warranty given by the Supplier pursuant to Clause 10.5 of this Schedule 2 of these Call-off Terms and Conditions is materially untrue, the Supplier commits a material breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance as required by Clause 10.5 of this Schedule 2 of these Call-off Terms and Conditions, or the Supplier fails to provide details of proposed mitigating factors as required by Clause 10.5 of this Schedule 2 of these Call-off Terms and Conditions that in the reasonable opinion of the Authority are acceptable.

15.6 If the Authority, acting reasonably, has good cause to believe that there has been a material deterioration in the financial circumstances of the Supplier and/or any third party guaranteeing the obligations of the Supplier under this Contract and/or any material Sub-contractor of the Supplier when compared to any information provided to and/or assessed by the Authority as part of any procurement process or other due diligence leading to the award of this Contract to the Supplier or the entering into a Sub-contract by the Supplier, the following process shall apply:

15.6.1 the Authority may (but shall not be obliged to) give notice to the Supplier requesting adequate financial or other security and/or assurances for due performance of its material obligations under this Contract on such reasonable and proportionate terms as the Authority may require within a reasonable time period as specified in such notice;

15.6.2 a failure or refusal by the Supplier to provide the financial or other security and/or assurances requested in accordance with Clause 15.6 of this Schedule 2 of these Call-off Terms and Conditions in accordance with any reasonable timescales specified in any such notice issued by the Authority shall be deemed a breach of this Contract by the Supplier and shall be referred to and resolved in accordance with the Dispute Resolution Procedure; and

15.6.3 a failure to resolve such breach in accordance with such Dispute Resolution Procedure by the end of the escalation stage of such process (as set out in Clause 22.3 of this Schedule 2 of these Call-off Terms and Conditions) shall entitle, but shall not compel, the Authority to terminate this Contract in accordance with Clause 15.4(i) of this Schedule 2 of these Call-off Terms and Conditions.

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

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

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

15.7.2 the Authority has become aware that the Supplier should have been excluded under Regulation 57(1) or (2) of the Public Contracts Regulations 2015 from the procurement procedure leading to the award of this Contract;

15.7.3 the Contract should not have been awarded to the Supplier in view of a serious infringement of obligations under European law declared by the Court of Justice of the European Union under Article 258 of the Treaty on the Functioning of the EU; or

15.7.4 there has been a failure by the Supplier and/or one its Sub-contractors to comply with legal obligations in the fields of environmental, social or labour Law. Where the failure to comply with legal obligations in the fields of environmental, social or labour Law is a failure by one of the Supplier's Sub-contractors, the Authority may request the replacement of such Sub-contractor and the Supplier shall comply with such request as an alternative to the Authority terminating this Contract under this Clause 15.7.4.

15.8 If the Authority novates this Contract to any body that is not a Contracting Authority, from the effective date of such novation, the rights of the Authority to terminate this Contract in accordance with Clause 15.5.2 to Clause 15.5.4 of this Schedule 2 of these Call-off Terms and Conditions shall be deemed mutual termination rights and the Supplier may terminate this Contract by issuing a Termination Notice to the entity assuming the position of the Authority if any of the circumstances referred to in such Clauses apply to the entity assuming the position of the Authority.

15.9 Within three (3) months of the Commencement Date the Supplier shall develop and agree an exit plan with the Authority consistent with the Exit Requirements, which shall ensure continuity of the Services on expiry or earlier termination of this Contract. The Supplier shall provide the Authority with the first draft of an exit plan within one (1) month of the Commencement Date. The Parties shall review and, as appropriate, update the exit plan on each anniversary of the Commencement Date of this Contract. If the Parties cannot agree an exit plan in accordance with the timescales set out in this Clause 15.9 of this Schedule 2 of these Call-off Terms and Conditions (such agreement not to be unreasonably withheld or delayed), such failure to agree shall be deemed a Dispute, which shall be referred to and resolved in accordance with the Dispute Resolution Procedure.

16 Consequences of expiry or early termination of this Contract

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

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

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

16.2.2 all data, excluding Personal Data, documents and records (whether stored electronically or otherwise) relating in whole or in part to the Services, including without limitation relating to patients or other service users, and all other items provided on loan or otherwise to the Supplier by the Authority shall be delivered by the Supplier to the Authority provided that the Supplier shall be entitled to keep copies to the extent that (a) the content does not relate solely to the Services; (b) the Supplier is required by Law and/or Guidance to keep copies; or (c) the Supplier was in possession of such data, documents and records prior to the Commencement Date; and

16.2.3 any Personal Data Processed by the Supplier on behalf of the Authority shall be returned to the Authority or destroyed in accordance with the relevant provisions of the Data Protection Protocol.

16.3 The Supplier shall retain all data relating to the provision of the Services that are not transferred or destroyed pursuant to Clause 16.2 of this Schedule 2 of these Call-off Terms and Conditions for the period set out in Clause 24.1 of this Schedule 2 of these Call-off Terms and Conditions.

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

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

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

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

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

17 Staff information and the application of TUPE at the end of the Contract

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

17.2 No later than twenty eight (28) days prior to the Subsequent Transfer Date, the Supplier shall or shall procure that any Sub-contractor shall provide a final list to the Successor and/or the Authority, as appropriate, containing the names of all the Subsequent Transferring Employees whom the Supplier or Sub-contractor expects will transfer to the Successor or the Authority and all

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

17.3 If the Supplier shall, in the reasonable opinion of the Authority, deliberately not comply with its obligations under Clauses 17.1 and 17.2 of this Schedule 2 of these Call-off Terms and Conditions, the Authority may withhold payment under Clause 9 of this Schedule 2 of these Call-off Terms and Conditions.

17.4 The Supplier shall be liable to the Authority for, and shall indemnify and keep the Authority indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings that arise or result from any deficiency or inaccuracy in the information which the Supplier is required to provide under Clauses 17.1 and 17.2 of this Schedule 2 of these Call-off Terms and Conditions.

