

Agreement for the supply of medical personnel by a sub-vendor

Parties:

- (1) The "**Main Vendor**": Medical Staffing Limited incorporated and registered in England and Wales under registration number 06750180, whose registered office is at Jansel House, Hitchin Road, Luton, LU2 7XH.
- (2) The "**Sub-Vendor**": Enferm Medical Ltd. incorporated and registered in England and Wales under registration number 09377104, whose registered office is at Unit 19 Walker Avenue, Wolverton Mill, Milton Keynes, Buckinghamshire, England, MK12 5TW.

Recitals:

- (a) The Main Vendor is a party to the framework agreements set out in Schedule 1 (the "**Framework Agreements**" and each a "**Framework Agreement**", and each such definition to include all schedules, appendices and parts thereof and amendments made thereto from time to time) for the supply of the types and grades of medical personnel set out in the Framework Agreements ("**Personnel**").
- (b) Pursuant to the Framework Agreements, the Main Vendor is a main vendor for the supply of Personnel to the healthcare authorities listed in Schedule 1 (the "**Authorities**" and each an "**Authority**") pursuant to legally binding agreements entered into in accordance with the provisions of the Framework Agreements for the supply of Personnel made between the Main Vendor and each Authority (the "**Call Off Contracts**" and each a "**Call Off Contract**", and each such definition to include all schedules, appendices and parts thereof and amendments made thereto from time to time).
- (c) Prior to entering into this Agreement, the Main Vendor has undertaken enquiries with the Authorities in order to ascertain that the Sub-Vendor is suitable to act as a sub-vendor under the Framework Agreements and the Call Off Contracts.
- (d) The Main Vendor confirms that it has provided the Sub-Vendor with a copy of the Framework Agreements and the Call Off Contracts so that the Sub-Vendor has had the opportunity to familiarise itself with the terms of the Framework Agreements and the Call Off Contracts.
- (e) The Sub-Vendor acknowledges that, when sub-contracting its obligations under the Framework Agreements and the Call Off Contracts to the Sub-Vendor, the Main Vendor is required to ensure that the Sub-Vendor is subject to terms which require it to act in the manner and standard required by the Framework Agreements and the Call Off Contracts.
- (f) The Sub-Vendor further acknowledges that the terms of this Agreement should be read together with the Framework Agreements and the Call Off Contracts, the contents of which are incorporated into this Agreement by this reference.
- (g) These Recitals shall form part of this Agreement.

Operative Provisions

1 Commencement

- 1.1 This Agreement shall commence on 4th of January 2021 (the "**Commencement Date**").

2 Services

- 2.1 With effect from the Commencement Date, upon invitation by the Main Vendor to do so, and where (i) the Sub-Vendor has suitably qualified and experienced Personnel available for Placement and (ii) the requirements of clauses 4.1 have been satisfied,

the Sub-Vendor shall supply Personnel to each relevant Authority from the disciplines and specialisms that each such Authority may from time to time require under the Call Off Contract for Placement in accordance with this Agreement (the "**Services**").

- 2.2 The Sub-Vendor shall supply the Services with reasonable skill, care and diligence and due propriety and with good faith, in accordance with all Applicable Laws and in accordance with the Main Vendor's reasonable written instructions from time to time and the requirements of the Framework Agreements and the Call Off Contracts, including but not limited to all obligations of the Main Vendor thereunder. The Sub-Vendor further agrees to co-operate with, and to provide all reasonable assistance to, the Main Vendor in the Main Vendor's performance of its obligations under the Framework Agreements and the Call Off Contracts.
- 2.3 The Sub-Vendor shall take all reasonable steps to ensure that Personnel supplied under this Agreement comply fully with the suitability and compliance criteria set out in the Framework Agreements and the Call Off Contracts, including but not limited to any criteria relating to qualifications, skills, experience, training, eligibility to work, occupational health, Disclosure and Barring Service clearance requirements, and such other criteria that an Authority may stipulate as notified from time to time by the Main Vendor or an Authority to the Sub-Vendor, and are otherwise suitable for Placement. The costs associated with ensuring that Personnel supplied to the Authorities under this Agreement are suitable for Placement shall be borne by and paid for by the Sub-Vendor. This includes (without limitation) the costs of obtaining Disclosure and Barring Service clearances, uniform costs and training costs (if applicable).
- 2.4 In order to comply with the requirements of this clause 2 and any other relevant requirements of this Agreement, the Sub-Vendor shall carry out all necessary and appropriate checks (including but not limited to those specified by the Framework Agreements and the Call Off Contracts) and ensure that any Personnel offered for Placement under this Agreement have satisfied all the said checks prior to the commencement of the relevant Placement. The costs associated with carrying out those checks shall be borne by and paid for by the Sub-Vendor.
- 2.5 Notwithstanding the other provisions of this clause 2, where any Personnel supplied under this Agreement are put into a Placement and do not comply in full with the corresponding suitability and compliance criteria set out in the relevant Framework Agreement and Call Off Contract, this shall be the Sub-Vendor's responsibility and any such Personnel will be removed with immediate effect by the Sub-Vendor from the relevant Placement until such time as the corresponding suitability and compliance criteria set out in the relevant Framework Agreement and Call Off Contract have, in the Main Vendor's opinion, been met.
- 2.6 The Sub-Vendor acknowledges that no Authority is not obliged to request any minimum number of Personnel from the Main Vendor under the Call Off Contracts or pursuant to the Framework Agreements [and the Main Vendor is not obliged to offer any Placements to the Sub-Vendor].
- 2.7 The Sub-Vendor represents and warrants to the Main Vendor that it has and shall continue for the duration of this Agreement to have all necessary Intellectual Property Rights including in and to any materials made available by the Sub-Vendor (and/or any Personnel supplied under this Agreement) to the Authorities or the Main Vendor which are necessary for the performance of the Sub-Vendor's obligations under this Agreement.

