

Document 4

Template Open Framework Agreement

For: Workforce Transformation Solutions Framework

Project Reference: F/065/WTS/25/MH

NHS FRAMEWORK AGREEMENT FOR THE PROVISION OF SERVICES

The Authority	The Countess of Chester Hospital NHS Foundation Trust of Countess of Chester Health Park, Liverpool Road, Chester CH2 1UL
The Supplier	[COCH to insert name, address and, where applicable, the company number of the Supplier]
Commencement Date	[COCH to insert date]
Framework Iteration	[COCH to insert Framework Iteration]
Framework Agreement Reference	FI / / / /XX [COCH to insert individual Supplier's reference at XX when signed by both parties]
Type of Services	[]

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

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

Schedules

Schedule 1	Key Provisions
Schedule 2	General Terms and Conditions
Schedule 3	Information and Data Provisions
Schedule 4	Definitions and Interpretations
Schedule 5	Specification and Tender Response Document
Schedule 6	Commercial Schedule
Schedule 7	Ordering Procedure, Award Criteria and Order Form
Schedule 8	Continuous Improvement
Schedule 9	Change Control Process
Schedule 10	[Insert title of Schedule]
Appendix A	Call-off Terms and Conditions for the Provision of Services

Signed by the authorised representative of THE AUTHORITY

Name:	.....	Signature:	.....
Position:	.....	Date:	.....

Signed by the authorised representative of THE SUPPLIER

Name:	.....	Signature	.....
Position:	.....	Date:	.....

Schedule 1

Key Provisions

Guidance: These Key Provisions enable the Authority to complete details specific to each framework agreement and to add any optional and/or extra provisions applicable to the relevant framework agreement.

Standard Key Provisions

1 Application of the Key Provisions

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

2 Term

- 2.1 This is Framework 1 of an Open Framework. The Term of the Open Framework shall be eight (8) years from the Commencement Date. It is intended that the Open Framework will be reopened every 24 months as the Framework Host deems necessary. At these points, incumbent framework suppliers will have the opportunity to revise their Tender, or they may leave their offer as per their last framework tender submission. The term of Framework 1 shall be 24 months from the commencement date.

Guidance: Insert the initial term in the first line and the maximum term including all extensions in the fourth line. It is a mandatory requirement for non-light touch contracts to set out the term of the framework agreement. The initial term and any options to extend should be consistent with any information provided in the tender notice or transparency notice. The term of your framework agreement is not permitted to exceed four years (section 47(1) Procurement Act 2023). The maximum permitted term does not apply:

- *To a framework that is a light touch contract (i.e. a framework for the future award of contracts wholly or mainly for the supply of services of a kind listed in Schedule 1 of the Procurement Regulations 2024).*
- *If you consider that the nature of the goods, services and works to be supplied under contracts awarded in accordance with the framework means that a longer term is required (section 47(2) Procurement Act 2023). However, if you are relying on this exclusion, you must set out your reasons in the tender or transparency notice for your framework (section 47(3) Procurement Act 2023).*

3 Framework Managers

- 3.1 The Framework Managers at the commencement of this Framework Agreement are:
 - 3.1.1 for the Authority:
Senior Commercial Procurement Specialist

- 3.1.2 for the Supplier:
[insert name and role]

Guidance: This Clause sets out the name of the framework manager for each party. Insert the name and role of the Authority's framework manager. At the tender stage you will not know who the Supplier is so Clause 3.1.2 cannot be completed until preparation of the framework agreement for signature.

4 Names and addresses for notices

- 4.1 Notices served under this Framework Agreement are to be delivered to:

- 4.1.1 for the Authority:

**Commercial Procurement Services, Countess of Chester Hospital
NHS Foundation Trust, Countess of Chester Health Park,
Liverpool Road, Chester CH2 1UL**

- 4.1.2 for the Supplier:

[complete name and/or role and address].

Guidance: This Clause sets out the name of each party's recipient of notices from the other party and is relevant to the issuing of formal communications under the framework agreement. Insert the name and address of the Authority's recipient of notices. At the tender stage you will not know who the Supplier is so Clause 4.1.2 cannot be completed until preparation of the framework agreement for signature. You may prefer to insert the role of the recipient (e.g. Finance Director) rather than an actual name.

5 Management levels for escalation and dispute resolution

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

Level	Authority representative	Supplier representative
1	Senior Commercial Procurement Specialist	[Framework Manager]
2	Commercial Procurement Manager	[insert role]
3	Director of Commercial Procurement Services	[insert role]

Guidance: Clause 22.3 of Schedule 2 sets out an internal process for dealing with Disputes. In Clause 5.1 above you must insert the number of internal levels and the name and/or role of the person who will deal with a Dispute at each level. You may include as many levels as appropriate to the framework agreement. Once internal processes are exhausted then either party may refer a Dispute to mediation for resolution. The purpose of having a number of levels is to ensure all internal avenues of resolution have been exhausted before a Dispute is dealt with by an external body.

Under Authority representative insert the appropriate details. Also consider how many levels are appropriate to the individual framework agreement. At the tender stage you will not know who the

Supplier is so the Supplier representatives cannot be completed until preparation of the framework agreement for signature.

6 Order of precedence

- 6.1 Subject always to Clause 1.10 of Schedule 4, should there be a conflict between any other parts of this Framework Agreement the order of priority for construction purposes shall be:
- 6.1.1 the provisions on the front page of this NHS Framework Agreement for the Provision of Services;
 - 6.1.2 Schedule 1: Key Provisions;
 - 6.1.3 Schedule 5: Specification and Tender Response Document (but only in respect of the Authority's requirements);
 - 6.1.4 Schedule 2: General Terms and Conditions;
 - 6.1.5 Schedule 6: Commercial Schedule;
 - 6.1.6 Schedule 3: Information Governance Provisions;
 - 6.1.7 Schedule 4: Definitions and Interpretations;
 - 6.1.8 the order in which all subsequent schedules, if any, appear; and
 - 6.1.9 any other documentation forming part of the Framework Agreement in the date order in which such documentation was created with the more recent documentation taking precedence over older documentation to the extent only of any conflict.
- 6.2 For the avoidance of doubt, the Specification and Tender Response Document shall include, without limitation, the Authority's requirements in the form of its specification and other statements and requirements, the Supplier's responses, proposals and/or method statements to meet those requirements, and any clarifications to the Supplier's responses, proposals and/or method statements as included as part of Schedule 5. Should there be a conflict between these parts of the Specification and Tender Response Document, the order of priority for construction purposes shall be (1) the Authority's requirements; (2) any clarification to the Supplier's responses, proposals and/or method statements, and (3) the Supplier's responses, proposals and/or method statements.

Guidance: Key Provision 6 addresses the order of precedence of various parts of the Framework Agreement for construction purposes. This should be carefully checked to confirm that it is appropriate for the particular Framework Agreement with any changes made accordingly.

7 Participating Authorities

- 7.1 The following Contracting Authorities are entitled to place Orders:
- 7.1.1 **[Insert name of the Authority and any further Participating Authorities]**
1. Any of the following Customers located in the UK, and any of their successors:
- a) Ministerial government departments;
 - b) Non ministerial government departments;
 - c) Executive agencies of government;

- d) Non-Departmental Public Bodies (NDPBs), including advisory NDPBs, executive NDPBs, and tribunal NDPBs;
 - e) Assembly Sponsored Public Bodies (ASPBs);
 - f) Police forces;
 - g) Fire and rescue services;
 - h) Ambulance services;
 - i) Maritime and coastguard agency services;
 - j) NHS bodies;
 - k) Educational bodies or establishments including state schools (nursery schools, primary schools, middle or high schools, secondary schools, special schools), academies, colleges, Pupil Referral Unit (PRU), further education colleges and universities;
 - l) Hospices;
 - m) National Parks;
 - n) Housing associations, including registered social landlords;
 - o) Third sector and charities;
 - p) Citizens advice bodies;
 - q) Councils, including county councils, district councils, county borough councils, community councils, London borough councils, unitary councils, metropolitan councils, parish councils;
 - r) Public corporations;
 - s) Public financial bodies or institutions;
 - t) Public pension funds;
 - u) Central banks; and
 - v) Civil service bodies, including public sector buying organisations.
2. Those bodies located in the UK and listed and maintained by the Government on their website at <https://www.gov.uk/government/organisations> or any replacement or updated web-link.
 3. Those bodies located in the UK and listed and maintained by the Office of National Statistics (ONS) at: <https://www.ons.gov.uk/economy/nationalaccounts/uksectoraccounts/datasets/publicsectorclassificationguide> or any replacement or updated web-link.
 4. Those bodies located in the UK and which are within the scope of the definition of “Contracting Authority” in Section 2 of the Procurement Act 2023.
 5. Any corporation established, or a group of individuals appointed to act together, for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character, and located in the UK and
 - (i) financed wholly or mainly by another Participating Authority listed in this document;
 - (ii) subject to management supervision by another Participating authority listed above in this document; or
 - (iii) more than half of the board of directors or members of which, or, in the case of a group of individuals, more than half of those individuals, are appointed by another Participating Authority listed above in this document;

- (iv) an association of or formed by one or more of the Participating Authorities listed above in this document.
6. The voluntary sector, charities and/or other entities and private organisations and located in the UK and which are not UK public sector bodies may also use the Framework if the Authority is satisfied that:
- (i) such entity is calling-off services directly, solely and exclusively in order to satisfy contractual obligations to one or more public sector bodies, all of which are entitled to use the Framework Contracts on their own account.
 - (ii) such entity is acting as a managing agent or procuring on behalf of the public sector delivering services of a public nature.

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

Guidance: Unless your framework is a light touch contract, it is a mandatory requirement under section 45(5) of the Procurement Act 2023 to set out the contracting authorities entitled to award public contracts under the framework in the framework agreement. This information should also be included in the tender or transparency notice by either listing the names of the relevant authorities or describing categories of authorities.

Optional Key Provisions

Guidance: These optional Key Provisions enable the Authority to:

(a) vary some of the default provisions in Schedule 2 as appropriate to the particular framework agreement (e.g. Key Provision 10 allows for the insurance levels and/or types to be varied from the default position set out in Clause 14 of Schedule 2 of both the Framework Agreement and the Call-off Terms and Conditions for the Provision of Services that apply to Contracts entered into under the Framework Agreement); and

(b) add provisions relevant to a particular framework agreement that are not part of the default provisions in Schedule 2 (e.g. there is an option to specify particular quality assurance standards).

If any of the optional Key Provisions apply, this must be indicated in the draft framework agreement issued at the tender stage by checking the boxes, completing the text in square brackets as appropriate and adding any required schedules. If a Clause does not apply, leave the relevant box blank.

Where any optional Key Provisions are checked they must be communicated to all Participating Authorities, as they will be relevant under the terms of the Call-off Terms and Conditions for the Provision of Services at Appendix A of this Framework Agreement.

8 Net Zero and Social Value Commitments ☒ (only applicable to the Framework Agreement if this box is checked)

Supplier carbon reduction plans and reporting

- 8.1 The Supplier shall put in place, maintain and implement a board approved, publicly available, carbon reduction plan or net zero commitment in accordance with the requirements and timescales set out in the NHS Net Zero Supplier Roadmap as may be updated from time to time.

- 8.2 Subject to Clause 8.3 of this Schedule 1, the Supplier may benchmark and report its progress against the requirements detailed in the NHS Net Zero Supplier RoadMap through the Evergreen Sustainable Supplier Assessment
- 8.3 The Supplier shall be required, upon receipt of written notice from the Authority or where the Authority publishes such a requirement, to benchmark and report its progress against the requirements detailed in the NHS Net Zero Supplier Roadmap through the Evergreen Sustainable Supplier Assessment.

Guidance: The Evergreen Sustainable Supplier Assessment is an online self-assessment process. This assessment is intended to serve as a single location for suppliers to the NHS to report progress against emissions reduction, modern slavery and other sustainability criteria. This may be integrated with other carbon transparency reporting that NHS suppliers may be asked to complete. Clause 8.2 is intended to reflect an element of discretion for the NHS supplier for completion of the self-assessment process. However, clause 8.3 gives the Authority the option to mandate the NHS supplier's completion of the self-assessment process.

- 8.4 Within seven (7) days of the Commencement Date, the Supplier shall appoint (and notify to the Authority) a relevant person (being the Supplier's CEO, relevant Supplier board member or senior director) ("Supplier Net Zero Contract Champion") who shall be responsible for overseeing the Supplier's compliance with Clauses 8.1, 8.2 and 8.3 of this Schedule 1. Without prejudice to the Authority's other rights and remedies under this Framework Agreement, if the Supplier fails to comply with Clauses 8.1, 8.2 and 8.3 of this Schedule 1, the Authority may escalate such failure to the Supplier Net Zero Contract Champion who shall within fourteen (14) days of such escalation confirm in writing to the Authority the steps (with associated timescales) that the Supplier will be taking to remedy such failure. The Supplier shall then remedy such failure by taking such confirmed steps by such timescales (and by taking any other reasonable additional steps that may become necessary or any reasonable additional or alternative steps as may be notified to the Supplier by the Authority) to ensure that such failure is remedied by the earliest date reasonably possible.