17.5 Subject to Clauses 17.6 and 17.7 of this Schedule 2 of these Call-off Terms and Conditions, during the period of nine (9) months preceding the expiry of this Contract or after notice of termination of this Contract has been served by either Party, the Supplier shall not, and shall procure that any Sub-contractor shall not, without the prior written consent of the Authority, such consent not to be unreasonably withheld or delayed:

17.5.1 make, propose or permit any material changes to the terms and conditions of employment or other arrangements of any of the Supplier Personnel;

17.5.2 increase or seek to increase the emoluments (excluding cost of living increases awarded in the ordinary course of business) payable to any of the Supplier Personnel;

17.5.3 replace any of the Supplier Personnel or increase the total number of employees providing the Services;

17.5.4 deploy any person other than the Supplier Personnel to perform the Services;

17.5.5 terminate or give notice to terminate the employment or arrangements of any of the Supplier Personnel;

17.5.6 increase the proportion of working time spent on the Services by any of the Supplier Personnel; or

17.5.7 introduce any new contractual term or customary practice concerning the making of any lump sum payment on the termination of employment of any of the Supplier Personnel.

17.6 Clause 17.5 of this Schedule 2 of these Call-off Terms and Conditions shall not prevent the Supplier or any Sub-contractor from taking any of the steps prohibited in that Clause in circumstances where the Supplier or Sub-contractor is required to take such a step pursuant to any changes in legislation or pursuant to a collective agreement in force at that time.

17.7 Where the obligations on the Supplier under Clause 17 of this Schedule 2 of these Call-off Terms and Conditions are subject to the Data Protection Legislation, the Supplier will, and shall procure that any Sub-contractor will, use its best endeavours to seek the consent of the Supplier

Personnel to disclose any information covered under the Data Protection Legislation and utilise any other exemption or provision within the Data Protection Legislation which would allow such disclosure.

17.8 Having as appropriate gained permission from any Sub-contractor, the Supplier hereby permits the Authority to disclose information about the Supplier Personnel to any Interested Party provided that the Authority informs the Interested Party in writing of the confidential nature of the information.

17.9 The Parties agree that where a Successor or the Authority provides the Services or services which are fundamentally the same as the Services in the immediate or subsequent succession to the Supplier or Sub-contractor (in whole or in part) on expiry or early termination of this Contract (howsoever arising) TUPE, the Cabinet Office Statement and Fair Deal for Staff Pensions may apply in respect of the subsequent provision of the Services or services which are fundamentally the same as the Services. If TUPE, the Cabinet Office Statement and Fair Deal for Staff Pensions apply then Clause 17.11 to Clause 17.14 of this Schedule 2 of these Call-off Terms and Conditions and (where relevant) the requirements of Clause 1.15 of Part D of Schedule 7 of the NHS Terms and Conditions for the Provision of Services (Contract Version) (December 2016) shall apply.

17.10 If on the termination or at the end of the Contract TUPE does not apply, then all Employment Liabilities and any other liabilities in relation to the Supplier Personnel shall remain with the Supplier or Sub-contractor as appropriate. The Supplier will, and shall procure that any Sub-contractor shall, indemnify and keep indemnified the Authority in relation to any Employment Liabilities arising out of or in connection with any allegation or claim raised by any Supplier Personnel.

17.11 In accordance with TUPE, and any other policy or arrangement applicable, the Supplier shall, and will procure that any Sub-contractor shall, comply with its obligations to inform and consult with the appropriate representatives of any of its employees affected by the subsequent transfer of the Services or services which are fundamentally the same as the Services.

17.12 The Supplier will and shall procure that any Sub-contractor will on or before any Subsequent Transfer Date:

17.12.1 pay all wages, salaries and other benefits of the Subsequent Transferring Employees and discharge all other financial obligations (including reimbursement of any expenses and any contributions to retirement benefit schemes) in respect of the period between the Transfer Date and the Subsequent Transfer Date;

17.12.2 account to the proper authority for all PAYE, tax deductions and national insurance contributions payable in respect of the Subsequent Transferring Employees in the period between the Transfer Date and the Subsequent Transfer Date;

17.12.3 pay any Successor or the Authority, as appropriate, the amount which would be payable to each of the Subsequent Transferring Employees in lieu of accrued but untaken holiday entitlement as at the Subsequent Transfer Date;

17.12.4 pay any Successor or the Authority, as appropriate, the amount which fairly reflects the progress of each of the Subsequent Transferring Employees towards achieving any commission, bonus, profit share or other incentive payment payable after the Subsequent Transfer Date wholly or partly in respect of a period prior to the Subsequent Transfer Date; and

17.12.5 subject to any legal requirement, provide to the Successor or the Authority, as appropriate, all personnel records relating to the Subsequent Transferring Employees including, without prejudice to the generality of the foregoing, all records relating to national insurance, PAYE and income tax. The Supplier shall for itself and any Sub-contractor warrant that such records are accurate and up to date.

17.13 The Supplier will and shall procure that any Sub-contractor will indemnify and keep indemnified the Authority and/or a Successor in relation to any Employment Liabilities arising out of or in connection with any claim arising from:

17.13.1 the Supplier's or Sub-contractor's failure to perform and discharge its obligations under Clause 17.12 of this Schedule 2 of these Call-off Terms and Conditions;

17.13.2 any act or omission by the Supplier or Sub-contractor in respect of the Subsequent Transferring Employees occurring on or before the Subsequent Transfer Date;

17.13.3 any allegation or claim by any person who is not a Subsequent Transferring Employee but who alleges that their employment should transfer or has transferred to the Successor or the Authority, as appropriate;

17.13.4 any emoluments payable to a person employed or engaged by the Supplier or Sub-contractor (including without limitation all wages, accrued holiday pay, bonuses, commissions, PAYE, national insurance contributions, pension contributions and other contributions) payable in respect of any period on or before the Subsequent Transfer Date;

17.13.5 any allegation or claim by any of the Subsequent Transferring Employees on the grounds that the Successor or Authority, as appropriate, has failed to continue a benefit provided by the Supplier or Sub-contractor as a term of such Subsequent Transferring Employee's contract as at the Subsequent Transfer Date where it was not reasonably practicable for the Successor or Authority, as appropriate, to provide an identical benefit but where the Successor or Authority, as appropriate, has provided (or offered to provide where such benefit is not accepted by the Subsequent Transferring Employee) an alternative benefit which, taken as a whole, is no less favourable to such Subsequent Transferring Employee; and

17.13.6 any act or omission of the Supplier or any Sub-contractor in relation to its obligations under regulation 13 of TUPE, or in respect of an award of compensation under regulation 15 of TUPE except to the extent that the liability arises from the Successor's or Authority's failure to comply with regulation 13(4) of TUPE.

17.14 The Supplier will, or shall procure that any Sub-contractor will, on request by the Authority provide a written and legally binding indemnity in the same terms as set out in Clause 17.13 of this Schedule 2 of these Call-off Terms and Conditions to any Successor in relation to any Employment Liabilities arising up to and including the Subsequent Transfer Date.