3 Duration

- 3.1 This Agreement shall, unless terminated earlier in accordance with its terms, continue in force for a period of 24 months from the Commencement Date.
- 3.2 This Agreement may only be extended or renewed by agreement of the parties. Such agreement must be in writing and signed by a director of each party or some other expressly authorised person.

4 Bookings, Placements and Master Vendor Information Rights

- 4.1 Prior to the commencement by the Sub-Vendor of the supply of the Services, the Main Vendor shall contact such Authorities as shall be recommended to it by the Sub-Vendor regarding potential Personnel supply opportunities relating to lots 1A, 1B and 1C in respect of the CCS Framework and lots 3A and 3C in respect of the HTE Framework. The formal consent of the relevant Authorities in accordance with the requirements of the relevant Framework Agreement(s) and Call Off Contract(s) for the supply by the Sub-Vendor to those Authorities of the Services shall be sought by the Main Vendor and the Sub-Vendor. In circumstances where such consent is obtained, the Main Vendor and the Sub-Vendor shall each enter into such contracts with and provide such information to those Authorities and any other relevant third parties as shall be necessary pursuant to the requirements of the relevant Framework Agreement(s) and Call Off Contract(s). For the avoidance of doubt, the Sub-Vendor shall only be permitted to contact an Authority and provide the Services to an Authority only after the Main Vendor and Sub-Vendor have satisfied the other requirements of this clause 4.1.
- 4.2 The Sub-Vendor shall comply with the booking procedures required by the relevant Authorities and the other requirements of the Framework Agreements and Call Off Contracts after the requirements of clause 4.1 have been satisfied.
- 4.3 The Sub-Vendor shall produce and supply to the Main Vendor monthly reports in relation to its supply of the Services during the previous month in such form as shall be required by the Main Vendor, including (but not limited to) details of all Personnel which it supplies or proposes to supply to the relevant Authorities, each shift undertaken by Personnel which it supplies to such Authorities, all charges levied and invoices submitted by the Sub-Vendor to such Authorities, all sums received by the Sub-Vendor from such Authorities in payment of those charges, the amount of the Margin received by the Sub-Vendor, confirmation of the corresponding method of payment method (including details of any umbrella organisation used in the supply chain) and all management information supplied by the Sub-Vendor to such Authorities. In addition, during the three month period following the Commencement Date, the Main Vendor shall be entitled to receive from the Sub-Vendor, on a timely basis, copies of all compliance-related documentation which the Sub-Vendor is required to submit to the Authorities in connection with the Placements which it makes, together with all copies of the checklist and all core documents (including (but not limited to) the curriculum vitae, references, Disclosure and Barring Service checks, right to work documentation and training history of the relevant Personnel).
- 4.4 In addition to the requirements of clause 4.3, the Sub-Vendor shall procure that the Main Vendor is granted access to the relevant portals and booking systems to allow the Main Vendor to audit the management and other information supplied by the Sub-Vendor to the Main Vendor pursuant under or in connection with this Agreement.
- 4.5 All communications between the parties relevant to Bookings and Placements will be provided and processed using the channel, or channels, of communication and within the timescales which is, or are, agreed by the parties from time to time. Without limiting the foregoing, the Sub-Vendor will confirm receipt of communications relevant to any Bookings within the timescale which is agreed by the parties from time to time.
- 4.6 The Sub-Vendor shall receive all queries from its Personnel in the first instance.
- 4.7 Upon offering any Personnel into a Booking, the Sub-Vendor shall complete any checklist required under the relevant Framework Agreement and/or Call Off Contract. Furthermore, the Sub-Vendor shall at all times assist the Main Vendor in ensuring compliance with all Applicable Laws. In this regard, the Sub-Vendor shall (and shall procure that any Personnel supplied by it under this Agreement shall) maintain and submit such information and records as are necessary to ensure compliance with all

Applicable Laws; promptly on request make such information and records available (or procure that they be made available) to the Main Vendor; and provide the Main Vendor with such co-operation and assistance as it reasonably requires so that it may comply with all Applicable Laws. The Sub-Vendor shall undertake its obligations under this clause 4.7 within the timescales which are agreed between the parties from time to time. For the purposes of this clause 4.7, "**Applicable Laws**" shall mean the laws of England and Wales and any other laws, regulations, regulatory policies, guidelines or industry codes which apply to the provision of the Services and the operation of this Agreement from time to time.

- 4.8 Where any information provided by the Sub-Vendor to the Main Vendor under or in connection with this Agreement is found to be intentionally, fraudulently or negligently inaccurate, incorrect or misrepresented as a result of the acts or omissions of the Sub-Vendor, the Main Vendor reserves the right to immediately terminate this Agreement by written notice to the Sub-Vendor.
- 4.9 The parties acknowledge that if an Authority cancels a Booking or Placement, such cancellation will be made directly with the Sub-Vendor.
- 4.10 The parties further acknowledge that an Authority may cancel a Booking for whatever reason prior to the start of the Placement. In such circumstances, the Authority will be required to use the relevant Framework Agreement and Call Off Contract timescale-related obligations.
- 4.11 In addition to the requirements of clause 4.3, the Sub-Vendor shall grant the Master Vendor access to the preferred supplier list of umbrella companies being used by the Sub-Vendor in connection with its supply of Services, together with any appropriate audit trail for these. Where the Master Vendor deems any Sub-Vendor Personnel supplied or to be supplied to one or more Agencies via an umbrella company arrangement to be a risk for IR35 or taxation purposes, it shall notify the Sub-Vendor of the same, and the Sub-Vendor shall immediately upon receipt of such notice cease to supply the relevant Personnel in this manner.