Social value in the delivery of the Framework Agreement

- 8.5 The Supplier shall deliver its social value contract commitments in accordance with the requirements and timescales set out in the Specification and Tender Response Document forming part of this Framework Agreement and any Contracts ("**Social Value Contract Commitments**")
- 8.6 The Supplier shall report its progress on delivering its Social Value Contract Commitments through progress reports, as set out in the Specification and Tender Response Document forming part of this Framework Agreement and any Contracts.

Guidance: Reporting timeframes for Framework Agreement and Contract specific net zero and social value requirements should be specified by the Authority in the Specification and Tender Response Document and should be reasonable and proportionate. With this in mind, reporting for such requirements should be annual unless there are exceptional Contract specific reasons why more frequent reporting is justified and proportionate. As a general principle, reporting timeframes for such requirements should never be more frequent than 6-monthly.

- 8.7 Within seven (7) days of the Commencement Date, the Supplier shall appoint (and notify to the Authority) a relevant person (being either the Supplier's CEO, relevant Supplier board member or senior director) ("Supplier Social Value Contract Champion") who shall be responsible for overseeing the Supplier's compliance with Clauses 8.5 and 8.6 of this Schedule 1. Without prejudice to the Authority's other rights

and remedies under this Framework Agreement , if the Supplier fails to comply with Clauses 5 and 6 of this Schedule 1, the Authority may escalate such failure to the Supplier Social Value Contract Champion who shall within fourteen (14) days of such escalation confirm in writing to the Authority the steps (with associated timescales) that the Supplier will be taking to remedy such failure. The Supplier shall then remedy such failure by taking such confirmed steps by such timescales (and by taking any other reasonable additional steps that may become necessary or any reasonable additional or alternative steps as may be notified to the Supplier by the Authority) to ensure that such failure is remedied by the earliest date reasonably possible.

Guidance: Key Provision 8 should be completed to reflect the Net Zero and Social Value Contract Commitments made by the Supplier.

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

9.1 The following quality assurance standards shall apply, as appropriate, to the provision of the Services:

- Bidders must have a defined and documented quality management system for the managed service offered such as IS EN ISO9001 or equivalent
- Bidders must have a defined and documented information security management system to a level at least equivalent to that of IS EN ISO 27001:2022 or equivalent
- Bidders must hold NHS Data Security and Protection Toolkit (DSPT) standards achieved certification
- Bidders must hold Cyber Essentials Plus certification
- Bidders must have an HSCN Connection Agreement in place.
- Bidders must be able to deliver a demonstrable Weekly PAYE payroll service incorporating contracts and separate HMRC PAYE reference fully compliant for both PSC and PAYE workers.

Guidance: If you have quality assurance requirements specific to a particular framework agreement, such as compliance with and maintenance of ISO 9001, check the box above and insert the requirements in the second line. These standards should align with those set out in the Specification and Tender Response Document. Where the framework is being established under the Procurement Act 2023, you should ensure that any requirements refer to international standards (e.g. ISO or IEC) or UK standards that adopt international equivalent standards (e.g. BS ISO or BS IEC) unless those standards do not exist, in which case you may refer to other UK standards (section 56 of the procurement Act 2023).

10 Different levels and/or types of insurance to levels and types of insurance set out at Clause 14.1 of Schedule 2 of this Framework Agreement 0 (only applicable to the Framework Agreement if this box is checked and the table sets out the requirements)

10.1 Not applicable

Guidance: This Clause relates to Clause 14 of Schedule 2 of this Framework Agreement. Clause 14.1 of Schedule 2 of this Framework Agreement requires the Supplier to have in place a minimum level of cover per claim of the greater of five million pounds (£5,000,000) or any sum as required by law in respect of employer's liability, public liability, product liability and professional indemnity insurance. If this default position is not appropriate in relation to the nature and risks of the particular framework agreement, you need to check the box above and insert in the table what different types and/or levels of insurance the Supplier must have in place in order to perform the framework agreement itself.

Sections 22(3) and 46(3) of the Procurement Act 2023 prohibit the use of conditions of participation during the establishment of a framework and any further competition to award a call-off contract respectively which require insurance relating to the performance of the contract to be in place before the award of the contract. You should carefully consider what insurance is necessary for the Supplier to have in place in order to perform this framework agreement specifically, rather than any call-off contracts which might be awarded under it.

Where particular insurance will be required for the performance of call-off contracts, rather than the framework, then you should not require it in Clause 14 of this Framework Agreement and, instead, you should include relevant conditions of participation during any subsequent call-off competition to requiring the Supplier to provide evidence that they will have the relevant levels of insurance in place on contract commencement of the relevant call-off.

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

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

Guidance: If you require that a third party guarantees the Supplier's performance, this must be in the tender documentation and you should check the box above. This Clause then protects your NHS body should signature of the guarantee be delayed. Note that this is a framework agreement and that any guarantee must be drafted in such a way as to allow Participating Authorities to rely on it when entering into Contracts under the framework agreement.

Extra Key Provisions

Guidance: Insert extra Key Provisions (if any) as required by the particular framework agreement. Where the detail of the issue will be dealt with in a Schedule, remember to cross reference the Schedule in the Key Provisions and refer to it in the Table of Schedules on the front page of this Framework Agreement. Also remember to draft and add to Schedule 4 any new definitions as required for any extra Key Provisions added.

Where any extra Key Provisions are inserted and it is intended that they apply to call-off contracts they must be communicated to all Participating Authorities, as they will be relevant under the terms of the

Call-off Terms and Conditions for the Provision of Services at Appendix A of this Framework Agreement. If any extra Key Provisions are inserted and it is not intended that they apply to call-off contracts this must be stated in the extra Key Provisions.

12 Framework Host's Fees

- 12.1 The purposes of Fees are the promotion and management of the Framework Agreement and as such should benefit both the Framework Supplier and the Framework Host. The Supplier will pay the following fees directly to the Framework Host. **Participating Authorities and Contracting Authorities pay no fees to the Framework Host.**
- 12.2 Gain Share Fee – this will be 0.75% of the turnover of each Call-off Contract awarded under the Framework Agreement. The Gain Share Fee will be paid by the Supplier to the Framework Host for the duration of each Call-off Contract. Call-off Contracts may exceed the Framework Agreement expiry date and in such cases the Gain Share Fees will continue to be paid until the Call-off Contract Expiry date.
- 12.5 Invoices for Gain Share Fees will be issued by the Framework Host approximately 10 working days after the Reporting Date for the relevant Month. Invoices for Gain Share Fees will be due within 30 days of the invoice date.

13 Management Information (MI) Reporting

- 13.1 The Supplier shall provide accurate, timely and complete MI to the Framework Host every Month on or before the Reporting Date during the Term and thereafter, until all transactions relating to Call-off Contracts have permanently ceased, using the MI Reporting Template. The MI Reporting Template is set out below.



F065 Document 5 MI
Reporting template.xl:

- 13.2 The MI Report should refer to Order(s) received and invoices occurring during the Month to which the MI Report relates, regardless of when the work was actually completed. For example, if an invoice is raised for October but the work was actually completed in September, the invoice should be included in October's MI Report rather than September's.
- 13.3 The Supplier shall provide the Framework Host with an MI Report for each Month, where the Supplier has an invoice to report that Month. Where the supplier has no business to report, the supplier shall submit a 'nil return.'

Submission of the Monthly MI Report

- 13.4 The MI Reporting Template must be completed electronically and emailed to info@coch-cps.co.uk. All other MI required must be returned to the Framework Host as it instructs.

- 13.5 The Framework Host reserves the right to specify that all or any part of an MI Report be submitted by the Supplier using an alternative means of communication to that specified in Clause 13.4 above. The Supplier agrees to comply with any such instructions provided they do not materially increase the burden on the Supplier.
- 13.6 If the Supplier has not reported invoices in MI for the year in question, the Supplier shall confirm that it has had no invoices or orders to report.

MI Failures and MI Defaults

- 13.7 The Supplier acknowledges that it is essential that the Framework Host receives timely and accurate MI about this Framework Agreement, because this MI will be used by the Framework Host and the Contracting Authorities to inform strategic decision-making.
- 13.8 The Supplier shall inform the Framework Host of any errors or corrections to the Management Information, either:
- 13.8.1 in the MI Report due on the Reporting Date immediately following discovery of the error by the Supplier; or
 - 13.8.2 as a result of the Framework Host querying any data contained in an MI Report
- 13.9 Following an MI Failure, the Framework Host may issue reminders to the Supplier or require the Supplier to rectify defects in the MI Report provided. The Supplier shall rectify any deficient or incomplete MI Report as soon as possible and not more than five (5) Working Days following receipt of any such reminder.
- 13.10 The Supplier agrees to attend meetings with the Framework Host, at the Framework Host's request, to discuss the circumstances of any MI Failure(s) (without prejudice to any other rights the Framework Host may have). At such a meeting, the Supplier shall propose measures to ensure that the MI Failures are rectified and do not occur in the future. The Parties will document these measures and continue to monitor the Supplier's performance.

14 Management and Operational Review Meetings

- 14.1 Framework Agreement review meetings will be held every quarter between the Framework Host and the Supplier's representative(s). Meetings may be face-to-face or by teleconference.
- 14.2 The meeting agenda will cover, but not be limited to, the following:
- 14.2.1 updates on the Supplier's organisation;
 - 14.2.2 performance against Key Performance Indicators (KPIs);
 - 14.2.3 Framework Agreement revenue and savings performance, submission of MI and sector revenue performance;
 - 14.2.4 incident and problem management;

14.2.5 an update on any sales or leads in the Supplier's pipeline and the related timeframes for further updates;

14.2.6 an update on how the Supplier is marketing the Framework Agreement, and

14.2.7 any invoicing queries.

15 Benchmarking

15.1 The Framework Host shall be entitled to regularly benchmark the Framework Prices and level of performance by the Supplier of the supply of the Services, against other Suppliers providing Services substantially the same as the Services during the Framework Agreement Term.

15.2 The Framework Host, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking evaluation referred to in Clause 15.1 above.

15.3 The Framework Host shall be entitled to disclose the results of any benchmarking of the Framework Prices and provision of the Services to the Contracting Authorities and any Participating Authority.

15.4 The Supplier shall use all reasonable endeavours and act in good faith to supply information required by the Framework Host in order to undertake the benchmarking and such information requirements shall be at the discretion of the Framework Host.

15.5 Where, as a consequence of any benchmarking carried out by the Framework Host, the Framework Host decides improvements to the Services should be implemented such improvements shall be implemented by way of the Change Control Process at no additional cost to the Framework Host or any Contracting Authority.

15.6 The benefit of any work carried out by the Supplier at any time during the Framework Agreement Term to update, improve or provide the Services, facilitate their delivery to any Contracting Authority and/or any alterations or variations to the Framework Prices or Call-off Contract Prices or the provision of the Services, which are identified in the Continuous Improvement Plan produced by the Supplier and/or as a consequence of any benchmarking carried out by the Framework Host pursuant to this Key Provision 15, shall be implemented by the Supplier in accordance with the Change Control Process and at no additional cost to the Framework Host or any Contracting Authority. The Supplier may not refuse to enter into, or delay the implementation of, a Variation under this Clause 15.6.

15.7 Nothing in this Key Provision 15 prevents a Contracting Authority undertaking a Continuous Improvement and/or benchmarking exercise in accordance with the Contracting Authority's rights under a Call-off Contract.

16 Continuous Improvement

16.1 The provisions of Schedule 8 (Continuous Improvement) shall apply to this Framework Agreement.

17 Change Control Process

- 17.1 Any changes to this Framework Agreement, including to the Services, may only be agreed in accordance with the Change Control Process set out in Schedule 9 – Change Control Process.

Schedule 2

General Terms and Conditions

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1 Supplier's appointment

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

2 Authority commitments

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

3 Ordering procedure

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

4 Reasonable assistance

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

5 Supplier Performance and Lifescience Industry Accredited Credentialing Register

- 5.1 The Supplier shall perform all Call-off Contracts entered into under this Framework Agreement by the Authority or any other Participating Authority in accordance with:
- 5.1.1 the requirements of this Framework Agreement; and
 - 5.1.2 the provisions of the respective Call-off Contracts.
- 5.2 Unless otherwise confirmed by the Authority in writing, the Supplier shall ensure full compliance (to include with any implementation timelines) with any Guidance issued by the Department of Health and Social Care and/or any requirements and/or Policies issued by the Authority (to include as may be set out as part of any procurement documents leading to the award of this Framework Agreement) in relation to the adoption of, and compliance with, any scheme or schemes to verify the credentials of Supplier representatives that visit NHS premises (to include use of the Lifescience Industry Accredited Credentialing Register). Once compliance with any notified implementation timelines has been achieved by the Supplier, the Supplier shall, during the Term, maintain the required level of compliance in accordance with any such Guidance, requirements and Policies.