17.15 The Supplier will indemnify and keep indemnified the Authority and/or any Successor in respect of any Employment Liabilities arising from any act or omission of the Supplier or Sub-contractor in relation to any other Supplier Personnel who is not a Subsequent Transferring Employee arising during any period whether before, on or after the Subsequent Transfer Date.

17.16 If any person who is not a Subsequent Transferring Employee claims or it is determined that their contract of employment has been transferred from the Supplier or any Sub-contractor to the Authority or Successor pursuant to TUPE or claims that their employment would have so transferred had they not resigned, then:

17.16.1 the Authority will, or shall procure that the Successor will, within seven (7) days of becoming aware of that fact, give notice in writing to the Supplier;

17.16.2 the Supplier may offer (or may procure that a Sub-contractor may offer) employment to such person within twenty eight (28) days of the notification by the Authority or Successor;

17.16.3 if such offer of employment is accepted, the Authority will, or shall procure that the Successor will, immediately release the person from their employment; and

17.16.4 if after the period in Clause 17.16.2 of this Schedule 2 of these Call-off Terms and Conditions has elapsed, no such offer of employment has been made or such offer has been made but not accepted, the Authority will, or shall procure that the Successor will (whichever is the provider of the Services or services of the same or similar nature to the Services), employ that person in accordance with its obligations and duties under TUPE and shall be responsible for all liabilities arising in respect of any such person after the Subsequent Transfer Date.

18 Complaints

18.1 To the extent relevant to the Services, the Supplier shall have in place and operate a complaints procedure which complies with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

18.2 Each Party shall inform the other of all complaints from or on behalf of patients or other service users arising out of or in connection with the provision of the Services within twenty four (24) hours of receipt of each complaint and shall keep the other Party updated on the manner of resolution of any such complaints.

19 Sustainable development

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

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

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

19.1.3 maintain plans and procedures that support the commitments made as part of the Supplier's significant labour, social and environmental policies, as referred to at Clause 19.1.2 of this Schedule 2 of these Call-off Terms and Conditions.

19.2 The Supplier shall meet reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of Clause 19 of this Schedule 2 of these Call-off Terms and Conditions.

20 Electronic services information

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

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

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

20.4 The Supplier grants the Authority a perpetual, non-exclusive, royalty free licence to use and exploit the Services Information and any Intellectual Property Rights in the Services Information for the purpose of illustrating the range of goods and services (including, without limitation, the Services) available pursuant to the Authority's contracts from time to time. Subject to Clause 20.5 of this Schedule 2 of these Call-off Terms and Conditions, no obligation to illustrate or advertise the

Services Information is imposed on the Authority, as a consequence of the licence conferred by this Clause 20.4 of this Schedule 2 of these Call-off Terms and Conditions.

20.5 The Authority may reproduce for its sole use the Services Information provided by the Supplier in the Authority's services catalogue from time to time which may be made available on any NHS communications networks in electronic format and/or made available on the Authority's external website and/or made available on other digital media from time to time.

20.6 Before any publication of the Services Information (electronic or otherwise) is made by the Authority, the Authority will submit a copy of the relevant sections of the Authority's services catalogue to the Supplier for approval, such approval not to be unreasonably withheld or delayed. For the avoidance of doubt the Supplier shall have no right to compel the Authority to exhibit the Services Information in any services catalogue as a result of the approval given by it pursuant to this Clause 20.6 of this Schedule 2 of these Call-off Terms and Conditions or otherwise under the terms of this Contract.

20.7 If requested in writing by the Authority, and to the extent not already agreed as part of the Specification and Tender Response Document, the Supplier and the Authority shall discuss and seek to agree in good faith arrangements to use any Electronic Trading System.

21 Change management

21.1 The Supplier acknowledges to the Authority that the Authority's requirements for the Services may change during the Term and the Supplier shall not unreasonably withhold or delay its consent to any reasonable variation or addition to the Specification and Tender Response Document, as may be requested by the Authority from time to time.

21.2 Subject to Clause 21.3 of this Schedule 2 of these Call-off Terms and Conditions, any change to the Services or other variation to this Contract shall only be binding once it has been agreed either: (a) in accordance with any Change Control Process if any Key Provisions specify that changes are subject to a formal change control process; or (b) if the Key Provisions make no such reference, in writing and signed by an authorised representative of both Parties.

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

22 Dispute resolution

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

22.2 In the case of a Dispute arising out of or in connection with this Contract the Supplier and the Authority shall make every reasonable effort to communicate and cooperate with each other with a view to resolving the Dispute and follow the procedure set out in Clause 22.3 of this Schedule 2 of these Call-off Terms and Conditions as the first stage in the Dispute Resolution Procedure.

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

22.4 If the procedure set out in Clause 22.3 of this Schedule 2 of these Call-off Terms and Conditions above has been exhausted and fails to resolve such Dispute, as part of the Dispute Resolution Procedure, the Parties will attempt to settle it by mediation. The Parties shall, acting reasonably, attempt to agree upon a mediator. In the event that the Parties fail to agree a mediator within five (5) Business Days following the exhaustion of all levels of the escalation procedure at Clause 22.3 of this Schedule 2 of these Call-off Terms and Conditions, the mediator shall be nominated and confirmed by the Centre for Effective Dispute Resolution, London.

22.5 The mediation shall commence within twenty-eight (28) days of the confirmation of the mediator in accordance with Clause 22.4 of this Schedule 2 of these Call-Off Terms and Conditions or at such other time as may be agreed by the Parties in writing. Neither Party will terminate such mediation process until each Party has made its opening presentation and the mediator has met each Party separately for at least one hour or one Party has failed to participate in the mediation process. After this time, either Party may terminate the mediation process by notification to the other party (such notification may be verbal provided that it is followed up by written confirmation). The Authority and the Supplier will cooperate with any person appointed as mediator providing them with such information and other assistance as they shall require and will pay their costs, as they shall determine or in the absence of such determination such costs will be shared equally.

22.6 Nothing in this Contract shall prevent:

22.6.1 the Authority taking action in any court in relation to any death or personal injury arising or allegedly arising in connection with the provision of the Services; or

22.6.2 either Party seeking from any court any interim or provisional relief that may be necessary to protect the rights or property of that Party or that relates to the safety of

patients and other service users or the security of Confidential Information, pending resolution of the relevant Dispute in accordance with the Dispute Resolution Procedure.