5 Timesheets

- 5.1 The Sub-Vendor shall ensure that all timesheets utilised by the Sub-Vendor's Personnel shall be prepared and submitted in accordance with requirements of the Framework Agreements and the Call Off Contracts.
- 5.2 The Sub-Vendor shall use all reasonable endeavours to ensure that the Sub-Vendor's Personnel complete the timesheets at the end of each week (Monday to Sunday).
- 5.3 Timesheets shall bear the following information (unless otherwise provided for in the Framework Agreements or the Call Off Contracts):-
 - 5.3.1 the hospital and ward where the Placement is being worked;
 - 5.3.2 work period start and finish times;
 - 5.3.3 total hours to be paid (setting out any deducted hours – for example break times);
 - 5.3.4 grade and specialism of the duty (in accordance with descriptions listed under the relevant Framework Agreement and Call Off Contract);
 - 5.3.5 name and signature of the Authority representative approving the work performed;
 - 5.3.6 name and signature of the Personnel;
 - 5.3.7 the booking reference for the Placement issued by the Main Vendor (if any); and
 - 5.3.8 any other information reasonably requested by the Main Vendor from time to time.
- 5.4 The Sub-Vendor shall use its reasonable endeavours to ensure that the Sub-Vendor's Personnel provide signed copies of each timesheet to the relevant Authority and that the Personnel forward a signed copy of the timesheet to the Sub-Vendor for the purposes of verification and payment in respect of them. For the avoidance of doubt,

neither the Main Vendor nor the Authorities are responsible, and shall not be liable to the Sub-Vendor's Personnel, for any payments due to the Sub-Vendor's Personnel and, if relevant, for any sums due relating to taxation and National Insurance liabilities in force at that time, unless otherwise agreed by the parties. The Sub-Vendor will pay its Personnel according to its own terms and conditions and will invoice the Authorities in accordance the requirements of the Framework Agreements and Call Off Contracts.

- 5.5 All communications between the parties relevant to timesheets will be processed using the channel, or channels, of communication which is, or are, agreed by the parties from time to time.
- 5.6 In addition to the requirements of clauses 4.3 and 4.4, the Sub-Vendor shall provide a weekly report to the Main Vendor detailing the hours worked by the Sub-Vendor's Personnel.

6 Payment

- 6.1 The Sub-Vendor shall invoice the relevant Authorities directly (and not the Main Vendor) for fees due to them in connection with their supply of the Services and shall manage all internal pay roll for the Personnel which they supply to such Authorities.
- 6.2 The Sub-Vendor shall, in the course of supplying the services to the relevant Authorities, prepare and deliver monthly information on the relevant framework MI template which is, once completed, to be uploaded by the Sub-Vendor to the Crown Commercial Service/HealthTrust Europe website (as the case may be).
- 6.3 Following the payment by the Main Vendor in accordance with the requirements of the Framework Agreements and the Call Off Contracts of an activity based income charge, the Main Vendor shall invoice the Sub-Vendor an amount equal to 15% of such charge. The Sub-Vendor will pay each such invoice within 30 days of receipt.
- 6.4 In addition to the sums referred to in clause 6.3 and elsewhere in this Agreement, the Main Vendor shall be entitled to receive 15% of the Margin. The Main Vendor shall, following its receipt of information pursuant to clause 4.3 in respect of a particular month, invoice the Sub-Vendor an amount equal to 15% of such Margin in relation to that month. The Sub-Vendor will pay each such invoice within 30 days of receipt.
- 6.5 All communications relevant to payment and invoices for the Services will be processed using the channel, or channels, of communication which is, or are, agreed by the parties from time to time.

7 Transfer Fees

- 7.1 If any Authority wishes to engage on a temporary or permanent basis Personnel who are being supplied at that time by the Sub-Vendor or who have previously been supplied by the Sub-Vendor to any Authority under the terms of this Agreement or otherwise whether directly or through an alternative supplier, any provision in relation to Transfer Fees or similar payments in the Framework Agreements and the applicable Call Off Contracts will apply and, as between the Main Vendor and the Sub-Vendor, any Transfer Fees shall be split as provided for in Schedule 2. The Sub-Vendor shall, upon its receipt of any such sum, immediately notify the Master Vendor of the same. The Main Vendor shall, following its receipt of any such notification, invoice the Sub-Vendor an amount equal to the sum it is entitled to as calculated pursuant to Schedule 2. The Sub-Vendor will pay each such invoice within 30 days of receipt.

8 Restrictive Covenants, Non-Solicitation and Exclusivity

- 8.1 Once any Personnel have been put forward for a Booking by the Sub-Vendor under this Agreement, the Main Vendor shall not contact such Personnel throughout the term of this Agreement and for the period following the expiry or termination of this Agreement that is set out in Schedule 2 for the purposes of soliciting them with a view to them being engaged or employed by or under any other arrangement with the Main

Vendor unless the Main Vendor is able to demonstrate to the Sub-Vendor's reasonable satisfaction that such Personnel were already registered with the Main Vendor and had previously been placed by the Main Vendor independent of this Agreement. [This clause is also applicable to the Sub-Vendor where the Main Vendor has provided personnel to the Sub-Vendor.]