6 Business continuity

- 6.1 Throughout the Term, the Supplier will ensure its Business Continuity Plan provides for continuity during a Business Continuity Event. The Supplier confirms and agrees such Business Continuity Plan details and will continue to detail robust arrangements that are reasonable and proportionate to:
- 6.1.1 the criticality of this Framework Agreement to the Participating Authorities; and
 - 6.1.2 the size and scope of the Supplier's business operations,
- regarding continuity of the provision of the Services during and following a Business Continuity Event.
- 6.2 The Supplier shall test its Business Continuity Plan at reasonable intervals, and in any event no less than once every twelve (12) months or such other period as may be agreed between the Parties taking into account the criticality of this Framework Agreement to Participating Authorities and the size and scope of the Supplier's business operations. The Supplier shall promptly provide to the Authority, at the Authority's written request, copies of its Business Continuity Plan, reasonable and proportionate documentary evidence that the Supplier tests its Business Continuity Plan in accordance with the requirements of this Clause 6.2 of this Schedule 2 and reasonable and proportionate information regarding the outcome of such tests. The Supplier shall provide to the Authority a copy of any updated or revised Business

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

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

7 The Authority's obligations

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

8 Framework management

- 8.1 Each Party shall appoint and retain a Framework Manager who shall be the primary point of contact for the other Party in relation to matters arising from this Framework Agreement. Should the Framework Manager be replaced, the Party replacing the Framework Manager shall promptly inform the other Party in writing of the name and contact details for the new Framework Manager. Any Framework Manager appointed shall be of sufficient seniority and experience to be able to make decisions on the day to day operation of the Framework Agreement. The Supplier confirms and agrees that it will be expected to work closely and cooperate fully with the Authority's Framework Manager.
- 8.2 Each Party shall ensure that its representatives (to include, without limitation, its Framework Manager) shall attend review meetings on a regular basis to review the performance of the Supplier under this Framework Agreement and to discuss matters arising generally under this Framework Agreement. Each Party shall ensure that those attending such meetings have the authority to make decisions regarding the day to day operation of the Framework Agreement. Review meetings shall take place at the frequency specified in the Specification and Tender Response Document. Should the Specification and Tender Response Document not state the frequency, then the first such meeting shall take place on a date to be agreed on or around the end of the first month after the Commencement Date. Subsequent meetings shall take place at quarterly intervals or as may otherwise be agreed in writing between the Parties.
- 8.3 Two weeks prior to each review meeting (or at such time and frequency as may be specified in the Specification and Tender Response Document) the Supplier shall provide a written contract management report to the Authority regarding the provision of the Services and the operation of this Framework Agreement. Unless otherwise agreed by the Parties in writing, such contract management report shall contain:

- 8.3.1 details of the performance of the Supplier under this Framework Agreement and any Call-off Contracts when assessed in accordance with the KPIs, as relevant to the Framework Agreement and any Call-off Contracts, since the last such performance report;
 - 8.3.2 details of any complaints by Participating Authorities in relation to the provision of the Services, their nature and the way in which the Supplier has responded to such complaints since the last review meeting written report;
 - 8.3.3 the information specified in the Specification and Tender Response Document as being relevant to the operation of this Framework Agreement;
 - 8.3.4 a status report in relation to the implementation of any current Remedial Proposals by either Party; and
 - 8.3.5 such other information as reasonably required by the Authority.
- 8.4 Unless specified otherwise in the Specification and Tender Response Document, the Authority shall take minutes of each review meeting and shall circulate draft minutes to the Supplier within a reasonable time following such review meeting. The Supplier shall inform the Authority in writing of any suggested amendments to the minutes within five (5) Business Days of receipt of the draft minutes. If the Supplier does not respond to the Authority within such five (5) Business Days the minutes will be deemed to be approved. Where there are any differences in interpretation of the minutes, the Parties will use their reasonable endeavours to reach agreement. If agreement cannot be reached the matter shall be referred to, and resolved in accordance with, the dispute resolution process set out in Clause 5 of the Key Provisions and Clause 22.3 of this Schedule 2.
- 8.5 The Supplier shall provide such management information as the Authority may request from time to time and/or such information as the Authority may request from time to time as required to enable its compliance with its publication obligations under the Procurement Act 2023 within seven (7) Business Days of the date of the request. The Supplier shall supply the requested 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 information to another Contracting Authority, whose role it is to analyse such information in accordance with UK government policy (to include, without limitation, for the purposes of analysing public sector expenditure and planning future procurement activities) ("Third Party Body"). The Supplier confirms and agrees that the Authority may itself provide the Third Party Body with management information relating to the Goods and/or the Services ordered and any payments made under this Framework Agreement or any Contracts and any other information relevant to the operation of this Framework Agreement.
- 8.6 Upon receipt of management information supplied by the Supplier to the Authority and/or the Third Party Body, or by the Authority to the Third Party Body, the Parties hereby consent to the Third Party Body and the Authority:
- 8.6.1 storing and analysing the management information and producing statistics; and
 - 8.6.2 sharing the management information, or any statistics produced using the management information with any other Contracting Authority.

- 8.7 If the Third Party Body and/or the Authority shares the management information or any other information provided under Clause 8.6 of this Schedule 2, any Contracting Authority receiving the management information shall, where such management information is subject to obligations of confidence under this Framework Agreement and such management information is provided direct by the Authority to such Contracting Authority, be informed of the confidential nature of that information by the Authority and shall be requested by the Authority not to disclose it to any body that is not a Contracting Authority (unless required to do so by Law).
- 8.8 The Authority may make changes to the type of management information which the Supplier is required to supply and shall give the Supplier at least one (1) month's written notice of any changes.
- 8.9 The Supplier acknowledges and agrees that the Authority may use the management information provided and/or any information supplied to the Authority on request in accordance with Clause 8.5 of this Schedule 2 in order to publish performance information regarding the Supplier where the Authority is required to do so by the Procurement Act 2023.

9 Price and payment

- 9.1 The Call-off Contract Price for all Call-off Contracts shall be calculated as set out in the Commercial Schedule and the payment provisions for all Call-off Contracts shall be as set out in the Call-off Terms and Conditions for the Provision of Services.
- 9.2 Where any payments are to be made under this Framework Agreement by either Party in addition to any payments to be made by Participating Authorities under any Call-off Contracts, the details of such payments and the invoicing arrangements shall be set out in the Commercial Schedule.
- 9.3 Where the Authority is entitled to receive any sums (including, without limitation, any costs, charges or expenses) from the Supplier under this Framework Agreement, the Authority may invoice the Supplier for such sums. Such invoices shall be paid by the Supplier within 30 days of the date of such invoice.
- 9.4 If a Party fails to pay any undisputed sum properly due to the other Party under this Framework Agreement, the Party due such sum shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

10 Warranties

- 10.1 The Supplier warrants and undertakes that:
- 10.1.1 it will comply with the terms of all Contracts entered into by Participating Authorities under this Framework Agreement;
 - 10.1.2 it will fully and promptly respond to all requests for information and/or requests for answers to questions regarding this Framework Agreement, any Call-off Contracts, the provision of the Services, any complaints and any Disputes at the frequency, in the timeframes and in the format as requested by the Authority from time to time (acting reasonably);
 - 10.1.3 all information included within the Supplier's responses to any documents issued by the Authority as part of the procurement relating to the award of this Framework Agreement (to include, without limitation, as referred to in the Specification Document and Commercial Schedule) and all accompanying materials is accurate;

- 10.1.4 it has and shall as relevant maintain all rights, consents, authorisations, licences and accreditations required to enter into and comply with its obligations under this Framework Agreement;
- 10.1.5 it has the right and authority to enter into this Framework Agreement and that it has the capability and capacity to fulfil its obligations under this Framework Agreement;
- 10.1.6 it is a properly constituted entity and it is fully empowered by the terms of its constitutional documents to enter into and to carry out its obligations under this Framework Agreement and the documents referred to in this Framework Agreement;
- 10.1.7 all necessary actions to authorise the execution of and performance of its obligations under this Framework Agreement have been taken before such execution;
- 10.1.8 there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition, business or operations of the Supplier;
- 10.1.9 there are no material agreements existing to which the Supplier is a party which prevent the Supplier from entering into or complying with this Framework Agreement;
- 10.1.10 it has and will continue to have the capacity, funding and cash flow to meet all its obligations under this Framework Agreement;
- 10.1.11 it has satisfied itself as to the nature and extent of the risks assumed by it under this Framework Agreement and has gathered all information necessary to perform its obligations under this Framework Agreement and all other obligations assumed by it;
- 10.1.12 it shall comply with its Net Zero and Social Value Commitments; and
- 10.1.13 it shall provide to the Authority any information that the Authority may request as evidence of the Supplier's compliance with Clause 10.1.12 of this Schedule 2.
- 10.2 The Supplier warrants that all information, data and other records and documents required by the Authority as set out in the Specification and Tender Response Document shall be submitted to the Authority in the format and in accordance with any timescales set out in the Specification and Tender Response Document.
- 10.3 The Supplier warrants and undertakes to the Authority that it shall comply with any eProcurement Guidance as it may apply to the Supplier and shall carry out all reasonable acts required of the Supplier to enable the Authority to comply with such eProcurement Guidance.
- 10.4 The Supplier warrants and undertakes to the Authority that, as at the Commencement Date, it has notified the Authority in writing of any circumstances giving rise to the application of an Exclusion Ground in respect of the Supplier, any Associated Person, any Connected Person and any supplier to whom the Supplier intends to sub-contract the performance of any part of the Supplier's obligations under this Framework Agreement. If, at any point during the Term, circumstances giving rise to an Exclusion Ground occur in respect of the Supplier, any Associated Person, any Connected Person or any supplier to whom the Supplier has sub-contracted the performance of any part of the Supplier's obligations under this Framework Agreement, the Supplier shall:

- 10.4.1 notify the Authority in writing of such fact within five (5) Business Days of its occurrence; and
- 10.4.2 promptly provide to the Authority the following information:
- (i) a short description of the circumstances;
 - (ii) the name, contact postal address and email address of the person who is the subject of the circumstances;
 - (iii) in the case of a conviction or other circumstances where there is a recorded decision of a public authority which is the authoritative basis for the conviction or other circumstances, a link to the web page where the decision can be accessed or a copy of the decision;
 - (iv) any evidence that the person who is the subject of the circumstances:
 - (A) further preventative steps, where appropriate;
 - (B) took steps to prevent the circumstances occurring again, for example by changing staff or management, or putting procedures or training in place; and
 - (C) committed to taking further preventative steps, where appropriate;
 - (v) if the circumstances giving rise to the Exclusion Ground have ended, the date when they ended; and
 - (vi) such other information that the Authority may reasonably require.
- 10.5 The Supplier further warrants and undertakes to the Authority that it will inform the Authority in writing immediately upon becoming aware that any of the warranties set out in Clause 10 of this Schedule 2 have been breached or there is a risk that any warranties may be breached.
- 10.6 Any warranties provided under this Framework Agreement are both independent and cumulative and may be enforced independently or collectively at the sole discretion of the enforcing Party.
- 11 Statutory compliance**
- 11.1 The Supplier shall comply with all Law and Guidance relevant to its obligations under this Framework Agreement and any Call-off Contracts.
- 11.2 Without limitation to Clause 11.1 of this Schedule 2, the Supplier shall be responsible for obtaining any statutory licences, authorisations, consents or permits required in connection with its performance of its obligations under this Framework Agreement and any Call-off Contracts.
- 12 Independence of Participating Authorities**
- 12.1 The Supplier acknowledges that each Participating Authority is independently responsible for the conduct of its award of Call-off Contracts under this Framework

Agreement and that the Authority is not responsible or accountable for and shall have no liability whatsoever in relation to:

- 12.1.1 the conduct of Participating Authorities other than the Authority in relation to the operation of this Framework Agreement; or
- 12.1.2 the performance or non-performance of any Participating Authorities other than the Authority under any Call-off Contracts between the Supplier and such other Participating Authorities entered into under this Framework Agreement.

13 Limitation of liability

- 13.1 Nothing in this Framework Agreement shall exclude or restrict the liability of either Party:
 - 13.1.1 for death or personal injury resulting from its negligence;
 - 13.1.2 for fraud or fraudulent misrepresentation;
 - 13.1.3 in any other circumstances where liability may not be limited or excluded under any applicable law;
 - 13.1.4 to make any payments agreed in accordance with Clause 9.2 of this Schedule 2; or
 - 13.1.5 pursuant to Clause 2.5 of Schedule 3.
- 13.2 Subject to Clause 13.1, 13.3 and 13.5 of this Schedule 2, the total liability of each Party to the other under or in connection with this Framework Agreement whether arising in contract, tort, negligence, breach of statutory duty or otherwise shall be limited in aggregate to five hundred thousand GBP (£500,000).
- 13.3 There shall be no right to claim losses, damages and/or other costs and expenses under or in connection with this Framework Agreement whether arising in contract (to include, without limitation, under any relevant indemnity), tort, negligence, breach of statutory duty or otherwise to the extent that any losses, damages and/or other costs and expenses claimed are in respect of loss of production, loss of business opportunity or are in respect of indirect loss of any nature suffered or alleged.
- 13.4 Each Party shall at all times take all reasonable steps to minimise and mitigate any loss for which that Party is entitled to bring a claim against the other pursuant to this Framework Agreement.
- 13.5 The liability of the Supplier and any Participating Authorities under any Call-off Contracts entered into pursuant to this Framework Agreement shall be as set out in the Call-off Terms and Conditions for the Provision of Services forming part of such Call-off Contracts.