22.7 Clause 22 of this Schedule 2 of these Call-off Terms and Conditions shall survive the expiry of or earlier termination of this Contract for any reason.

23 Force majeure

23.1 Subject to Clause 23.2 of this Schedule 2 of these Call-off Terms and Conditions neither Party shall be liable to the other for any failure to perform all or any of its obligations under this Contract nor liable to the other Party for any loss or damage arising out of the failure to perform its obligations to the extent only that such performance is rendered impossible by a Force Majeure Event.

23.2 The Supplier shall only be entitled to rely on a Force Majeure Event and the relief set out in Clause 23 of this Schedule 2 of these Call-off Terms and Conditions and will not be considered to be in default or liable for breach of any obligations under this Contract if:

23.2.1 the Supplier has fulfilled its obligations pursuant to Clause 6 of this Schedule 2 of these Call-off Terms and Conditions;

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

23.2.3 the Supplier has complied with the procedural requirements set out in Clause 23 of this Schedule 2 of these Call-off Terms and Conditions.

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

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

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

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

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

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

23.8 If the Supplier is prevented from performance of its obligations as a result of a Force Majeure Event, the Authority may at any time, if the Force Majeure Event subsists for thirty (30) days or more, terminate this Contract by issuing a Termination Notice to the Supplier.

23.9 Following such termination in accordance with Clause 23.8 of this Schedule 2 of these Call-off Terms and Conditions and subject to Clause 23.10 of this Schedule 2 of these Call-off Terms and Conditions, neither Party shall have any liability to the other.

23.10 Any rights and liabilities of either Party which have accrued prior to such termination in accordance with Clause 23.8 of this Schedule 2 of these Call-off Terms and Conditions shall continue in full force and effect unless otherwise specified in this Contract.

24 Records retention and right of audit

24.1 Subject to any statutory requirement and Clause 24.2 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier shall keep secure and maintain for the Term and six (6) years afterwards, or such longer period as may be agreed between the Parties, full and accurate records of all matters relating to this Contract.

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

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

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

cooperate with such audit and inspection and accompany the Authority or its authorised representative if requested.

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

24.5.1 the examination and certification of the Authority's accounts; or

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

24.6 The Comptroller and Auditor General may examine such documents as they may reasonably require which are owned, held or otherwise within the control of the Supplier and may require the Supplier to provide such oral and/or written explanations as they consider necessary. Clause 24 of this Schedule 2 of these Call-off Terms and Conditions does not constitute a requirement or agreement for the examination, certification or inspection of the accounts of the Supplier under sections 6(3)(d) and 6(5) of the National Audit Act 1983.

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

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

24.9 NHS SBS - If the Supplier cancels the audit on the required date and another date has to be arranged, then NHS SBS reserve the right to charge the Supplier the cost of the audit + VAT at the prevailing rate.

24.10 NHS SBS - If the Supplier fails to supply the required outstanding sales data within 2 months of the audit, then NHS SBS reserve the right to re-audit the Supplier until all relevant sales data is found and charge the Supplier the cost of this additional re-audit + VAT at the prevailing rate.

24.11 NHS SBS - NHS SBS reserve the right to charge the Supplier interest on the said amount of sales + VAT at the prevailing rate if they delay in providing the required information.

25 Conflicts of interest and the prevention of fraud

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

25.2 The Authority reserves the right to terminate this Contract immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the provisions of this Contract. The actions of the Authority pursuant to this Clause 25.2 of this Schedule 2 of these Call-off Terms and Conditions shall not prejudice or affect any right of action or remedy which shall have accrued or shall subsequently accrue to the Authority.

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

25.4 If the Supplier or its Staff commits Fraud the Authority may terminate this Contract and recover from the Supplier the amount of any direct loss suffered by the Authority resulting from the termination.

26 Equality and human rights

26.1 The Supplier shall:

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

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

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

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

27 Notice

27.1 Subject to Clause 22.5 of Schedule 2 of these Call-off Terms and Conditions, any notice required to be given by either Party under this Contract shall be in writing quoting the date of the

Contract and shall be delivered by hand or sent by prepaid first class recorded delivery or by email to the person referred to in the Order Form or such other person as one Party may inform the other Party in writing from time to time or to a director of the relevant Party at the head office, main UK office or registered office of such Party.

27.2 A notice shall be treated as having been received:

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

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

27.2.3 if sent by email, if sent within normal business hours when so sent or, if sent outside normal business hours, at the next start of normal business hours provided the sender has either received an electronic confirmation of delivery or has telephoned the recipient to inform the recipient that the email has been sent.

28 Assignment, novation and Sub-contracting

28.1 The Supplier shall not, except where Clause 28.2 of this Schedule 2 of these Call-off Terms and Conditions applies, assign, Sub-contract, novate, create a trust in, or in any other way dispose of the whole or any part of this Contract without the prior consent in writing of the Authority such consent not to be unreasonably withheld or delayed. If the Supplier Sub-contracts any of its obligations under this Contract, every act or omission of the Sub-contractor shall for the purposes of this Contract be deemed to be the act or omission of the Supplier and the Supplier shall be liable to the Authority as if such act or omission had been committed or omitted by the Supplier itself.

28.2 Notwithstanding Clause 28.1 of this Schedule 2 of these Call-off Terms and Conditions, the Supplier may assign to a third party ("**Assignee**") the right to receive payment of any sums due and owing to the Supplier under this Contract for which an invoice has been issued. Any assignment under this Clause 28.2 of this Schedule 2 of these Call-off Terms and Conditions shall be subject to:

28.2.1 the deduction of any sums in respect of which the Authority exercises its right of recovery under Clause 9.8 of this Schedule 2 of these Call-off Terms and Conditions;

28.2.2 all related rights of the Authority in relation to the recovery of sums due but unpaid;

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

28.2.4 the provisions of Clause 9 of this Schedule 2 of these Call-off Terms and Conditions continuing to apply in all other respects after the assignment which shall not be amended without the prior written approval of the Authority; and

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

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

28.4 Where the Supplier enters into a Sub-contract in respect of any of its obligations under this Contract relating to the provision of the Services, the Supplier shall include provisions in each such Sub-contract, unless otherwise agreed with the Authority in writing, which:

28.4.1 contain at least equivalent obligations as set out in this Contract in relation to the performance of the Services to the extent relevant to such Sub-contracting;

28.4.2 contain at least equivalent obligations as set out in this Contract in respect of confidentiality, information security, data protection, Intellectual Property Rights, compliance with Law and Guidance and record keeping;