- 8.2 The Main Vendor shall not be considered to be in breach of its obligations in clause 8.1 where the Main Vendor is able to demonstrate to the Sub-Vendor's reasonable satisfaction that an individual has become an employee of, or has been engaged by, it as a result of a response by that individual to an advertisement placed by or on behalf of the Main Vendor where it is apparent from the wording of the advertisement, the manner of its publication or otherwise that the principal purpose of the advertisement was not the solicitation or recruitment of personnel registered with the Sub-Vendor and that the advertisement was equally likely to attract applications from individuals who were not registered with the Sub-Vendor. [This clause is also applicable to the Sub-Vendor where the Main Vendor has provided personnel to the Sub-Vendor.]
- 8.3 Where, for the purposes of clause 8.1, the Main Vendor is able to demonstrate to the Sub-Vendor's reasonable satisfaction that Personnel were already registered with the Main Vendor and had previously been placed by the Main Vendor independent of this Agreement, the Main Vendor shall not contact such Personnel throughout the term of this Agreement for the purposes of soliciting them with a view to them being engaged or employed by or under any other arrangement with the Main Vendor but the Main Vendor may reconnect with such Personnel following the expiry or termination of this Agreement upon the expiry of the re-connection period that is set out in Schedule 2. The restriction on the Main Vendor contacting such Personnel throughout the term of this Agreement shall extend to and include the Main Vendor:-
- 8.3.1 not putting such Personnel forward for the Booking which they were put forward for by the Sub-Vendor unless they were already pending in respect of that Booking prior to it being sent out to the Sub-Vendor to fill; and
 - 8.3.2 not approaching such Personnel for work seeking services unless the Main Vendor can demonstrate to the Sub-Vendor's reasonable satisfaction that it was in contact with the Personnel concerned within the contact period that is set out in Schedule 2 prior to being put forward for a Booking by the Sub-Vendor.
- 8.4 The Sub-Vendor agrees with the Main Vendor that it will not enter into any contract, arrangement or other relationship with any other NHS framework agencies or third party where the subject matter of such contract, arrangement or other relationship is materially similar to the subject matter of this Agreement and that it may only approach other such NHS framework agencies and third parties with a view to entering into any such contract, arrangement or other relationship after this Agreement has terminated or, if earlier, notice to terminate this Agreement has been validly served by one party to the other. [This clause is also applicable to the Sub-Vendor where the Main Vendor has provided personnel to the Sub-Vendor.]

9 Main Vendor Placements, Off-Framework Supplies by the Sub-Vendor and Changes to the Sub-Vendor's Business

- 9.1 In circumstances where the requirements of clause 4.1 and clause 4.2 have been satisfied, any Placement which was initially made by the Main Vendor with an Authority may be taken over by the Sub-Vendor on 2 weeks' prior written notice to the Main Vendor and thereafter no further fees will be payable by the relevant Authority to the Main Vendor in respect of that Placement.
- 9.2 For the avoidance of doubt, the Sub-Vendor acknowledges and agrees with the Main Vendor that, as part of the agreement entered into with the Authorities and the framework pursuant to clause 4.1, is unable to provide Personnel directly to an Authority via an off-framework option.
- 9.3 The Sub-Vendor shall inform the Main Vendor of any material changes to its corporate

structure (including its group structure) and its shareholder profile, as well as any credit, insurance or factoring denials or missed payments leading to final notices or county court judgements.

10 Liability

- 10.1 The Sub-Vendor shall be liable for and shall indemnify the Main Vendor in respect of any liability, loss, costs, expenses, claims and proceedings whatsoever arising (whether under any statute or at common law) arising out of or in connection with any negligence of the Sub-Vendor in the supply of the Services or any breach by the Sub-Vendor of the terms of this Agreement or any default or omission in its performance of its obligations imposed by this Agreement. However, in the event of a claim by the Main Vendor under this Agreement against the Sub-Vendor, the Sub-Vendor may, where applicable:-
- 10.1.1 rely on any limit of liability or other term of the Framework Agreements or the Call Off Contracts; and
 - 10.1.2 raise equivalent rights of defence as it would have had if it had been named as the Main Vendor under the Framework Agreements or the Call Off Contracts.
- 10.2 Notwithstanding the provisions of clause 10.1, the Authorities (each being a member of the Clinical Negligence Scheme for National Health Service Authorities) have, pursuant to the Framework Agreements and the Call Off Contracts, undertaken to be responsible, through the Clinical Negligence Scheme for National Health Service Authorities, for the indemnification of the Personnel supplied by the Sub-Vendor of claims or proceedings arising out of the clinical acts or omissions during the diagnosis, care and treatment of the Authorities' patients, excluding criminal acts, arising under common law, providing that the Sub-Vendor has fulfilled its obligations under the Framework Agreements, the Call Off Contracts and any special terms. In so far as the Main Vendor is able, the Main Vendor hereby agrees to pass the benefit of this indemnification to any Personnel supplied by the Sub-Vendor under this Agreement.
- 10.3 The parties to this Agreement acknowledge that the Agency Workers Regulations 2010 (as amended from time to time) ("**AWR**") may apply to Agency Workers (as defined under AWR) supplied to an Authority under this Agreement who under AWR may qualify for equal treatment (including "**Day 1 Rights**" as defined or referenced under AWR) and further rights ("**Week 12 Rights**" as defined or referenced under AWR) after a qualifying period of 12 continuous calendar weeks during the whole or part of which the Personnel are supplied by one or more agencies to an Authority to work temporarily for and under the supervision and direction of that Authority in the same role (and as further defined under AWR) ("**Qualifying Period**").
- 10.4 It is agreed and accepted that the relevant Authority shall be responsible for compliance with the Day 1 Rights, being its obligations under regulation 12 of AWR (rights of agency workers in relation to access to collective facilities and amenities) and regulation 13 of AWR (rights of agency workers in relation to access to employment). The Sub-Vendor acknowledges that the Main Vendor has no responsibility or ability to provide Day 1 Rights.
- 10.5 The Main Vendor shall provide within 4 working days of a request from the Sub-Vendor, accurate and comprehensive "**Comparator**" information (as defined or referenced under AWR). The Main Vendor shall advise the Sub-Vendor of any changes to Comparator information supplied to the Main Vendor (including but not limited to pay increases which impact the Comparator information).
- 10.6 On completion of any Qualifying Period, the relevant Personnel shall be entitled to the relevant terms and conditions pursuant to their Week 12 Rights. The Sub-Vendor shall assess, based upon the information provided by the relevant Authority, the impact of the Comparator information on such Personnel it supplies and shall advise the Main Vendor of any change to the charges or conditions and the effective date of the change.