14 Insurance

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

- 14.2 Without limitation to any insurance arrangements as required by Law, the Supplier shall put in place and/or maintain the different types and/or levels of indemnity arrangements explicitly required by the Authority, if specified in the Key Provisions.
- 14.3 Provided that the Supplier maintains all indemnity arrangements required by Law, the Supplier may self insure in order to meet other relevant requirements referred to at Clauses 14.1 and 14.2 of this Schedule 2 on condition that such self insurance arrangements offer the appropriate levels of protection and are approved by the Authority in writing prior to the Commencement Date.
- 14.4 The amount of any indemnity cover and/or self insurance arrangements shall not relieve the Supplier of any liabilities under this Framework Agreement. It shall be the responsibility of the Supplier to determine the amount of indemnity and/or self insurance cover that will be adequate to enable it to satisfy its potential liabilities under this Framework Agreement. Accordingly, the Supplier shall be liable to make good any deficiency if the proceeds of any indemnity cover and/or self insurance arrangement is insufficient to cover the settlement of any claim.
- 14.5 The Supplier warrants that it shall not take any action or fail to take any reasonable action or (in so far as it is reasonable and within its power) permit or allow others to take or fail to take any action, as a result of which its insurance cover may be rendered void, voidable, unenforceable, or be suspended or impaired in whole or in part, or which may otherwise render any sum paid out under such insurances repayable in whole or in part.
- 14.6 The Supplier shall from time to time and in any event within five (5) Business Days of written demand provide documentary evidence to the Authority that insurance arrangements taken out by the Supplier pursuant to Clause 14 of this Schedule 2 and the Key Provisions are fully maintained and that any premiums on them and/or contributions in respect of them (if any) are fully paid.
- 14.7 Upon the expiry or earlier termination of this Framework Agreement, the Supplier shall ensure that any ongoing liability it has or may have arising out of this Framework Agreement shall continue to be the subject of appropriate indemnity arrangements for the period of twenty one (21) years from termination or expiry of this Framework Agreement or until such earlier date as that liability may reasonably be considered to have ceased to exist.

15 Term and termination

- 15.1 This Framework Agreement shall commence on the Commencement Date and, unless terminated earlier in accordance with the terms of this Framework Agreement or the general law, shall continue until the end of the Term.
- 15.2 The Authority shall be entitled to extend the Term on one or more occasions by giving the Supplier written notice no less than three (3) months prior to the date on which this Framework Agreement would otherwise have expired, provided that the duration of this Framework Agreement shall be no longer than the total term specified in the Key Provisions.
- 15.3 In the case of a breach of any of the terms of this Framework Agreement by either Party that is capable of remedy (including any failure to pay sums due under this Framework Agreement), the non-breaching Party may, without prejudice to its other rights and remedies under this Framework Agreement, issue a Breach Notice and shall allow the Party in breach the opportunity to remedy such breach in the first instance via a remedial proposal put forward by the Party in breach ("**Remedial Proposal**") before exercising any right to terminate this Framework Agreement in accordance with Clause 15.4.2 of this Schedule 2. Such Remedial Proposal must be agreed with the

non-breaching Party (such agreement not to be unreasonably withheld or delayed) and must be implemented by the Party in breach in accordance with the timescales referred to in the agreed Remedial Proposal. Once agreed, any changes to a Remedial Proposal must be approved by the Parties in writing. Any failure by the Party in breach to:

- 15.3.1 put forward and agree a Remedial Proposal with the non-breaching Party in relation to the relevant default or breach within a period of ten (10) Business Days (or such other period as the non-breaching Party may agree in writing) from written notification of the relevant default or breach from the non-breaching Party;
- 15.3.2 comply with such Remedial Proposal (including, without limitation, as to its timescales for implementation, which shall be thirty (30) days unless otherwise agreed between the Parties); and/or
- 15.3.3 remedy the default or breach notwithstanding the implementation of such Remedial Proposal in accordance with the agreed timescales for implementation,

shall be deemed, for the purposes of Clause 15.4.2 of this Schedule 2, a material breach of this Framework Agreement by the Party in breach not remedied in accordance with an agreed Remedial Proposal.

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

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

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

- 15.5.1 if the Supplier, or any third party guaranteeing the obligations of the Supplier under this Framework Agreement, ceases or threatens to cease carrying on its business; suspends making payments on any of its debts or announces an intention to do so; is, or is deemed for the purposes of any Law to be, unable to pay its debts as they fall due or insolvent; enters into or proposes any composition, assignment or arrangement with its creditors generally; takes any step or suffers any step to be taken in relation to its winding-up, dissolution, administration (whether out of court or otherwise) or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) otherwise than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation; has a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer appointed (in each case, whether out of court or otherwise) in respect of it or any of its assets; has any security over any of its assets enforced; or any analogous procedure or step is taken in any jurisdiction;
- 15.5.2 if the Supplier undergoes a change of control within the meaning of sections 450 and 451 of the Corporation Tax Act 2010 (other than for an intra-group change of control) without the prior written consent of the Authority and the Authority shall be entitled to withhold such consent if, in the reasonable opinion of the Authority, the proposed change of control will have a material

- impact on the performance of this Framework Agreement or the reputation of the Authority;
- 15.5.3 if the Supplier purports to assign, Sub-contract, novate, create a trust in or otherwise transfer or dispose of this Framework Agreement in breach of Clause 28.1 of this Schedule 2;
 - 15.5.4 pursuant to and in accordance with the Key Provisions and Clauses 15.6, 19.7.2, 23.8, 25.2, 25.4 and 29.2 of this Schedule 2;
 - 15.5.5 if the warranty given by the Supplier pursuant to Clause 10.4 of this Schedule 2 is materially untrue, the Supplier commits a material breach of its obligation to notify the Authority of any circumstances giving rise to an Exclusion Ground in respect of the Supplier, any Associated Person, any Connected Person or any supplier to whom the Supplier has sub-contracted the performance of any part of the Supplier's obligations under this Framework Agreement as required by Clause 10.4 of this Schedule 2, or the Supplier fails to provide details of proposed mitigating factors as required by Clause 10.4 of this Schedule 2 that in the reasonable opinion of the Authority are acceptable; or
 - 15.5.6 pursuant to and in accordance with any termination rights set out in the Data Protection Protocol, as applicable to this Framework Agreement.
- 15.6 If the Authority, acting reasonably, has good cause to believe that there has been a material deterioration in the financial circumstances of the Supplier and/or any third party guaranteeing the obligations of the Supplier under this Framework Agreement and/or any material Sub-contractor of the Supplier when compared to any information provided to and/or assessed by the Authority as part of any procurement process or other due diligence leading to the award of this Framework Agreement to the Supplier or the entering into a Sub-contract by the Supplier, the following process shall apply:
- 15.6.1 the Authority may (but shall not be obliged to) give notice to the Supplier requesting adequate financial or other security and/or assurances for due performance of its material obligations under this Framework Agreement on such reasonable and proportionate terms as the Authority may require within a reasonable time period as specified in such notice;
 - 15.6.2 a failure or refusal by the Supplier to provide the financial or other security and/or assurances requested in accordance with Clause 15.6 of this Schedule 2 in accordance with any reasonable timescales specified in any such notice issued by the Authority shall be deemed a breach of this Framework Agreement by the Supplier and shall be referred to and resolved in accordance with the Dispute Resolution Procedure; and
 - 15.6.3 a failure to resolve such breach in accordance with such Dispute Resolution Procedure by the end of the escalation stage of such process (as set out in Clause 22.3 of this Schedule 2) shall entitle, but shall not compel, the Authority to terminate this Framework Agreement in accordance with Clause 15.4.1 of this Schedule 2.
- In order that the Authority may act reasonably in exercising its discretion in accordance with this Clause 15.6 of this Schedule 2, the Supplier shall provide the Authority with such reasonable and proportionate up-to-date financial or other information relating to the Supplier or any relevant third party entity upon request.
- 15.7 The Authority may terminate this Framework Agreement by issuing a Termination Notice to the Supplier where:

- 15.7.1 the Framework Agreement has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure;
 - 15.7.2 the Authority has become aware that the Supplier should have been excluded under Regulation 57(1) or (2) of the Public Contracts Regulations 2015 from the procurement procedure leading to the award of this Framework Agreement; or
 - 15.7.3 there has been a failure by the Supplier and/or one of its Sub-contractors to comply with legal obligations in the fields of environmental, social or labour Law. Where the failure to comply with legal obligations in the fields of environmental, social or labour Law is a failure by one of the Supplier's Sub-contractors, the Authority may request the replacement of such Sub-contractor and the Supplier shall comply with such request as an alternative to the Authority terminating this Framework Agreement under this Clause 15.7.3
- 15.8 If the Authority novates this Framework Agreement to any body that is not a Contracting Authority, from the effective date of such novation, the rights of the Authority to terminate this Framework Agreement in accordance with Clause 15.5.1 to Clause 15.5.3 of this Schedule 2 shall be deemed mutual termination rights and the Supplier may terminate this Framework Agreement by issuing a Termination Notice to the entity assuming the position of the Authority if any of the circumstances referred to in such Clauses apply to the entity assuming the position of the Authority.
- 16 Consequences of expiry or early termination of this Framework Agreement**
- 16.1 Upon expiry or earlier termination of this Framework Agreement, the Authority and the Supplier agree that all Call-off Contracts entered into under this Framework Agreement will continue in full force and effect unless otherwise terminated under the terms and conditions of such Call-off Contracts.
- 16.2 The Supplier shall cooperate fully with the Authority or, as the case may be, any replacement supplier during any re-procurement and handover period prior to and following the expiry or earlier termination of this Framework Agreement. This cooperation shall extend to providing access to all information relevant to the operation of this Framework Agreement, as reasonably required by the Authority to achieve a fair and transparent re-procurement and/or an effective transition without disruption to routine operational requirements. Any Personal Data Processed by the Supplier on behalf of the Authority shall be returned to the Authority or destroyed in accordance with the relevant provisions of the Data Protection Protocol.
- 16.3 The expiry or earlier termination of this Framework Agreement for whatever reason shall not affect any rights or obligations of either Party which accrued prior to such expiry or earlier termination.
- 16.4 The expiry or earlier termination of this Framework Agreement shall not affect any obligations which expressly or by implication are intended to come into or continue in force on or after such expiry or earlier termination.
- 17 Suspension of Supplier's appointment**
- 17.1 Without prejudice to the Authority's rights to terminate this Framework Agreement, if a right for the Authority to terminate this Framework Agreement arises (irrespective of whether the circumstances leading to such right are capable of remedy) in accordance with Clause 15 of this Schedule 2, the Authority may suspend the Supplier's appointment to receive new Orders under this Framework Agreement by giving notice in writing to the Supplier and all Participating Authorities.

- 17.2 If the Authority provides notice to the Supplier in accordance with Clause 17.1 of this Schedule 2, the Supplier's appointment shall be suspended for the period set out in the notice or such other period notified to the Supplier by the Authority in writing from time to time provided that such suspension shall be lifted where:
- 17.2.1 the circumstances leading to the Authority's right to terminate this Framework Agreement have been remedied;
 - 17.2.2 the Authority has satisfied itself that the risk and/or impact of the circumstances giving rise to the Authority's right to terminate this Framework Agreement no longer requires such suspension; or
 - 17.2.3 the Authority exercises its rights to terminate this Framework Agreement in accordance with Clause 15 of this Schedule 2.

18 Complaints

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

19 Modern slavery and environmental, social, and labour laws

Environmental, social and labour law requirements

- 19.1 The Supplier shall comply in all material respects with applicable environmental and social and labour Law requirements in force from time to time in relation to the Services. Where the provisions of any such Law are implemented by the use of voluntary agreements, the Supplier shall comply with such agreements as if they were incorporated into English law subject to those voluntary agreements being cited in the Specification and Tender Response Document. Without prejudice to the generality of the foregoing, the Supplier shall:
- 19.1.1 comply with all Policies and/or procedures and requirements set out in the Specification and Tender Response Document in relation to any stated environmental, social and labour requirements, characteristics and impacts of the Services and the Supplier's supply chain;
 - 19.1.2 maintain relevant policy statements documenting the Supplier's significant labour, social, and environmental aspects as relevant to the Services being provided and as proportionate to the nature and scale of the Supplier's business operations; and
 - 19.1.3 maintain plans and procedures that support the commitments made as part of the Supplier's significant labour social and environmental policies, as referred to at Clause 19.1.2 of this Schedule 2.