28.4.3 contain a prohibition on the Sub-contractor Sub-contracting, assigning or novating any of its rights or obligations under such Sub-contract without the prior written approval of the Authority (such approval not to be unreasonably withheld or delayed);

28.4.4 contain a right for the Authority to take an assignment or novation of the Sub-contract (or part of it) upon expiry or earlier termination of this Contract;

28.4.5 requires the Supplier or other party receiving services under the contract to consider and verify invoices under that contract in a timely fashion;

28.4.6 provides that if the Supplier or other party fails to consider and verify an invoice in accordance with Clause 28.4.5 of this Schedule 2 of these Call-off Terms and Conditions, the invoice shall be regarded as valid and undisputed for the purpose of Clause 28.4.7 of this Schedule 2 of these Call-off Terms and Conditions after a reasonable time has passed;

28.4.7 requires the Supplier or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding thirty (30) days of verifying that the invoice is valid and undisputed;

28.4.8 permitting the Supplier to terminate, or procure the termination of, the relevant Sub-contract in the event the Sub-contractor fails to comply in the performance of its Sub-contract with legal obligations in the fields of environmental, social or labour Law where the Supplier is required to replace such Sub-contractor in accordance with Clause 15.7.4 of this Schedule 2 of these Call-off Terms and Conditions;

28.4.9 permitting the Supplier to terminate, or to procure the termination of, the relevant Sub-contract where the Supplier is required to replace such Sub-contractor in accordance with Clause 28.5 of this Schedule 2 of these Call-off Terms and Conditions; and

28.4.10 requires the Sub-contractor to include a clause to the same effect as this Clause 28.4 of this Schedule 2 of these Call-off Terms and Conditions in any Sub-contract which it awards.

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

28.5.1 if the Authority finds there are compulsory grounds for exclusion, the Supplier shall ensure, or shall procure, that such Sub-contractor is replaced or not appointed; or

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

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

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

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

29 Prohibited Acts

29.1 The Supplier warrants and represents that:

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

- (i) offered, given or agreed to give any officer or employee of the Authority any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining or performance of this or any other agreement with the Authority or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the Authority; or

- (ii) in connection with this Contract paid or agreed to pay any commission other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to the Authority; and

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

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

29.2.1 the Authority shall be entitled:

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

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

29.2.3 notwithstanding Clause 22 of this Schedule 2 of these Call-off Terms and Conditions, any Dispute relating to:

- (i) the interpretation of Clause 29 of this Schedule 2 of these Call-off Terms and Conditions; or
- (ii) the amount or value of any gift, consideration or commission, shall be determined by the Authority, acting reasonably, and the decision shall be final and conclusive.

30 General

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

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

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

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

30.5 Each Party acknowledges and agrees that it has not relied on any representation, warranty or undertaking (whether written or oral) in relation to the subject matter of this Contract and therefore irrevocably and unconditionally waives any rights it may have to claim damages against the other Party for any misrepresentation or undertaking (whether made carelessly or not) or for breach of any warranty unless the representation, undertaking or warranty relied upon is set out in this Contract or unless such representation, undertaking or warranty was made fraudulently.

30.6 Each Party shall bear its own expenses in relation to the preparation and execution of this Contract including all costs, legal fees and other expenses so incurred.

30.7 The rights and remedies provided in this Contract are independent, cumulative and not exclusive of any rights or remedies provided by general law, any rights or remedies provided elsewhere under this Contract or by any other contract or document. In this Clause 30.7 of this Schedule 2 of these Call-off Terms and Conditions, right includes any power, privilege, remedy, or proprietary or security interest.

30.8 Unless otherwise expressly stated in this Contract, a person who is not a party to this Contract shall have no right to enforce any terms of it which confer a benefit on such person except that a Successor and/or a Third Party may directly enforce any indemnities or other rights provided to it under this Contract. No such person shall be entitled to object to or be required to consent to any amendment to the provisions of this Contract.

30.9 This Contract, any variation in writing signed by an authorised representative of each Party and any document referred to (explicitly or by implication) in this Contract or any variation to this Contract, contain the entire understanding between the Supplier and the Authority relating to the Services to the exclusion of all previous agreements, confirmations and understandings and there are no promises, terms, conditions or obligations whether oral or written, express or implied other than those contained or referred to in this Contract. Nothing in this Contract seeks to exclude either Party's liability for Fraud. Any tender conditions and/or disclaimers set out in the Authority's procurement documentation leading to the award of this Contract shall form part of this Contract.

30.10 This Contract, and any Dispute or claim arising out of or in connection with it or its subject matter (including any non-contractual claims), shall be governed by, and construed in accordance with, the laws of England and Wales.

30.11 Subject to Clause 22 of this Schedule 2 of these Call-off Terms and Conditions, the Parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any Dispute or claim that arises out of or in connection with this Contract or its subject matter.

30.12 All written and oral communications and all written material referred to under this Contract shall be in English.

Schedule 3 of these Call-off Terms and Conditions

Information and Data Provisions

1 Confidentiality

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

1.1.1 the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the Commencement Date;

1.1.2 the provisions of Clause 1 of this Schedule 3 of these Call-off Terms and Conditions shall not apply to any Confidential Information:

- (i) which is in or enters the public domain other than by breach of this Contract or other act or omissions of the Recipient;
- (ii) which is obtained from a third party who is lawfully authorised to disclose such information without any obligation of confidentiality;
- (iii) which is authorised for disclosure by the prior written consent of the Discloser;
- (iv) which the Recipient can demonstrate was in its possession without any obligation of confidentiality prior to receipt of the Confidential Information from the Discloser; or
- (v) which the Recipient is required to disclose purely to the extent to comply with the requirements of any relevant stock exchange.

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

1.3 The Authority may disclose the Supplier's Confidential Information:

1.3.1 on a confidential basis, to any Contracting Authority (the Parties agree that all Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Contracting Authority);

1.3.2 on a confidential basis, to any consultant, contractor or other person engaged by the Authority and/or the Contracting Authority receiving such information;

1.3.3 to any relevant party for the purpose of the examination and certification of the Authority's accounts;

1.3.4 to any relevant party for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;

1.3.5 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirements; or

1.3.6 on a confidential basis, to a proposed successor body in connection with any proposed or actual, assignment, novation or other disposal of rights, obligations, liabilities or property in connection with this Contract;

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

1.4 The Supplier may only disclose the Authority's Confidential Information, and any other information provided to the Supplier by the Authority in relation to this Contract, to the Supplier's Staff or professional advisors who are directly involved in the performance of or advising on the Supplier's obligations under this Contract. The Supplier shall ensure that such Staff or professional advisors are aware of and shall comply with the obligations in Clause 1 of this Schedule 3 of these Call-off Terms and Conditions as to confidentiality and that all information, including Confidential Information, is held securely, protected against unauthorised use or loss and, at the Authority's written discretion, destroyed securely or returned to the Authority when it is no longer required. The Supplier shall not, and shall ensure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of performing the Supplier's obligations in this Contract.