- 10.7 For the avoidance of doubt, the liability of each Authority to the Sub-Vendor is limited as set out in the relevant Framework Agreement and Call Off Contract.

11 Insurance

- 11.1 In accordance with the corresponding requirements of the Framework Agreements and the Call Off Contracts, the Sub-Vendor shall ensure that appropriate insurance, including but not limited to policies of employer's liability insurance, professional indemnity insurance and public liability insurance, are in place and maintained for both the Sub-Vendor and its Personnel during a Placement under this Agreement. The insurance cover so provided shall be as set out under the Framework Agreements and the Call Off Contracts. The Sub-Vendor shall provide evidence that such insurance policies are in force to the Main Vendor at the commencement of this Agreement and at the time of renewal (or any time after renewal) of such insurance upon request by the Main Vendor of the same.

12 Mitigation of Loss and Force Majeure

- 12.1 Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to this Agreement.
- 12.2 No party shall have any liability for any loss or damage arising from its failure to perform its obligations under this Agreement for any cause beyond its reasonable control to the extent that a Force Majeure Event occurs and it is prevented from carrying out its obligations by that Force Majeure Event subject to the party whose performance is prevented using all reasonable endeavours to mitigate the effects of the Force Majeure Event so as to facilitate its continued performance of its obligations.

13 Monitoring/Audit and Complaints

- 13.1 Either the Main Vendor or the Sub-Vendor may, at any time, upon giving not less than 48 hours' notice:-
- 13.1.1 call a review meeting at its premises to monitor and evaluate the other party's performance under this Agreement. The other party, including all relevant employees, shall attend the review meeting; and
 - 13.1.2 carry out, or permit to be carried out, an audit in order to assess if the other party is acting in accordance with this Agreement. The other party shall permit or procure permission for any auditor or other authorised representative of the party exercising its rights under this clause 13.1.2 to have reasonable access for audit purposes to information, premises or equipment used in respect of this Agreement. Such access shall include, without limiting the generality of the foregoing, reasonable access and inspection of the arrangements being made by the other party to comply with its obligations under this Agreement including access to such financial and other records as are kept by it as part of this Agreement and as may be reasonably required from time to time.
- 13.2 In exercising its right to carry out an audit under clause 13.1.2, the party being audited shall allow the other party's representatives, auditors and such persons as may, from time to time, be nominated by that party, reasonable access to:-
- 13.2.1 all workplaces for the purpose of inspecting work being performed pursuant to this Agreement;
 - 13.2.2 all workplaces for the purpose of inspecting records and documents in the possession, custody or control of it in connection with this Agreement;
 - 13.2.3 any personnel or agent of it for the purpose of interviewing such persons in connection with this Agreement; and
 - 13.2.4 technology, resources, systems and procedures used or proposed to be used in connection with this Agreement.

- 13.3 During access and inspection visits, the party being inspected shall provide all reasonable access and facilities free of charge.
- 13.4 If either wishes to complain to the other in respect of the other's performance under this Agreement, this shall be done in writing and the other party shall acknowledge the grievance within 3 working days and provide a full response within 15 working days.
- 13.5 Each party shall take all reasonable steps, in accordance with Good Industry Practice, to prevent any fraudulent activity by it and its staff and to ensure that information provided is accurate and correct and not misrepresented in any way as a result of its acts. The parties shall notify each other promptly if they have reason to suspect that any fraudulent activity has occurred.
- 13.6 The parties shall fully comply with the Bribery Act 2010 (as amended from time to time) and shall not offer or solicit any bribe, inducement, payment or gift which would be in breach of that Act.
- 13.7 In addition to the foregoing, the parties shall co-operate fully at each other's reasonable request in any audit or investigation by an Authority or any person authorised by an Authority.