Modern slavery

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

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

Further corporate social responsibility requirements

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

Provision of further information

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

20 Electronic services information

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

- 20.6 Before any publication of the Services Information (electronic or otherwise) is made by the Authority, the Authority will submit a copy of the relevant sections of the Authority's services catalogue to the Supplier for approval, such approval not to be unreasonably withheld or delayed. For the avoidance of doubt the Supplier shall have no right to compel the Authority to exhibit the Services Information in any services catalogue as a result of the approval given by it pursuant to this Clause 20.6 of this Schedule 2 or otherwise under the terms of this Framework Agreement.
- 20.7 If requested in writing by the Authority, and to the extent not already agreed as part of the Specification and Tender Response Document, the Supplier and the Authority shall discuss and seek to agree in good faith arrangements to use any Electronic Trading System.

21 Change management

- 21.1 The Supplier acknowledges to the Authority that the requirements for the Services may change during the Term and the Supplier shall not unreasonably withhold or delay its consent to any reasonable variation or addition to the Specification and Tender Response Document, as may be requested by the Authority from time to time.
- 21.2 Subject to Clause 21.3 of this Schedule 2, any change to the Services or other variation to this Framework Agreement shall only be binding once it has been agreed in writing and signed by an authorised representative of both Parties.
- 21.3 Any change to the Data Protection Protocol shall be made in accordance with the relevant provisions of that protocol.
- 21.4 The Supplier shall neither be relieved of its obligations to provide the Services in accordance with the terms and conditions of this Framework Agreement nor be entitled to an increase in the Call-off Contract Price as the result of:
- 21.4.1 a General Change in Law; or
- 21.4.2 a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Commencement Date.

22 Dispute resolution

- 22.1 During any Dispute, including a Dispute as to the validity of this Framework Agreement, it is agreed that the Supplier shall continue its performance of the provisions of the Framework Agreement (unless the Authority requests in writing that the Supplier does not do so).
- 22.2 In the case of a Dispute arising out of or in connection with this Framework Agreement the Supplier and the Authority shall make every reasonable effort to communicate and cooperate with each other with a view to resolving the Dispute and follow the procedure set out in Clause 22.3 of this Schedule 2 as the first stage in the Dispute Resolution Procedure.
- 22.3 If any Dispute arises out of the Framework Agreement either Party may serve a notice on the other Party to commence formal resolution of the Dispute. The Parties shall first seek to resolve the Dispute by escalation in accordance with the management levels as set out in Clause 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, the mediator shall be nominated and confirmed by the Centre for Effective Dispute Resolution, London.
- 22.5 The mediation shall commence within twenty eight (28) days of the confirmation of the mediator in accordance with Clause 22.4 of this Schedule 2 or at such other time as may be agreed by the Parties in writing. Neither Party will terminate such mediation process until each Party has made its opening presentation and the mediator has met each Party separately for at least one hour or one Party has failed to participate in the mediation process. After this time, either Party may terminate the mediation process by notification to the other party (such notification may be verbal provided that it is followed up by written confirmation). The Authority and the Supplier will cooperate with any person appointed as mediator providing them with such information and other assistance as they shall require and will pay their costs, as they shall determine, or in the absence of such determination such costs will be shared equally.
- 22.6 Nothing in this Framework Agreement shall prevent:
- 22.6.1 the Authority taking action in any court in relation to any death or personal injury arising or allegedly arising in connection with the provision of the Services; or
 - 22.6.2 either Party seeking from any court any interim or provisional relief that may be necessary to protect the rights or property of that Party or that relates to the safety of patients or the security of Confidential Information, pending resolution of the relevant Dispute in accordance with the Dispute Resolution Procedure.
- 22.7 Clause 22 of this Schedule 2 shall survive the expiry of or earlier termination of this Framework Agreement for any reason.

23 Force majeure

- 23.1 Subject to Clause 23.2 of this Schedule 2 neither Party shall be liable to the other for any failure to perform all or any of its obligations under this Framework Agreement nor liable to the other Party for any loss or damage arising out of the failure to perform its obligations to the extent only that such performance is rendered impossible by a Force Majeure Event.
- 23.2 The Supplier shall only be entitled to rely on a Force Majeure Event and the relief set out in Clause 23 of this Schedule 2 and will not be considered to be in default or liable for breach of any obligations under this Framework Agreement if:
- 23.2.1 the Supplier has fulfilled its obligations pursuant to Clause 6 of this Schedule 2;
 - 23.2.2 the Force Majeure Event does not arise directly or indirectly as a result of any wilful or negligent act or default of the Supplier; and
 - 23.2.3 the Supplier has complied with the procedural requirements set out in Clause 23 of this Schedule 2.

- 23.3 Where a Party is (or claims to be) affected by a Force Majeure Event it shall use reasonable endeavours to mitigate the consequences of such a Force Majeure Event upon the performance of its obligations under this Framework Agreement and to resume the performance of its obligations affected by the Force Majeure Event as soon as practicable.
- 23.4 Where the Force Majeure Event affects the Supplier's ability to perform part of its obligations under the Framework Agreement the Supplier shall fulfil all such contractual obligations that are not so affected and shall not be relieved from its liability to do so.
- 23.5 If either Party is prevented or delayed in the performance of its obligations under this Framework Agreement by a Force Majeure Event, that Party shall as soon as reasonably practicable serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to its failure to perform or any anticipated delay in performance of its obligations.
- 23.6 Subject to service of such notice, the Party affected by such circumstances shall have no liability for its failure to perform or for any delay in performance of its obligations affected by the Force Majeure Event only for so long as such circumstances continue and for such time after they cease as is necessary for that Party, using its best endeavours, to recommence its affected operations in order for it to perform its obligations.
- 23.7 The Party claiming relief shall notify the other in writing as soon as the consequences of the Force Majeure Event have ceased and of when performance of its affected obligations can be resumed.
- 23.8 If the Supplier is prevented from performance of its obligations as a result of a Force Majeure Event, the Authority may at any time, if the Force Majeure Event subsists for thirty (30) days or more, terminate this Framework Agreement by issuing a Termination Notice to the Supplier.
- 23.9 Following such termination in accordance with Clause 23.8 of this Schedule 2 and subject to Clause 23.10 of this Schedule 2, neither Party shall have any liability to the other.
- 23.10 Any rights and liabilities of either Party which have accrued prior to such termination in accordance with Clause 23.8 of this Schedule 2 shall continue in full force and effect unless otherwise specified in this Framework Agreement.

24 Records retention and right of audit

- 24.1 Subject to any statutory requirement and Clause 24.2 of this Schedule 2, the Supplier shall keep secure and maintain for the Term and six (6) years afterwards, or such longer period as may be agreed between the Parties, full and accurate records of all matters relating to this Framework Agreement.
- 24.2 Where any records could be relevant to a claim for personal injury such records shall be kept secure and maintained for a period of twenty one (21) years from the date of expiry or earlier termination of this Framework Agreement.
- 24.3 The Authority shall have the right to audit the Supplier's compliance with this Framework Agreement. The Supplier shall permit or procure permission for the Authority or its authorised representative during normal business hours having given advance written notice of no less than five (5) Business Days, access to any premises and facilities, books and records reasonably required to audit the Supplier's compliance with its obligations under this Framework Agreement.

- 24.4 Should the Supplier Sub-contract any of its obligations under this Framework Agreement, the Authority shall have the right to audit and inspect such third party. The Supplier shall procure permission for the Authority or its authorised representative during normal business hours no more than once in any twelve (12) months, having given advance written notice of no less than five (5) Business Days, access to any premises and facilities, books and records used in the performance of the Supplier's obligations under this Framework Agreement that are Sub-contracted to such third party. The Supplier shall cooperate with such audit and inspection and accompany the Authority or its authorised representative if requested.
- 24.5 The Supplier shall grant to the Authority or its authorised representative, such access to those records as they may reasonably require in order to check the Supplier's compliance with this Framework Agreement for the purposes of:
- 24.5.1 the examination and certification of the Authority's accounts; or
- 24.5.2 any examination pursuant to section 6(1) of the National Audit Act 1983 of the economic efficiency and effectiveness with which the Authority has used its resources.
- 24.6 The Comptroller and Auditor General may examine such documents as they may reasonably require which are owned, held or otherwise within the control of the Supplier and may require the Supplier to provide such oral and/or written explanations as they consider necessary. Clause 24 of this Schedule 2 does not constitute a requirement or agreement for the examination, certification or inspection of the accounts of the Supplier under sections 6(3)(d) and 6(5) of the National Audit Act 1983.
- 24.7 The Supplier shall provide reasonable cooperation to the Authority, its representatives and any regulatory body in relation to any audit, review, investigation or enquiry carried out in relation to the subject matter of this Framework Agreement.
- 24.8 The Supplier shall provide all reasonable information as may be reasonably requested by the Authority to evidence the Supplier's compliance with the requirements of this Framework Agreement.

25 Conflicts of interest and the prevention of fraud

- 25.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Staff are placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the provisions of this Framework Agreement. The Supplier will disclose to the Authority full particulars of any such conflict of interest which may arise.
- 25.2 The Authority reserves the right to terminate this Framework Agreement immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the provisions of this Framework Agreement. The actions of the Authority pursuant to this Clause 25.2 of this Schedule 2 shall not prejudice or affect any right of action or remedy which shall have accrued or shall subsequently accrue to the Authority.
- 25.3 The Supplier shall take all reasonable steps to prevent Fraud by Staff and the Supplier (including its owners, members and directors). The Supplier shall notify the Authority immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.

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

26 Equality and human rights

- 26.1 The Supplier shall:

- 26.1.1 ensure that (a) it does not, whether as employer or as a provider of Services, engage in any act or omission that would contravene the Equality Legislation, and (b) it complies with all its obligations as an employer or provider of the Services and any associated services as set out in the Equality Legislation and take reasonable endeavours to ensure its Staff do not unlawfully discriminate within the meaning of the Equality Legislation;
- 26.1.2 in the management of its affairs and the development of its equality and diversity policies, cooperate with the Authority in light of the Authority's obligations to comply with its statutory equality duties whether under the Equality Act 2010 or otherwise. The Supplier shall take such reasonable and proportionate steps as the Authority considers appropriate to promote equality and diversity, including race equality, equality of opportunity for disabled people, gender equality, and equality relating to religion and belief, sexual orientation and age; and
- 26.1.3 the Supplier shall impose on all its Sub-contractors and suppliers, obligations substantially similar to those imposed on the Supplier by Clause 26 of this Schedule 2.
- 26.2 The Supplier shall meet reasonable requests by the Authority for information evidencing the Supplier's compliance with the provisions of Clause 26 of this Schedule 2.

27 Notice

- 27.1 Subject to Clause 22.6 of this Schedule 2, any notice required to be given by either Party under this Framework Agreement shall be in writing quoting the date of the Framework Agreement and shall be delivered by hand or sent by prepaid first class recorded delivery or by email to the person referred to in the Key Provisions or such other person as one Party may inform the other Party in writing from time to time.
- 27.2 A notice shall be treated as having been received:
- 27.2.1 if delivered by hand within normal business hours when so delivered or, if delivered by hand outside normal business hours, at the next start of normal business hours; or
- 27.2.2 if sent by first class recorded delivery mail on a normal Business Day, at 9.00 am on the second Business Day subsequent to the day of posting, or, if the notice was not posted on a Business Day, at 9.00 am on the third Business Day subsequent to the day of posting; or
- 27.2.3 if sent by email, if sent within normal business hours when so sent or, if sent outside normal business hours, at the next start of normal business hours provided the sender has either received an electronic confirmation of delivery or has telephoned the recipient to inform the recipient that the email has been sent.

28 Assignment, novation and subcontracting

- 28.1 The Supplier shall not assign, Sub-contract, novate, create a trust in, or in any other way dispose of the whole or any part of this Framework Agreement without the prior

consent in writing of the Authority, such consent not to be unreasonably withheld or delayed. If the Supplier Sub-contracts any of its obligations under this Framework Agreement, every act or omission of the Sub-contractor shall for the purposes of this Framework Agreement be deemed to be the act or omission of the Supplier and the Supplier shall be liable to the Authority as if such act or omission had been committed or omitted by the Supplier itself.