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

1.6 Clause 1 of this Schedule 3 of these Call-off Terms and Conditions shall remain in force:

1.6.1 without limit in time in respect of Confidential Information which comprises Personal Data or which relates to national security; and

1.6.2 for all other Confidential Information for a period of three (3) years after the expiry or earlier termination of this Contract unless otherwise agreed in writing by the Parties.

2 Data protection

2.1 The Parties acknowledge their respective duties under Data Protection Legislation and shall give each other all reasonable assistance as appropriate or necessary to enable each other to comply with those duties. For the avoidance of doubt, the Supplier shall take reasonable steps to ensure it is familiar with the Data Protection Legislation and any obligations it may have under such Data Protection Legislation and shall comply with such obligations.

2.2 Where the Supplier is Processing Personal Data under or in connection with this Contract, the Parties shall comply with the Data Protection Protocol.

2.3 The Supplier and the Authority shall ensure that Personal Data is safeguarded at all times in accordance with the Law, and this obligation will include (if transferred electronically) only transferring Personal Data (a) if essential, having regard to the purpose for which the transfer is conducted; and (b) that is encrypted in accordance with any international data encryption standards for healthcare, and as otherwise required by those standards applicable to the Authority under any Law and Guidance (this includes, data transferred over wireless or wired networks, held on laptops, CDs, memory sticks and tapes).

2.4 Where, as a requirement of this Contract, the Supplier is Processing Personal Data relating to patients and/or service users as part of the Services, the Supplier shall:

- 2.4.1 complete and publish an annual information governance assessment using the NHS information governance toolkit;
- 2.4.2 achieve a minimum level 2 performance against all requirements in the relevant NHS information governance toolkit;
- 2.4.3 nominate an information governance lead able to communicate with the Supplier's board of directors or equivalent governance body, who will be responsible for information governance and from whom the Supplier's board of directors or equivalent governance body will receive regular reports on information governance matters including, but not limited to, details of all incidents of data loss and breach of confidence;
- 2.4.4 report all incidents of data loss and breach of confidence in accordance with Department of Health and/or the NHS England and/or Health and Social Care Information Centre guidelines;
- 2.4.5 put in place and maintain policies that describe individual personal responsibilities for handling Personal Data and apply those policies vigorously;
- 2.4.6 put in place and maintain a policy that supports its obligations under the NHS Care Records Guarantee (being the rules which govern information held in the NHS Care Records Service, which is the electronic patient/service user record management service providing authorised healthcare professionals access to a patient's integrated electronic care record);
- 2.4.7 put in place and maintain agreed protocols for the lawful sharing of Personal Data with other NHS organisations and (as appropriate) with non-NHS organisations in circumstances in which sharing of that data is required under this Contract;

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

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

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

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

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

3 Freedom of Information and Transparency

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

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

3.2.1 that this Contract and any recorded information held by the Supplier on the Authority's behalf for the purposes of this Contract are subject to the obligations and commitments of the Authority under the FOIA, Codes of Practice and Environmental Regulations;

3.2.2 that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under the FOIA, Codes of Practice and Environmental Regulations is a decision solely for the Authority;

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

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

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

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

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

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

3.5 In preparing a copy of this Contract for publication under Clause 3.4 of this Schedule 3 of these Call-off Terms and Conditions, the Authority may consult with the Supplier to inform decision making regarding any redactions but the final decision in relation to the redaction of information will be at the Authority's absolute discretion.

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

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

4 Information Security

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

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

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

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

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

Schedule 4 of these Call-off Terms and Conditions

Definitions and Interpretations

1. Definitions 1.1

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

“Actual Services Commencement Date”	means the date the Supplier actually commences delivery of all of the Services;
“Authority”	means the authority named on the Order Form;
“Authority’s Obligations”	means the Authority’s further obligations, if any, referred to in the Specification and Tender Response Document and/or the Order Form;
“Breach Notice”	means a written notice of breach given by one Party to the other, notifying the Party receiving the notice of its breach of this Contract;
“Business Continuity Event”	means any event or issue that could impact on the operations of the Supplier and its ability to supply the Goods including an influenza pandemic and any Force Majeure Event;
“Business Continuity Plan”	means the Supplier’s business continuity plan which includes its plans for continuity of the supply of the Goods during a Business Continuity Event;
“Business Day”	means any day other than Saturday, Sunday, Christmas Day, Good Friday or a statutory bank holiday in England and Wales;
“Cabinet Office Statement”	the Cabinet Office Statement of Practice – Staff Transfers in the Public Sector 2000 (as revised 2013) as may be amended or replaced;
“Call-off Terms and Conditions”	means these Call-off Terms and Conditions for the Supply of Goods;
“Change Control Process”	means the change control process, if any, referred to in any Key Provisions;
“Codes of Practice”	shall have the meaning given to the term in Clause 1.2 of Schedule 3 of these Call-off Terms and Conditions;
“Commencement Date”	means the date of the Order Form;
“Confidential Information”	means information, data and material of any nature, which either Party may receive or obtain in connection with the conclusion and/or operation of the Contract including any procurement process which is:

	<p>(a) Personal Data including without limitation which relates to any patient or other service user or his or her treatment or clinical or care history;</p> <p>(b) designated as confidential by either party or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored); and/or</p> <p>(c) Policies and such other documents which the Supplier may obtain or have access to through the Authority's intranet;</p>
"Contract"	means the Order Form, the provisions on the front page and all Schedules of these Call-off Terms and Conditions, the Specification and Tender Response Document and the applicable provisions of the Framework Agreement;
"Contracting Authority"	means any contracting authority as defined in Regulation 3 of the Public Contracts Regulations 2015 (SI 2015/102) (as amended), other than the Authority;
"Contract Manager"	means for the Authority and for the Supplier the individuals specified in the Order Form or as otherwise agreed between the Parties in writing or such other person notified by a Party to the other Party from time to time in accordance with Clause 8.1 of Schedule 2 of these Call-off Terms and Conditions;
"Contract Price"	means the price exclusive of VAT that is payable to the Supplier by the Authority under the Contract for the full and proper performance by the Supplier of its obligations under the Contract calculated in accordance with the provisions of the Framework Agreement and as confirmed in the Order Form;
"Controller"	shall have the same meaning as set out in the GDPR;
"Convictions"	means, other than in relation to minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding-over orders (including any spent convictions as contemplated by Section 1(1) of the Rehabilitation of Offenders Act 1974 or any replacement or amendment to that Act);
"Data Protection Legislation"	means (i) the Data Protection Act 1998 or, from the date it comes into force, the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (ii) the GDPR, the Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing Law as amended from time to time; and (iii) all applicable Law about the processing of personal data and privacy;
"Data Protection Protocol"	means any document of that name as provided to the Supplier by the Authority (as amended from time to time in accordance with its terms) which shall include, without limitation, any such document appended to the Order Form;

“Dispute(s)”	means any dispute, difference or question of interpretation or construction arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Goods, any matters of contractual construction and interpretation relating to the Contract, or any matter where this Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
“Dispute Notice”	means a written notice served by one Party to the other stating that the Party serving the notice believes there is a Dispute;
“Dispute Resolution Procedure”	means the process for resolving Disputes as set out in Clause 22 of Schedule 2 of these Call-off Terms and Conditions;
“DOTAS”	means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue and Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992;
“Electronic Trading System(s)”	means such electronic data interchange system and/or world wide web application and/or other application with such message standards and protocols as the Authority may specify from time to time;
“Employment Liabilities”	means all claims, demands, actions, proceedings, damages, compensation, tribunal awards, fines, costs (including but not limited to reasonable legal costs), expenses and all other liabilities whatsoever;
“Environmental Regulations”	shall have the meaning given to the term in Clause 1.2 of Schedule 3 of these Call-off Terms and Conditions;
“eProcurement Guidance”	means the NHS eProcurement Strategy available via: http://www.gov.uk/government/collections/nhs-procurement together with any further Guidance issued by the Department of Health in connection with it;
“Equality Legislation”	means any and all legislation, applicable guidance and statutory codes of practice relating to equality, diversity, non-discrimination and human rights as may be in force in England and Wales from time to time including, but not limited to, the Equality Act 2010, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and the Fixed-term Employees (Prevention of

	Less Favourable Treatment) Regulations 2002 (SI 2002/2034) and the Human Rights Act 1998;
“Exit Requirements”	means the Authority’s exit requirements, as set out in the Specification and Tender Response Document and/or otherwise as part of this Contract, which the Supplier must comply with during the Term and/or in relation to any expiry or early termination of this Contract;
“Fair Deal for Staff Pensions”	means guidance issued by HM Treasury entitled “Fair Deal for staff pensions: staff transfer from central government” issued in October 2013 (as amended, supplemented or replaced);
“FOIA”	shall have the meaning given to the term in Clause 1.2 of Schedule 3 of these Call-off Terms and Conditions;
“Force Majeure Event”	<p>means any event beyond the reasonable control of the Party in question to include, without limitation:</p> <ul style="list-style-type: none"> (a) war including civil war (whether declared or undeclared), riot, civil commotion or armed conflict materially affecting either Party’s ability to perform its obligations under this Contract; (b) acts of terrorism; (c) flood, storm or other natural disasters; (d) fire; (e) unavailability of public utilities and/or access to transport networks to the extent no diligent supplier could reasonably have planned for such unavailability as part of its business continuity planning; (f) government requisition or impoundment to the extent such requisition or impoundment does not result from any failure by the Supplier to comply with any relevant regulations, laws or procedures (including such laws or regulations relating to the payment of any duties or taxes) and subject to the Supplier having used all reasonable legal means to resist such requisition or impoundment; (g) compliance with any local law or governmental order, rule, regulation or direction applicable outside of England and Wales that could not have been reasonably foreseen; (h) industrial action which affects the ability of the Supplier to supply the Goods, but which is not confined to the workforce of the Supplier or the workforce of any Sub-contractor of the Supplier; and (i) a failure in the Supplier’s and/or Authority’s supply chain to the extent that such failure is due to any event suffered by

	<p>a member of such supply chain, which would also qualify as a Force Majeure Event in accordance with this definition had it been suffered by one of the Parties;</p> <p>but excluding, for the avoidance of doubt, the withdrawal of the United Kingdom from the European Union and any related circumstances, events, changes or requirements;</p>
“Framework Agreement”	means the Framework Agreement referred to in the Order Form;
“Fraud”	means any offence under any law in respect of fraud in relation to this Contract or defrauding or attempting to defraud or conspiring to defraud the government, parliament or any Contracting Authority;
GDPR	means the General Data Protection Regulation (Regulation (EU) 2016/679);
“General Anti-Abuse Rule”	<p>means</p> <p>(a) the legislation in Part 5 of the Finance Act 2013; and</p> <p>(b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;</p>
“Good Industry Practice”	means the exercise of that degree of skill, diligence, prudence, risk management, quality management and foresight which would reasonably and ordinarily be expected from a skilled and experienced supplier engaged in the manufacture and/or supply of goods similar to the Goods under the same or similar circumstances as those applicable to this Contract, including in accordance with any codes of practice published by relevant trade associations;
“Guidance”	means any applicable guidance, direction or determination and any policies, advice or industry alerts which apply to the Goods, to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Supplier by the Authority and/or have been published and/or notified to the Supplier by the Department of Health, Monitor, NHS England, the Medicines and Healthcare Products Regulatory Agency, the European Medicine Agency the European Commission, the Care Quality Commission and/or any other regulator or competent body;
“Halifax Abuse Principle”	means the principle explained in the CJEU Case C-255/02 Halifax and others;
"HM Government Cyber Essentials Scheme"	means the HM Government Cyber Essentials Scheme as further defined in the documents relating to this scheme published at:

	https://www.gov.uk/government/publications/cyber-essentials-scheme-overview
“Implementation Plan”	means the implementation plan, if any, referred to in any Key Provisions;
“Implementation Requirements”	means the Authority’s implementation and mobilisation requirements (if any), as may be set out in the Specification and Tender Response Document and/or otherwise as part of this Contract, which the Supplier must comply with as part of implementing the Services;
“Intellectual Property Rights”	means all patents, copyright, design rights, registered designs, trade marks, know-how, database rights, confidential formulae and any other intellectual property rights and the rights to apply for patents and trade marks and registered designs;
“Interested Party”	means any organisation which has a legitimate interest in providing services of the same or similar nature to the Services in immediate or proximate succession to the Supplier or any Sub-contractor and who had confirmed such interest in writing to the Authority;
“Key Provisions”	means the key provisions set out in Schedule 1 of these Call-off Terms and Conditions and/or as part of the Order Form;
“KPI”	means the key performance indicators as set out in the Specification and Tender Response Document and/or the Order Form, if any;
“Law”	<p>means any applicable legal requirements including, without limitation,:</p> <ul style="list-style-type: none"> (a) any applicable statute or proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument as applicable in England and Wales; (b) any applicable European Union obligation, directive, regulation, decision, law or right (including any such obligations, directives, regulations, decisions, laws or rights that are incorporated into the law of England and Wales or given effect in England and Wales by any applicable statute, proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument); (c) any enforceable community right within the meaning of section 2(1) European Communities Act 1972; (d) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales;

	<p>(e) requirements set by any regulatory body as applicable in England and Wales;</p> <p>(f) any relevant code of practice as applicable in England and Wales; and</p> <p>(g) any relevant collective agreement and/or international law provisions (to include, without limitation, as referred to in (a) to (f) above);</p>
“Long Stop Date”	means the date, if any, specified in the Order Form;
“NHS”	means the National Health Service;
“Occasion of Tax Non-Compliance”	<p>means:</p> <p>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:</p> <p>(i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</p> <p>(ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or</p> <p>(b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a civil penalty for fraud or evasion;</p>
“Order Form”	means the order form for the Goods issued by the Authority in accordance with the Framework Agreement;
“Party”	means the Authority or the Supplier as appropriate and Parties means both the Authority and the Supplier;
“Personal Data”	shall have the same meaning as set out in the GDPR;
“Policies”	means the policies, rules and procedures of the Authority as notified to the Supplier from time to time;
“Premises and Locations”	has the meaning given under Clause 2.1 of Schedule 2 of these Call-off Terms and Conditions;
“Process”	shall have the same meaning as set out in the GDPR. Processing and Processed shall be construed accordingly;
“Processor”	shall have the same meaning as set out in the GDPR;

“Relevant Tax Authority”	means HM Revenue and Customs, or, if applicable, a tax authority in the jurisdiction in which the Supplier is established;
“Remedial Proposal”	has the meaning given under Clause 15.3 of Schedule 2 of these Call-off Terms and Conditions;
“Services”	means the services set out in this Contract;
“Services Commencement Date”	means the date delivery of the Services shall commence as specified in the Order Form. If no date is specified in the Order Form, the services commencement date shall be the Commencement Date;
“Services Information”	means information concerning the Services as may be reasonably requested by the Authority and supplied by the Supplier to the Authority in accordance with Clause 20 of Schedule 2 of these Call-off Terms and Conditions for inclusion in the Authority's services catalogue from time to time;
“Specification and Tender Response Document”	means the Specification and Tender Response Document set out in the Framework Agreement as supplemented by any further information set out and/or referred to in the Order Form and as amended and/or updated in accordance with this Contract;
“Staff”	means all persons employed or engaged by the Supplier to perform its obligations under this Contract including any Sub-contractors and person employed or engaged by such Sub-contractors;
“Sub-contract”	means a contract between two or more suppliers, at any stage of remoteness from the Supplier in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of the whole or any part of this Contract;
“Sub-contractor”	means a party to a Sub-contract other than the Supplier;
“Subsequent Transfer Date”	means the point in time, if any, at which services which are fundamentally the same as the Services (either in whole or in part) are first provided by a Successor or the Authority, as appropriate, giving rise to a relevant transfer under TUPE;
“Subsequent Transferring Employees”	means any employee, agent, consultant and/or contractor who, immediately prior to the Subsequent Transfer Date, is wholly or mainly engaged in the performance of services fundamentally the same as the Services (either in whole or in part) which are to be undertaken by the Successor or Authority, as appropriate;
“Successor”	means any third party who provides services fundamentally the same as the Services (either in whole or in part) in immediate or subsequent succession to the Supplier upon the expiry or earlier termination of this Contract;
“Supplier”	means the supplier named on the Order Form;
“Supplier Code of Conduct”	means the code of that name published by the Government Commercial Function originally dated September 2017, as may be

	amended, restated, updated, re-issued or re-named from time to time;
“Supplier Personnel”	means any employee, agent, consultant and/or contractor of the Supplier or Sub-contractor who is either partially or fully engaged in the performance of the Services;
“Term”	means the term as referred to in the Key Provisions;
“Termination Notice”	means a written notice of termination given by one Party to the other notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract on a specified date and setting out the grounds for termination;
“Third Party”	“Third Party” means any supplier of services fundamentally the same as the Services (either in whole or in part) immediately before the Transfer Date;
“Third Party Body”	has the meaning given under Clause 8.5 of Schedule 2 of these Call-off Terms and Conditions;
“Transfer Date”	means the Actual Services Commencement Date;
"TUPE"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (2006/246) and/or any other regulations or other legislation enacted for the purpose of implementing or transposing the Acquired Rights Directive (77/187/EEC, as amended by Directive 98/50 EC and consolidated in 2001/23/EC) into English law; and
“VAT”	means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax.

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

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

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

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

1.6 Unless set out in the Contract as a chargeable item and subject to Clause 30.6 of Schedule 2 of these Call-off Terms and Conditions, the Supplier shall bear the cost of complying with its obligations under this Contract.

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

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

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

1.10 Where there is a conflict between the Supplier’s responses to the requirements set out in the Specification and Tender Response Document and any other part of this Contract, such other part of this Contract shall prevail.

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

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

1.13 Any Breach Notice issued by a Party in connection with this Contract shall not be invalid due to it containing insufficient information. A Party receiving a Breach Notice (**“Receiving Party”**) may ask the Party that issued the Breach Notice (**“Issuing Party”**) to provide any further information in relation to the subject matter of the Breach Notice that it may reasonably require to enable it to understand the Breach Notice and/or to remedy the breach. The Issuing Party shall not unreasonably withhold or delay the provision of such further information as referred to above as may be requested by the Receiving Party but no such withholding or delay shall invalidate the Breach Notice.

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

Schedule 5

Accompanying Terms and Conditions

Not Used