14 Termination

- 14.1 The Main Vendor's rights of termination shall be as provided for in this Agreement unless the Framework Agreements or the Call Off Contracts require the Main Vendor to have less onerous termination rights, in which case, the Main Vendor will comply with the Framework Agreements and the Call Off Contracts.
- 14.2 This Agreement may be terminated by either party on giving not less than 3 months' prior written notice to the other party.
- 14.3 The Main Vendor may by written notice to the Sub-Vendor terminate this Agreement with immediate effect in the circumstances described in clause 4.7, or if:-
 - 14.3.1 the Sub-Vendor breaches any term of this Agreement which, in the case of a breach capable of remedy, is not remedied by the Sub-Vendor within 14 days of written notice from the Main Vendor specifying the breach and requiring its remedy;
 - 14.3.2 the Sub-Vendor has a receiver or liquidator or administrator appointed or has ceased to trade or has an order made against it or passes a resolution for winding-up, or makes any composition or arrangement with its creditors generally;
 - 14.3.3 without prejudice to the generality of clause 14.3.1, the Sub-Vendor:
 - 14.3.3.1 breaches the confidentiality or exclusivity requirements of this Agreement;
 - 14.3.3.2 breaches the requirements of clause 4.3; or
 - 14.3.3.3 breaches or fails to discharge its compliance-related obligations under or in connection with this Agreement;
 or
 - 14.3.4 the Authorities require the Main Vendor to terminate this Agreement pursuant to the Framework Agreements or the Call Off Contracts.
- 14.4 Within 3 months of the Commencement Date, the parties shall meet with each other to discuss the manner in which the supply of the Services has operated and the compliance (or otherwise) by the parties with their respective obligations under this Agreement. In circumstances where the Main Vendor is materially dissatisfied with the manner in which the Sub-Vendor has discharged its obligations under the Agreement, it may by written notice to the Sub-Vendor terminate this Agreement with immediate effect.
- 14.5 Termination for whatever cause shall be without prejudice to the rights of the parties accrued prior to the date of termination.

- 14.6 Automatic and immediate termination of this Agreement shall take place where the Framework Agreements and the Call Off Contracts expire or are terminated for whatever reason. At the Main Vendor's election, immediate termination of this Agreement shall take place where the Framework Agreements are replaced should the Main Vendor not wish for this Agreement to continue subject to any new framework agreement conditions.
- 14.7 The Main Vendor may immediately suspend the Sub-Vendor from receiving Bookings should it become aware that the Sub-Vendor is in breach of any of the terms of this Agreement. The suspension will be effective until the Main Vendor is reasonably satisfied that the breach has been remedied.

15 Confidential Information and Other Matters Regarding the Authorities

- 15.1 Each party shall not disclose or cause to be disclosed or use, at any time during or subsequent to this Agreement, any secret or confidential information of the other party or any of its clients or customers or any other information relating to the business, financial or other affairs of the other party that is not already in the public domain which is acquired by that party, except as required by law, by any court of competent jurisdiction or by any governmental or regulatory authority.
- 15.2 For the avoidance of doubt, the Main Vendor shall be permitted to disclose confidential information of the Sub-Vendor and Personal Information for the purpose of submission by the Main Vendor to Her Majesty's Revenue and Customs of Personal Information in compliance with the Main Vendor's reporting requirements under Applicable Laws in respect of Personnel supplied by the Sub-Vendor.
- 15.3 For the avoidance of doubt, the confidentiality obligations of the Sub-Vendor to the Authorities shall be as are set out in the Framework Agreements and the Call Off Contracts to the extent such obligations have been notified to the Sub-Vendor.
- 15.4 Without prejudice to clauses 13.1 and 13.2, the audit obligations of the Sub-Vendor to the Authorities shall be as are set out in the Framework Agreements and the Call Off Contracts.
- 15.5 Without prejudice to clause 28.1, the data protection obligations of the Sub-Vendor to the Authorities shall be as are set out in the Framework Agreements and the Call Off Contracts.
- 15.6 The Freedom of Information Act 2000 (as amended from time to time) obligations of the Sub-Vendor to the Authorities shall be as are set out in the Framework Agreements and the Call Off Contracts to the extent such obligations have been notified to the Sub-Vendor.
- 15.7 The Sub-Vendor shall not embarrass any Authority or otherwise bring any Authority into disrepute.
- 15.8 Without prejudice to clause 15.7, the publicity and branding obligations of the Sub-Vendor to the Authorities shall be as are set out in the Framework Agreements and the Call Off Contracts.
- 15.9 Without prejudice to clause 11.1, the insurance obligations of the Sub-Vendor to the Authorities shall be as are set out in the Framework Agreements and the Call Off Contracts.
- 15.10 Without prejudice to clause 13.6, the obligations of the Sub-Vendor to the Authorities regarding the prevention of fraud and bribery shall be as are set out in the Framework Agreements and the Call Off Contracts.
- 15.11 The obligations of the Sub-Vendor to the Authorities regarding the consequences of the termination of this Agreement shall be as are set out in the Framework Agreements

and the Call Off Contracts to the extent such obligations have been notified to the Sub-Vendor. Otherwise, upon termination of this Agreement, any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.

16 The Human Rights Act 1998

- 16.1 The Sub-Vendor shall, and shall use reasonable endeavours to ensure that its employees or agents and/or sub-contractors shall, at all times, act in a way which is compatible with the Convention rights within the meaning of Section 1 of the Human Rights Act 1998 (as amended from time to time).

17 Third Party Rights

- 17.1 An Authority may, pursuant to the Contracts (Rights of Third Parties) Act 1999 (as amended from time to time), enforce any provisions of this Agreement which confer a benefit upon that Authority.
- 17.2 An Authority may enforce this Agreement as if it were the Main Vendor.
- 17.3 Subject to clause 17.1, a person who is not a party to this Agreement shall have no rights pursuant to the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 17.4 All or any of the provisions of this Agreement may be rescinded or varied by the parties in their entirety or in part without the consent of or the need to give any notice to any person not a party to it.