- 28.2 Any authority given by the Authority for the Supplier to Sub-contract any of its obligations under this Framework Agreement shall not impose any duty on the Authority to enquire as to the competency of any authorised Sub-contractor. The Supplier shall ensure that any authorised Sub-contractor has the appropriate capability and capacity to perform the relevant obligations and that the obligations carried out by such Sub-contractor are fully in accordance with this Framework Agreement.
- 28.3 Where the Authority considers that the grounds for exclusion under Regulation 57 of the Public Contracts Regulations 2015 apply to any Sub-contractor, then:
- 28.3.1 if the Authority finds there are compulsory grounds for exclusion, the Supplier shall ensure, or shall procure, that such Sub-contractor is replaced or not appointed; or
- 28.3.2 if the Authority finds there are non-compulsory grounds for exclusion, the Authority may require the Supplier to ensure, or to procure, that such Sub-contractor is replaced or not appointed and the Supplier shall comply with such a requirement. The Authority shall upon written request have the right to review any Sub-contract entered into by the Supplier in respect of the provision of the Services and the Supplier shall provide a certified copy of any Sub-contract within five (5) Business Days of the date of a written request from the Authority. For the avoidance of doubt, the Supplier shall have the right to redact any confidential pricing information in relation to such copies of Sub-contract.
- 28.4 The Authority shall upon written request have the right to review any Sub-contract entered into by the Supplier in respect of the provision of the Services and the Supplier shall provide a certified copy of any Sub-contract within five (5) Business Days of the date of a written request from the Authority. For the avoidance of doubt, the Supplier shall have the right to redact any confidential pricing information in relation to such copies of Sub-contracts.
- 28.5 The Authority may at any time transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Framework Agreement or any part of this Framework Agreement and the Supplier warrants that it will carry out all such reasonable further acts required to effect such transfer, assignment, novation, sub-contracting or disposal. If the Authority novates this Framework Agreement to any body that is not a Contracting Authority, from the effective date of such novation, the party assuming the position of the Authority shall not further transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Framework Agreement or any part of this Framework Agreement without the prior written consent of the Supplier, such consent not to be unreasonably withheld or delayed by the Supplier.

29 Prohibited Acts

- 29.1 The Supplier warrants and represents that:
- 29.1.1 it has not committed any offence under the Bribery Act 2010 or done any of the following ("**Prohibited Acts**"):

- (i) offered, given or agreed to give any officer or employee of the Authority any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining or performance of this or any other agreement with the Authority or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the Authority; or
 - (ii) in connection with this Framework Agreement paid or agreed to pay any commission other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to the Authority; and
- 29.1.2 it has in place adequate procedures to prevent bribery and corruption, as contemplated by section 7 of the Bribery Act 2010.
- 29.2 If the Supplier or its Staff (or anyone acting on its or their behalf) has done or does any of the Prohibited Acts or has committed or commits any offence under the Bribery Act 2010 with or without the knowledge of the Supplier in relation to this or any other agreement with the Authority:
 - 29.2.1 the Authority shall be entitled:
 - (i) to terminate this Framework Agreement and recover from the Supplier the amount of any loss resulting from the termination;
 - (ii) to recover from the Supplier the amount or value of any gift, consideration or commission concerned; and
 - (iii) to recover from the Supplier any other loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence under the Bribery Act 2010;
 - 29.2.2 any termination under Clause 29.2.1 of this Schedule 2 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Authority; and
 - 29.2.3 notwithstanding Clause 22 of this Schedule 2, any Dispute relating to:
 - (i) the interpretation of Clause 29 of this Schedule 2; or
 - (ii) the amount or value of any gift, consideration or commission,
 shall be determined by the Authority, acting reasonably, and the decision shall be final and conclusive.

30 General

- 30.1 Each of the Parties is independent of the other and nothing contained in this Framework Agreement shall be construed to imply that there is any relationship between the Parties of partnership or of principal/agent or of employer/employee nor are the Parties hereby engaging in a joint venture and accordingly neither of the Parties shall have any right or authority to act on behalf of the other nor to bind the other by agreement or otherwise, unless expressly permitted by the terms of this Framework Agreement.
- 30.2 Failure or delay by either Party to exercise an option or right conferred by this Framework Agreement shall not of itself constitute a waiver of such option or right.
- 30.3 The delay or failure by either Party to insist upon the strict performance of any provision, term or condition of this Framework Agreement or to exercise any right or

remedy consequent upon such breach shall not constitute a waiver of any such breach or any subsequent breach of such provision, term or condition.

- 30.4 Any provision of this Framework Agreement which is held to be invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions of this Framework Agreement and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.
- 30.5 Each Party acknowledges and agrees that it has not relied on any representation, warranty or undertaking (whether written or oral) in relation to the subject matter of this Framework Agreement and therefore irrevocably and unconditionally waives any rights it may have to claim damages against the other Party for any misrepresentation or undertaking (whether made carelessly or not) or for breach of any warranty unless the representation, undertaking or warranty relied upon is set out in this Framework Agreement or unless such representation, undertaking or warranty was made fraudulently.
- 30.6 Each Party shall bear its own expenses in relation to the preparation and execution of this Framework Agreement including all costs, legal fees and other expenses so incurred.
- 30.7 The rights and remedies provided in this Framework Agreement are independent, cumulative and not exclusive of any rights or remedies provided by general law, any rights or remedies provided elsewhere under this Framework Agreement or by any other contract or document. In this Clause 30.7 of this Schedule 2, right includes any power, privilege, remedy, or proprietary or security interest.
- 30.8 A person who is not a party to this Framework Agreement shall have no right to enforce any terms of it which confer a benefit on such person. No such person shall be entitled to object to or be required to consent to any amendment to the provisions of this Framework Agreement.
- 30.9 This Framework Agreement, any variation in writing signed by an authorised representative of each Party and any document referred to (explicitly or by implication) in this Framework Agreement or any variation to this Framework Agreement, contain the entire understanding between the Supplier and the Authority relating to the operation of this Framework Agreement to the exclusion of all previous agreements, confirmations and understandings and there are no promises, terms, conditions or obligations whether oral or written, express or implied other than those contained or referred to in this Framework Agreement. Nothing in this Framework Agreement seeks to exclude either Party's liability for Fraud. Any tender conditions and/or disclaimers set out in the Authority's procurement documentation leading to the award of this Framework Agreement shall form part of this Framework Agreement.
- 30.10 This Framework Agreement, and any Dispute or claim arising out of or in connection with it or its subject matter (including any non-contractual claims), shall be governed by, and construed in accordance with, the laws of England and Wales.
- 30.11 Subject to Clause 22 of this Schedule 2, the Parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any Dispute or claim that arises out of or in connection with this Framework Agreement or its subject matter.
- 30.12 All written and oral communications and all written material referred to under this Framework Agreement shall be in English.

Schedule 3

Information and Data Provisions

1 Confidentiality

- 1.1 In respect of any Confidential Information it may receive directly or indirectly from the other Party ("**Discloser**") and subject always to the remainder of Clause 1 of this Schedule 3, each Party ("**Recipient**") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party without the Discloser's prior written consent provided that:
- 1.1.1 the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the Commencement Date;
 - 1.1.2 the provisions of Clause 1 of this Schedule 3 shall not apply to any Confidential Information:
 - (i) which is in or enters the public domain other than by breach of this Framework Agreement or other act or omissions of the Recipient;
 - (ii) which is obtained from a third party who is lawfully authorised to disclose such information without any obligation of confidentiality;
 - (iii) which is authorised for disclosure by the prior written consent of the Discloser;
 - (iv) which the Recipient can demonstrate was in its possession without any obligation of confidentiality prior to receipt of the Confidential Information from the Discloser; or
 - (v) which the Recipient is required to disclose purely to the extent to comply with the requirements of any relevant stock exchange.
- 1.2 Nothing in Clause 1 of this Schedule 3 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable Law, including the Freedom of Information Act 2000 ("**FOIA**"), Codes of Practice on Access to Government Information, on the Discharge of Public Authorities' Functions or on the Management of Records ("**Codes of Practice**") or the Environmental Information Regulations 2004 ("**Environmental Regulations**").
- 1.3 The Authority may disclose the Supplier's Confidential Information:
- 1.3.1 on a confidential basis, to any Contracting Authority (the Parties agree that all Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Contracting Authority);
 - 1.3.2 on a confidential basis, to any consultant, contractor or other person engaged by the Authority and/or the Contracting Authority receiving such information;
 - 1.3.3 to any relevant party for the purpose of the examination and certification of the Authority's accounts;
 - 1.3.4 to any relevant party for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;

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

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

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

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

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

1.6 Clause 1 of this Schedule 3 shall remain in force:

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

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

2 Data protection

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

2.2 Where the Supplier is Processing Personal Data and/or the Parties are otherwise sharing Personal Data under or in connection with this Framework Agreement, the Parties shall comply with the Data Protection Protocol in respect of such matters.

2.3 The Supplier and the Authority shall ensure that patient related Personal Data is safeguarded at all times in accordance with the Law, and this obligation will include (if transferred electronically) only transferring patient related Personal Data (a) if essential, having regard to the purpose for which the transfer is conducted; and (b)

that is encrypted in accordance with any international data encryption standards for healthcare, and as otherwise required by those standards applicable to the Authority under any Law and Guidance (this includes, data transferred over wireless or wired networks, held on laptops, CDs, memory sticks and tapes).

- 2.4 Where any Personal Data is Processed by any Sub-contractor of the Supplier in connection with this Framework Agreement, the Supplier shall procure that such Sub-contractor shall comply with the relevant obligations set out in Clause 2 of this Schedule 3 and any relevant Data Protection Protocol, as if such Sub-contractor were the Supplier.
- 2.5 The Supplier shall indemnify and keep the Authority indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings whatsoever or howsoever arising from the Supplier's unlawful or unauthorised Processing, destruction and/or damage to Personal Data in connection with this Framework Agreement.

3 Freedom of Information and Transparency

- 3.1 The Parties acknowledge the duties of Contracting Authorities under the FOIA, Codes of Practice and Environmental Regulations and shall give each other all reasonable assistance as appropriate or necessary to enable compliance with those duties.
- 3.2 The Supplier shall assist and cooperate with the Authority to enable it to comply with its disclosure obligations under the FOIA, Codes of Practice and Environmental Regulations. The Supplier agrees:
 - 3.2.1 that this Framework Agreement and any recorded information held by the Supplier on the Authority's behalf for the purposes of this Framework Agreement are subject to the obligations and commitments of the Authority under the FOIA, Codes of Practice and Environmental Regulations;
 - 3.2.2 that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under the FOIA, Codes of Practice and Environmental Regulations is a decision solely for the Authority;
 - 3.2.3 that where the Supplier receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Supplier itself is subject to the FOIA, Codes of Practice and Environmental Regulations it will liaise with the Authority as to the contents of any response before a response to a request is issued and will promptly (and in any event within two (2) Business Days) provide a copy of the request and any response to the Authority;
 - 3.2.4 that where the Supplier receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Supplier is not itself subject to the FOIA, Codes of Practice and Environmental Regulations, it will not respond to that request (unless directed to do so by the Authority) and will promptly (and in any event within two (2) Business Days) transfer the request to the Authority;
 - 3.2.5 that the Authority, acting in accordance with the Codes of Practice issued and revised from time to time under both section 45 of FOIA, and regulation 16 of the Environmental Regulations, may disclose information concerning the Supplier and this Framework Agreement; and
 - 3.2.6 to assist the Authority in responding to a request for information, by processing information or environmental information (as the same are

defined in FOIA and the Environmental Regulations) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of FOIA, and providing copies of all information requested by the Authority within five (5) Business Days of that request and without charge.

- 3.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, Codes of Practice and Environmental Regulations, the content of this Framework Agreement is not Confidential Information.
- 3.4 Notwithstanding any other term of this Framework Agreement, the Supplier consents to the publication of this Framework Agreement in its entirety (including variations), subject only to the redaction of information that is exempt from disclosure in accordance with the provisions of the FOIA, Codes of Practice and Environmental Regulations.
- 3.5 In preparing a copy of this Framework Agreement for publication under Clause 3.4 of this Schedule 3, the Authority may consult with the Supplier to inform decision making regarding any redactions but the final decision in relation to the redaction of information will be at the Authority's absolute discretion.
- 3.6 The Supplier shall assist and cooperate with the Authority to enable the Authority to publish this Framework Agreement.
- 3.7 Where any information is held by any Sub-contractor of the Supplier in connection with this Framework Agreement, the Supplier shall procure that such Sub-contractor shall comply with the relevant obligations set out in Clause 3 of this Schedule 3, as if such Sub-contractor were the Supplier.

4 Information Security

- 4.1 Without limitation to any other information governance requirements set out in this Schedule 3, the Supplier shall:
 - 4.1.1 notify the Authority forthwith of any information security breaches or near misses (including without limitation any potential or actual breaches of confidentiality or actual information security breaches) in line with the Authority's information governance Policies; and
 - 4.1.2 fully cooperate with any audits or investigations relating to information security and any privacy impact assessments undertaken by the Authority and shall provide full information as may be reasonably requested by the Authority in relation to such audits, investigations and assessments.
- 4.2 Where required in accordance with the Specification and Tender Response Document, the Supplier shall obtain and maintain certification under the HM Government Cyber Essentials Scheme at the level set out in the Specification and Tender Response Document.

Schedule 4

Definitions and Interpretations

1 Definitions

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

“Anti-Slavery Policy”	has the meaning given under clause 19.2 of Schedule 2;
“Authority”	means the authority named on the form of Framework Agreement on the first page;
“Authority’s Obligations”	means the Authority’s further obligations, if any, referred to in the Specification and Tender Response Document;
“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 Framework Agreement;
“Business Continuity Event”	means any event or issue that could impact on the operations of the Supplier and its ability to fulfil its obligations under this Framework Agreement including a pandemic and any Force Majeure Event;
“Business Continuity Plan”	means the Supplier’s business continuity plan which includes its plans for continuity of the Services during a Business Continuity Event;
“Business Day”	means any day other than Saturday, Sunday, Christmas Day, Good Friday or a statutory bank holiday in England and Wales;
“Call-off Contract” and “Contract”	means any contract entered into under this Framework Agreement with the Supplier by any Participating Authority as further defined in the Call-off Terms and Conditions for the Provision of Services;
“Call-off Contract Price(s)”	means the price exclusive of VAT that is payable to the Supplier by a Participating Authority under any Call-off Contract for the full and proper performance by the Supplier of its obligations under such Call-off Contracts (as calculated in accordance with the provisions of the Commercial Schedule) and as confirmed in the relevant Order Form relating to the particular Call-off Contract;
“Call-off Terms and Conditions for the Provision of Services”	means the call-off terms and conditions for Call-off Contracts as set out at Appendix A of this Framework Agreement forming part of the Call-off Contracts placed under this Framework Agreement;

“Change Control Process”	means the change control process, if any, referred to in the Key Provisions of this Framework Agreement;
“Change in Law”	means any change in Law which impacts on the provision of the Services which comes into force after the Commencement Date;
“Codes of Practice”	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
“Commencement Date”	means the date from which this Framework is effective;
“Commercial Schedule”	means the document set out at Schedule 6;
“Comparable Supply”	means the supply of services to another customer of the Supplier that are the same or similar to any of the Services;
“Confidential Information”	<p>means information, data and material of any nature, which either Party may receive or obtain in connection with the conclusion and/or operation of the Framework Agreement including any procurement process which is:</p> <ul style="list-style-type: none"> (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; (b) designated as confidential by either party or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored); and/or (c) Policies and such other documents which the Supplier may obtain or have access to through the Authority’s intranet;
“Connected Person”	<p>means any of the following:</p> <ul style="list-style-type: none"> (a) a person with “significant control” over the Supplier (within the meaning given by section 790C(2) of the Companies Act 2006 (“CA 2006”)); (b) a director or shadow director of the Supplier; (c) a parent undertaking or a subsidiary undertaking of the Supplier; (d) a predecessor company of the Supplier; (e) any other person who it can reasonably be considered stands in an equivalent position in relation to the Supplier as a person within paragraphs (a) to (d) above; (f) any person with the right to exercise, or who actually exercises, significant influence or control over the Supplier; <p>any person over which the Supplier has the right to exercise, or actually exercises, significant influence or control.</p>

“Continuous Improvement”	has the meaning given to it in Framework Agreement Schedule 8 (Continuous Improvement);
“Continuous Improvement Plan”	has the meaning given to it in Framework Agreement Schedule 8 (Continuous Improvement);
“Contracting Authority”	means any contracting authority as defined in section 2 of the Procurement Act 2023, other than the Authority;
“Controller”	shall have the same meaning as set out in the UK GDPR;
“Data Protection Legislation”	means the Data Protection Act 2018 and the UK GDPR and any other applicable laws of England and Wales relating to the protection of Personal Data and the privacy of individuals (all as amended, updated, replaced or re-enacted from time to time);
“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 Schedule 3 (Information and Data Provisions) of this Framework Agreement;
“Dispute(s)”	means any dispute, difference or question of interpretation or construction arising out of or in connection with this Framework Agreement, any matters of contractual construction and interpretation relating to the Framework Agreement, or any matter where this Framework Agreement directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
“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;
“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;

“DPST”	means the NHS Data Security and Protection Toolkit as further defined in the documents relating to this scheme published at: https://www.dsptoolkit.nhs.uk/
“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;
“Environmental Regulations”	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
“eProcurement Guidance”	means any reference to or requirement regarding using technology to facilitate purchasing, payment, and management information collection, within the Regulations and guidance that may be issued from time to time by HM Government or relevant department, including but not limited to the Cabinet Office, the Department of Health and Social Care, and NHS England, available via: http://www.gov.uk/government/collections/nhs-procurement together with any further Guidance issued by the Department of Health and Social Care 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;
“EU References”	shall have the meaning given to the term in Clause 1.16 of Schedule 4;
“Evergreen Supplier Assessment”	shall have the meaning given to the term in Clause 8.2 of Schedule 1;
“Exclusion Ground”	means any of the: (a) mandatory exclusion grounds as set out in Schedule 6 of the Procurement Act 2023; and discretionary exclusion grounds as set out in Schedule 7 of the Procurement Act 2023.
“Exit Day”	shall have the meaning in the European Union (Withdrawal) Act 2018;
“FOIA”	shall have the meaning given to the term in Clause 1.2 of Schedule 3;

“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 Framework Agreement; (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 provide the Services, but which is not confined to the workforce of the Supplier or the workforce of any Sub-contractor of the Supplier; and (i) a failure in the Supplier’s and/or Authority’s supply chain to the extent that such failure is due to any event suffered by a member of such supply chain, which would also qualify as a Force Majeure Event in accordance with this definition had it been suffered by one of the Parties, <p>but excluding, for the avoidance of doubt, any event or other consequence arising as a result of or in connection with the withdrawal of the United Kingdom from the European Union;</p>
“Framework Agreement”	means the form of framework agreement at the front of this document and all schedules and appendices attached to the form of framework agreement;
“Framework Host”	means the Authority (The Countess of Chester Hospital NHS Foundation Trust)
“Framework Host’s Fees”	shall have the meaning given to the term in Schedule 1 (Extra Key Provisions).

“Framework Price(s)”	means the price(s) applicable to the provision of the Deliverables set out in Framework Agreement Schedule 6 (Commercial Schedule);
“Fraud”	means any offence under any law in respect of fraud in relation to this Framework Agreement or defrauding or attempting to defraud or conspiring to defraud the government, parliament or any Contracting Authority;
“Gain Share Fee”	shall have the meaning given to the term in Schedule 1 (Extra Key Provisions);
“General Anti-Abuse Rule”	means: (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
“General Change in Law”	means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
“Good Industry Practice”	means the exercise of that degree of skill, diligence, prudence, risk management, quality management and foresight which would reasonably and ordinarily be expected from a skilled and experienced service provider engaged in the provision of services similar to the Services under the same or similar circumstances as those applicable to this Framework Agreement, including in accordance with any codes of practice published by relevant trade associations;
“Guidance”	means any applicable guidance, supplier code of conduct, direction or determination and any policies, advice or industry alerts which apply to the Services, to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Supplier by the Authority and/or have been published and/or notified to the Supplier by the Department of Health and Social Care, NHS England and NHS Improvement, the Medicines and Healthcare products Regulatory Agency, the European Medicines Agency the European Commission, the Care Quality Commission, the National Institute for Health and Care Excellence and/or any other regulator or competent body;
“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
“Impact Assessment”	<p>means an assessment of the impact of a Variation request by the Relevant Authority completed in good faith, including:</p> <ul style="list-style-type: none"> a) details of the impact of the proposed Variation on the Services and the Supplier's ability to meet its other obligations under the Call-off Contract; b) details of the cost of implementing the proposed Variation; c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Framework Prices/Call-off Contract Prices (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party; d) a timetable for the implementation, together with any proposals for the testing of the Variation; and such other information as the Relevant Authority may reasonably request in (or in response to) the Variation request;
“Intellectual Property Rights”	means all patents, copyright, design rights, registered designs, trademarks, know-how, database rights, confidential formulae and any other intellectual property rights and the rights to apply for patents and trademarks and registered designs;
“Key Provisions”	means the key provisions set out in Schedule 1;
“Key Sub-Contractor”	means a Sub-contractor relied on by the Supplier to deliver the Services;
“KPI”	means the key performance indicators as set out in Schedule 5;
“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 enforceable right, power, liability, obligation, restriction, remedy and/or procedure within the meaning of the European Union (Withdrawal) Act 2018 as amended by the European Union (Withdrawal Agreement) Act 2020; (c) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales;

	<p>(d) requirements set by any regulatory body as applicable in England and Wales;</p> <p>(e) any relevant code of practice as applicable in England and Wales;</p> <p>(a) and any relevant collective agreement and/or international law provisions (to include, without limitation, as referred to in (a) to (e) above);</p>
“Management Information” and “MI”	The management information specified in Schedule 1 (Extra Key Provisions).
“MI Default”	<p>An Supplier is deemed to be in MI Default if it either:</p> <p>a) has 2 consecutive MI Failures, or</p> <p>b) has 2 MI Failures in any rolling six (6) Month period.</p>
“MI Failure”	<p>If any of the following occur, the Framework Host can treat it as an “MI Failure”:</p> <p>a) there are material omissions or errors in the Supplier’s MI Report;</p> <p>b) the Supplier uses the wrong template for the MI Report</p> <p>c) the Supplier’s MI Report including any nil return is late.</p>
“MI Report”	A Monthly report from the Supplier to the Framework Host containing Management Information, submitted in accordance with Schedule 1 (Extra Key Provisions).
“MI Reporting Template”	The form of report set out Schedule 1 (Extra Key Provisions) setting out certain Management Information the Supplier is required to supply to the Framework Host.
“Month”	An entire calendar Month. “Monthly” shall be interpreted accordingly.
“Net Zero and Social Value Commitments”	means the Supplier’s net zero and social value commitments, each as set out in the Key Provisions and/or the Specification and Tender Response Document;
“Net Zero and Social Value Contract Commitments”	shall have the meaning given to the term in Clause 8.4 of Schedule 1;
“NHS”	means the National Health Service;
“NHS Net Zero Supplier Roadmap”	<p>means the NHS Net Zero Supplier Roadmap set out at the following web address:</p> <p>https://www.england.nhs.uk/greenernhs/get-involved/suppliers/ and as amended from time to time;</p>

<p>“Occasion of Tax Non-Compliance”</p>	<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> <ul style="list-style-type: none"> (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; (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>(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>
<p>“Open Book Data”</p>	<p>means complete and accurate financial and non-financial information which is sufficient to enable the Contracting Authority to verify the Call-off Contract Prices already paid or payable and Call-off Contract Prices forecast to be paid during the remainder of the Call-off Contract, including details and all assumptions relating to:</p> <ul style="list-style-type: none"> a) the Supplier’s costs broken down against each Service, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Services; b) operating expenditure relating to the provision of the Services including an analysis showing: <ul style="list-style-type: none"> i) the unit costs and quantity of bought-in Services; ii) staff costs broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each grade; iii) a list of costs underpinning those rates for each grade, being the agreed rate less the Supplier profit margin; and iv) reimbursable expenses, if allowed under the Order Form; c) overheads;

	<p>d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services;</p> <p>e) the Supplier profit achieved over the Framework Agreement Term and on an annual basis;</p> <p>f) confirmation that all methods of cost apportionment and overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;</p> <p>g) an explanation of the type and value of risk and contingencies associated with the provision of the Services, including the amount of money attributed to each risk and/or contingency; and</p> <p>the actual costs profile for each Service period;</p>
“Order Form”	means the template order form on which Orders are to be placed, as set out in Schedule 7;
“Ordering Procedure”	means the procedure enabling Participating Authorities to call-off Services and enter into Contracts under this Framework Agreement, as set out in Schedule 7;
“Orders”	means orders for Services placed under this Framework Agreement by Participating Authorities;
“Participating Authority”	means a Contracting Authority entitled to place Orders under this Framework Agreement including the Authority and any other Contracting Authority as set out in the Key Provisions;
“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 UK GDPR;
“Policies”	means the policies, rules and procedures of the Authority as notified to the Supplier from time to time;
“Process”	shall have the same meaning as set out in the UK GDPR. Processing and Processed shall be construed accordingly;
“Prohibited Acts”	has the meaning given under 29.1.1 of Schedule 2;
“Relevant Authority”	means the Authority which is party to the Framework Agreement or the Call-off Contract to which a right or obligation is owed, as the context requires;
“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;
“Reporting Date”	The date by which an MI Report must be submitted. This is the seventh Working Day of the Month following the Month to which the relevant Management Information relates or such other date as may be agreed between the Parties.
“Services”	means the services that the Supplier is required to provide to Participating Authorities under Call-off Contracts placed under this Framework Agreement, details of such Services being set out in the Specification and Tender Response Document and any Order;
“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 for inclusion in the Authority's services catalogue from time to time;
“Slavery Act”	has the meaning given in Clause 19.2.1 of Schedule 2;
“Specification and Tender Response Document”	means the document set out in Schedule 5 as amended and/or updated in accordance with this Framework Agreement;
“Specific Change in Law”	means a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply;
“Staff”	means all persons employed or engaged by the Supplier to perform its obligations under this Framework Agreement including any Sub-contractors and person employed or engaged by such Sub-contractors;
“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 Framework Agreement;
“Sub-contractor”	means a party to a Sub-contract other than the Supplier;
“Supplier”	means the supplier named on the form of Framework Agreement on the first page;
“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 Net Zero Corporate Champion”	shall have the meaning given to the term in Clause 8.4 of Schedule 1;
“Supplier Net Zero and Social Value Contract Champion”	shall have the meaning given to the term in Clause 8.7 of Schedule 1;
“Term”	means the term as set out 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 Framework Agreement on a specified date and setting out the grounds for termination;
“Third Party Body”	has the meaning given under Clause 8.5 of Schedule 2;
“UK GDPR”	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018; and
“Variation”	means any change to the Framework Agreement or a Call-off Contract, as the context requires;
“Variation Form”	means the form set out in Framework Agreement Schedule 9 or Call-off Contract Schedule 12, as the context requires;
“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 Framework Agreement to a “Schedule”, “Appendix”, “Paragraph” or to a “Clause” are to schedules, appendices, paragraphs and clauses of this Framework Agreement.
- 1.5 References in this Framework Agreement to a day or to the calculation of time frames are references to a calendar day unless expressly specified as a Business Day.
- 1.6 Unless set out in the Commercial Schedule as a chargeable item and subject to Clause 30.6 of Schedule 2, the Supplier shall bear the cost of complying with its obligations under this Framework Agreement.
- 1.7 The headings are for convenience only and shall not affect the interpretation of this Framework Agreement.
- 1.8 Words denoting the singular shall include the plural and vice versa.
- 1.9 Where a term of this Framework Agreement provides for a list of one or more items following the word “including” or “includes” then such list is not to be interpreted as an

exhaustive list. Any such list shall not be treated as excluding any item that might have been included in such list having regard to the context of the contractual term in question. General words are not to be given a restrictive meaning where they are followed by examples intended to be included within the general words.