18 Equality and Non-Discrimination

- 18.1 The Sub-Vendor shall not discriminate directly or indirectly or by way of victimisation or harassment against any person on racial grounds within the meaning of the Equality Act 2010 (as amended from time to time) (the "**Equality Act**").
- 18.2 The Sub-Vendor shall notify the Main Vendor promptly of any investigation of or proceedings against the Sub-Vendor under the Equality Act and shall cooperate fully and promptly with any requests of the person or body conducting such investigation or proceedings, including allowing access to any documents or data required, attending any meetings and providing any information requested.
- 18.3 In addition to its obligations under this clause 18 relating to race equality, the Sub-Vendor shall ensure that it complies with all current employment legislation.

19 Variation

- 19.1 The Main Vendor may at any time vary any of the terms of this Agreement. The Main Vendor will give the Sub-Vendor written notice of any such variation at least 1 month before the proposed date of the variation. If such variation is not acceptable to the Sub-Vendor, it shall notify the Main Vendor in writing within 14 days of the date of the Main Vendor's notice and this will cause this Agreement to terminate upon the expiry of the Main Vendor's notice. In the absence of the Sub-Vendor providing such notification, the Sub-Vendor agrees that such variation shall become effective upon the expiry of the Main Vendor's notice without the requirement for any further agreement or consent from the Sub-Vendor.

20 Assignment and Sub-Contracting

- 20.1 The Sub-Vendor shall not be entitled to assign all or any part of its rights and obligations under this Agreement without the Main Vendor's prior written consent.
- 20.2 The Sub-Vendor shall not be entitled to sub-contract all or any part of its obligations under this Agreement without first seeking and obtaining the prior written consent of

the Main Vendor.

- 20.3 The Main Vendor may assign, novate or otherwise transfer any of its rights and obligations under this Agreement to any of the Authorities.

21 Entire Agreement

- 21.1 This Agreement and the other agreements and documents referred to herein comprise the entire agreement of the parties relating to their subject matter.

22 Conflict between Agreements

- 22.1 In the event of any conflict between the terms of this Agreement and those of any Framework Agreement or Call Off Contract, this Agreement shall prevail, unless otherwise provided by this Agreement.

23 Nature of Agreement

- 23.1 No relationship of agency, joint venture or partnership shall exist or shall be deemed to exist between the parties and no party shall have the authority to bind any other party or parties without their prior written approval.

24 Waiver

- 24.1 The waiver or forbearance or failure of either party to insist in any one or more instances upon the performance of any provisions of this Agreement shall not be construed as a waiver or relinquishment of rights to the future performance of such provision and the other party's obligations in respect of such future performance shall continue in full force and effect.

25 Severability

- 25.1 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.
- 25.2 If a provision of this Agreement (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

26 Notices

- 26.1 Except as otherwise expressly provided within this Agreement, no notice or other communication from one party to the other shall have any validity under this Agreement unless made in writing by or on behalf of the party sending the communication.
- 26.2 Any notice or other communication which is to be given by either party to the other shall be given by letter (sent by hand, post, registered post or by recorded delivery service), or by fax or e-mail. Such communications shall be addressed to the other party in the manner referred to in Schedule 2. Provided the relevant communication is not returned as undelivered, the notice of communication shall be deemed to have been given 2 working days after the day on which the communication was posted, or 4 hours, in the case of fax or e-mail, or sooner where the other party acknowledges receipt.
- 26.3 Either party may change its address for service by serving a notice in accordance with this clause.

27 Further Assurance

- 27.1 The Sub-Vendor shall comply with all of the Main Vendor's reasonable requests for

information and any other reasonable requirements to enable the Main Vendor to comply with the Framework Agreements, the Call Off Contracts and all Applicable Laws. The Sub-Vendor warrants and represents to the Main Vendor that all such information it provides shall be complete, accurate and up-to-date.

- 27.2 The Sub-Vendor shall provide all such information and execute and deliver all such documents that the Main Vendor may from time to time reasonably require for the purpose of the supply of the Services and giving effect to the provisions of this Agreement, the Framework Agreements and the Call Off Contracts.

28 Data Protection and Other Terms

- 28.1 The parties shall comply with the provisions of the Data Protection Laws so far as applicable to this Agreement and the Services and shall indemnify each other against all actions, costs, expenses, claims, proceedings and demands which may be brought against the other party for breach of any of the Data Protection Laws which arises from the use, disclosure or transfer of personal data by the other party or its employees, workers or agents.
- 28.2 Each party shall pay interest on any sum due under this Agreement, calculated as follows:
- Rate:** [4]% a year above the Bank of England's base rate from time to time, but at [4]% a year for any period when that base rate is below 0%.
- Period:** From when the overdue sum became due, until it is paid
- 28.3 All amounts due under this Agreement from the Sub-Vendor to the Main Vendor shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 28.4 Without prejudice to any other rights or remedies that the Main Vendor may have, the Sub-Vendor acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this Agreement by the Sub-Vendor. Accordingly, the Main Vendor shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this Agreement.
- 28.5 No party shall make, or permit any person to make, any public announcement concerning the existence, subject matter or terms of this Agreement, the wider transactions contemplated by it, or the relationship between the parties, without the prior written consent of the other party, except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 28.6 Except as expressly provided in this Agreement, each party shall pay its own costs incurred in connection with the negotiation, preparation, and execution of this Agreement and any documents referred to in it.
- 28.7 Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

29 Governing Law

- 29.1 This Agreement is governed by and to be construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.

30 Interpretation

- 30.1 Definitions in this Agreement shall prevail over definitions in the Framework Agreements and the Call Off Contracts for the purpose of interpreting the preceding clauses only. Words imparting the singular number only shall include the plural and vice versa.

Where terms are incorporated by reference, these are to be interpreted in accordance with the interpretation provision of the agreement from which they came.

30.2 This Agreement shall be considered as drafted with the joint participation of the parties and no provision of this Agreement shall be construed adversely to a party on the ground that such party was responsible for the preparation of this Agreement or that provision.

30.3 In this Agreement:-

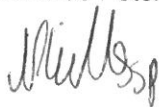
- 30.3.1 **"Applicable Laws"** has the meaning given in clause 4.7.
- 30.3.2 **"Booking"** means the reservation of Personnel to fill a Placement.
- 30.3.3 **"CCS Framework"** means the Crown Commercial Service Multidisciplinary Temporary Healthcare Personnel framework.
- 30.3.4 **"Data Protections Laws"** the UK Data Protection Legislation and (for so long as and to the extent that the law of the European Union has legal effect in the United Kingdom) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to privacy.
- 30.3.5 **"Force Majeure Event"** means one or more of the following to the extent it is not attributable to the Sub-Vendor or the Sub-Vendor's staff: war, civil war (whether declared or undeclared), riot or aircraft conflict; radioactive, chemical or biological contamination; pressure waves caused by aircraft or other aerial devices, travelling at sonic or supersonic speed; act of terrorism; explosion; fire; flood; extraordinarily severe weather conditions which are both unforeseen and for which precautions are not customarily taken by prudent business organisations so as to avoid or mitigate the impact thereof; industrial action which affects the provision of the Services but which is not confined to the workforce of the Sub-Vendor or is site specific; pestilence; the actions of governmental authorities to the extent that such actions are implemented either pursuant to emergency powers or otherwise outside the usual course of governmental business; or Act of God, or other event which is beyond the reasonable control of the party in question and could not have been avoided or mitigated by the exercise of all reasonable care by that party and further provided that such event materially affects the ability of the party seeking to rely upon it to perform its obligations under this Agreement.
- 30.3.6 **"Good Industry Practice"** means the exercise of that degree of skill, diligence and foresight which would reasonably and ordinarily be expected from a skilled and experienced service provider engaged in the provision of services similar to the Services under the same or similar conditions as those applicable to this Agreement and which are in accordance with any codes of practice published by relevant government authorities and trade associations.
- 30.3.7 **"HTE Framework"** means the HealthTrust Europe (HTE) Total Workforce Solutions framework.
- 30.3.8 **"Intellectual Property Rights"** means copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, know-how, trade secrets and other rights in confidential information; applications for registration, and the right to apply for registration, for any of the rights listed previously that are capable of being registered in any country or jurisdiction; and all other rights having equivalent or similar effect in any country or jurisdiction.
- 30.3.9 **"Margin"** means the aggregate gross profit of the Sub-Vendor in respect of sums received by the Sub-Vendor from Authorities under this Agreement.
- 30.3.10 **"Personal Information"** means personal information relating to Personnel, including (without limitation) their names, addresses, dates of birth, National Insurance numbers and Unique Taxpayer References.

- 30.3.11 **"Placement"** means the supply of Personnel to an Authority for a period during which they perform services or carry out work for or on behalf of an Authority commencing at the time they first report to the relevant Authority to take up duties (or if earlier, the time of commencement by them of such work or services) and ending upon the cessation by them of all such work and services.
- 30.3.12 **"Transfer Fee"** means any charge which the Sub-Vendor may seek to impose when Personnel take up a post with an Authority, whether on a permanent or temporary basis, directly or through another supplier.
- 30.3.13 **"UK Data Protection Legislation"** means any data protection legislation from time to time in force in the United Kingdom including the Data Protection Act 2018 or any successor legislation.
- 30.3.14 All references to **"days"** or **"working days"** shall be construed as clear days or clear working days.

This Agreement has been entered into on the date first before written by the undersigned persons who are duly authorised by the respective party.

By Nicholas Peter Hills Sands-Potter

Signed:



Dated: 02/01/2021

Director of Medical Staffing Limited
For and on behalf of **MEDICAL STAFFING LIMITED**

By Joshua Anthony Sprigg

Signed:



Dated: 29/12/2020

Director of Enferm Medical Ltd.
For and on behalf of **ENFERM MEDICAL LTD.**

SCHEDULE 1

“The Authorities”

All individual authorities that utilise the CCS Framework and/or the HTE Framework.

“The Framework Agreements”

The CCS Framework agreement and the HTE Framework agreement.

SCHEDULE 2

Costs split for the purposes of clauses 2.3 and 2.4

0% to be payable by the Main Vendor

100% to be payable by the Sub-Vendor

Payment period for the purposes of clauses 2.3 and 2.4

N/A

Transfer Fee split for the purposes of clause 7.1

0% to the Main Vendor

100% to the Sub-Vendor

Time period for the purposes of clause 8.1

12 months

Reconnection time period for the purposes of clause 8.3

4 weeks

Contact time period for the purposes of clause 8.3

4 weeks

Information for the purposes of clause 26.2

For the **Main Vendor**:

Attention: Nicholas Hills Sands-Potter
Address: Third Floor, Jansal House, Hitchin Road, Luton, LU2 7XH
Fax: [NUMBER]
E-mail: nicholas.hills@medicalstaffing.co.uk

For the **Sub-Vendor**:

Attention: Joshua Sprigg
Address: 19 Walker Avenue, Wolverton Mill East, Milton Keynes, MK12 5TW
Fax: 01908 311600
E-mail: Joshua@enfermmedical.co.uk