- 1.10 Where there is a conflict between the Supplier's responses to the Authority's requirements (the Supplier's responses being set out in Schedule 5) and any other part of this Framework Agreement, such other part of this Framework Agreement shall prevail.
- 1.11 Where a document is required under this Framework Agreement, the Parties may agree in writing that this shall be in electronic format only.
- 1.12 Any guidance notes in grey text do not form part of this Framework Agreement.
- 1.13 Any Breach Notice issued by a Party in connection with this Framework Agreement shall not be invalid due to it containing insufficient information. A Party receiving a Breach Notice ("**Receiving Party**") may ask the Party that issued the Breach Notice ("**Issuing Party**") to provide any further information in relation to the subject matter of the Breach Notice that it may reasonably require to enable it to understand the Breach Notice and/or to remedy the breach. The Issuing Party shall not unreasonably withhold or delay the provision of such further information as referred to above as may be requested by the Receiving Party but no such withholding or delay shall invalidate the Breach Notice.
- 1.14 Any terms defined as part of a Schedule or other document forming part of this Framework Agreement shall have the meaning as defined in such Schedule or document.
- 1.15 For the avoidance of doubt, and to the extent not prohibited by any Law, the term "expenses" (as referred to under any indemnity provisions forming part of this Framework Agreement) shall be deemed to include any fine and any related costs imposed by a commissioner, regulator or other competent body.
- 1.16 Any reference in this Framework Agreement which immediately before Exit Day was a reference to (as it has effect from time to time):
 - (i) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
 - (ii) any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred.

Schedule 5

Specification and Tender Response Document

[To be inserted as part of the final Framework Agreement]

Guidance: Unless the framework is a light touch contract, section 45(5) of the Procurement Act 2023 makes it a mandatory requirement that the framework agreement:

- *includes a description of the goods or services to be provided under contracts awarded in accordance with the framework; and*
- *the estimated value of the framework.*

It is suggested that this information is included in the Specification and included here to meet that requirement.

Schedule 6

Commercial Schedule

[To be completed as part of the final Framework Agreement]

Guidance: The framework agreement must include the price payable, or mechanism for determining the price payable, under contracts awarded in accordance with the framework (section 45(5) of the Procurement Act 2023), unless the framework agreement is a light touch contract.

Section 45(7) of the Procurement Act 2023 permits Contracting Authorities to charge fees to the Supplier at a fixed percentage of the estimated value of any contract awarded to the Supplier in accordance with the framework – any such fees should be clearly set out in the Commercial Schedule.

1. How Framework Prices are used to calculate Call-off charges

1.1 The Framework Prices:

1.1.1 will be used as the basis for the charges (and are maximums that the Supplier may charge) under each Call-off Contract; and

1.1.2 cannot be increased except as in accordance with this Framework Schedule 6.

1.2 If the Framework Host or any Contracting Authority can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Services, then the Framework Host or the Contracting Authority may require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items.

1.3 If the Framework Host or any Contracting Authority uses Clause 1.2 of this Schedule 6 then the Framework Prices (and where applicable, the Call-off Contract Price) must be reduced by an agreed amount by using the Change Control Process.

1.4 The Call-off Contract Price:

1.4.1 shall be calculated in accordance with the terms of the Call-off Contract and in particular in accordance with the terms of the Order Form;

1.4.2 shall not include any double or multiple charging between different Call-off Contract Prices set out in a Call-off Contract;

1.4.3 shall not include any separate Call-off Contract Price payable by the Contracting Authority in respect of the Gain Share Fee payable by the Supplier to the Framework Host under the Framework Agreement;

1.4.4 cannot be increased except as specifically permitted by the Call-off Contract and in particular shall only be subject to Indexation where specifically stated in the Order Form; and

- 1.4.5 shall not be impacted by any change to the Framework Prices.
- 1.5 Any variation to the charges payable under a Call-off Contract must be agreed between the Supplier and the Contracting Authority and implemented using the same procedure for altering Framework Prices in accordance with the provisions of this Framework Schedule 6.
- 2. How Framework Prices are calculated**
- 2.1 The pricing mechanisms and prices set out in Annex 1 shall be available for use in calculation of Framework Prices for charges in Call-off Contracts.
- 3. Are costs and expenses included in the Framework Prices**
- 3.1 The Framework Prices shall include all costs and expenses relating to the provision of Services. No further amounts shall be payable in respect of matters such as (but not exclusively):
- 3.1.1 incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or
- 3.1.2 costs incurred prior to the commencement of any Call-off Contract.
- 4. When the Supplier can ask to change the Framework Prices**
- 4.1 At least once every twelve (12) months following the Framework Commencement Date during the Framework Term the Supplier will assess the Framework Prices and consider whether it is able to reduce them. To the extent that the Supplier is able to decrease all or part of its Framework Prices it will promptly notify the Framework Host in writing and such reduction will be implemented from the first (1st) Working Day of the following Month and Annex 1 shall be updated accordingly.
- 4.2 The Framework Prices cannot be increased for the first two (2) years following the Framework Commencement Date (the date of expiry of such period is a "**Review Date**"). After this Framework Prices can only be adjusted on each following yearly anniversary (the date of each such anniversary is also a "**Review Date**") and only by exception.
- 4.3 The Supplier shall give the Framework Host at least three (3) Months' notice in writing prior to a Review Date where it wants to request an increase. If the Supplier does not give notice in time, then it will only be able to request an increase at least three (3) Months prior to the next Review Date.
- 4.4 Any notice requesting an increase shall include:
- 4.4.1 a list of the Framework Prices to be reviewed;
- 4.4.2 for each Framework Price under review, written evidence of the justification for the requested increase including:

- (a) a breakdown of the profit and cost components that comprise the relevant Framework Price in such a way that the requirements relating to Open Book Data can be met; and sustainability of the overall Framework Agreement;
 - (b) details of the movement in the different identified cost components of the relevant Framework Price;
 - (c) reasons for the movement in the different identified cost components of the relevant Framework Price;
 - (d) evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components;
 - (e) evidence that the Supplier's profit component of the relevant Framework Price is no greater than that applying to Framework Prices using the same pricing mechanism as at the Framework Commencement Date; and
 - (f) evidence that without the increase in the Framework Price the Supplier may not be able to continue to provide the Services to the same standard and in the same manner as it has up to the relevant Review Date.
- 4.5 References to standard inflationary indices are not acceptable. It is expected that the Supplier will mitigate any price increases through structured business development and efficiency planning.
- 4.6 The Framework Host shall consider each request for a price increase. The Framework Host may grant approval to an increase at its sole discretion and only by exception.
- 4.7 Where the Framework Host approves an increase then it will be implemented from the first (1st) Working Day following the relevant Review Date or such later date as the Framework Host may determine at its sole discretion and Annex 1 shall be updated accordingly.

5. Other events that allow the Supplier to change the Framework Prices

- 5.1 The Framework Prices can also be varied (and Annex 1 will be updated accordingly) due to:
- 5.1.1 a Specific Change in Law in accordance with Clause 21 of the Framework Agreement General Terms and Conditions (Framework Schedule 2);
 - 5.1.2 the outcome of a review in accordance with Framework Agreement Schedule 8 (Continuous Improvement);
 - 5.1.3 a benchmarking review in accordance with Call-Off Contract Schedule 11 (Benchmarking); and
 - 5.1.4 a request from the Supplier, which it can make at any time, to decrease the Framework Prices.

6. Exit

- 6.1 The Supplier will not charge any Contracting Authority for any activities agreed as part of the Exit Plan required under Clause 15.9 of Schedule 2 of the Call-off Contract Terms and Conditions).

Annex 1: Rates and Prices

- 1 [Insert successful bidder's pricing on framework agreement award]**

Schedule 7

Ordering Procedure, Award Criteria and Order Form

Guidance: Contracts are formed between participating authorities and each supplier under the Framework Agreement by the placing of an Order. Once an Order is issued to a supplier there is a legally binding contract. This contract is referred to in the guidance below as 'call-off contract'.

The call-off contract is made up of the following components:

the call-off terms and conditions set out at Appendix A of this Framework Agreement;

a completed Order Form as referred to below;

the applicable parts of the Specification and Tender Response Document set out at Schedule 5 of this Framework Agreement, as may be supplemented by information set out and/or referred to in the Order Form;

the applicable parts of the Commercial Schedule set out at Schedule 6 of this Framework Agreement, as may be supplemented by information set out and/or referred to in the Order Form; and

any relevant provisions applicable to the call-off contract as set out in the Framework Agreement.

You must set out as part of this Schedule 7: any selection process to be applied on the award of call-off contracts (this is not a mandatory requirement if your framework is a light touch contract, but it is advisable to do so in any event). Schedule 7 must set out the following information:

(a) the call-off processes and related ordering procedures, which should set out:

the procedure for making an award by following a competitive selection process. When designing the procedure you should consider the following:

You can either:

set out detailed conditions of participation which must be applied by participating authorities, set out high level conditions in the framework and allow participating authorities to add further detail; or

allow participating authorities to determine their own conditions, taking into account their own particular circumstances.

Any conditions of participation set must comply with the requirements in sections 46(1) to 46(6) of the Procurement Act 2023, except in the case of frameworks which are light touch contracts, where such requirements are not mandatory, although you may voluntarily comply with them.

A competitive selection process may provide for the assessment of proposals from suppliers, but only by reference to one or more of the award criteria against which tenders were assessed in awarding the framework. Such award criteria may be refined, for example additional sub-criteria may be included or the criteria explained further. These requirements are not mandatory for frameworks which are light touch contracts, although you may voluntarily comply with them.

where permitted, the process for making an award without competition (i.e. a direct award). This is permitted:

for frameworks which are a light touch contract; or

under section 45(4) of the Procurement Act 2023 where:

in circumstances where only one supplier is party to the framework; or

if the framework sets out—

the core terms of the public contract, and

an objective mechanism for supplier selection (e.g. a ‘taxi rank system’ where call-off contracts are awarded on a rotational basis or a ‘highest ranking’ system with a limitation on the number of call-off contracts to be awarded to any one supplier).

Your framework must not permit the award of a call-off contract to an excluded supplier or prevent a participating authority from requesting additional information from suppliers before awarding a call-off contract.

You should note that it is an implied term under section 48 of the Procurement Act 2023 (which cannot be restricted or overridden by any express provision) that a participating authority may exclude a supplier that is an excluded supplier or has, since the award of the framework, become an excludable supplier from participating in any selection process run in relation to the award of a call-off contract. A supplier becoming an excludable supplier includes circumstances where:

a supplier has become an excludable supplier on the basis of a discretionary exclusion ground that—

did not apply before award of the framework, or

applied before award of the framework by reference to different circumstances, and

a participating authority discovers that, before award of the framework, the supplier was an excludable supplier.

Before excluding a supplier who is excluded or excludable only by virtue of an associated person, the participating authority must give that supplier reasonable opportunity to replace the associated person.

in each instance, how and when an Order is placed using the Order Form referred to below. This should always be the final step in any ordering process adopted as this is the point at which a legally binding call-off contract is formed.

(b) a template Order Form for use by Participating Authorities as part of the ordering procedure adopted. This template Order Form can be set out as a separate Annex to this Schedule 7 and could be a modified version of a standard purchase order. As envisaged by the call-off terms and conditions the Order Form should allow for the inclusion of the following details:

the name of the Participating Authority and Supplier entering into the call-off contract;

reference to the Framework Agreement and application of the call-off terms and conditions at Appendix A;

date of the Order;

confirmation of the goods and/or services being ordered;

the term of the particular call-off contract;

date of the commencement of services where this is not the date of the Order Form and long-stop date;

the name and contact details for the contract managers for each party, as relevant to the specific Order;

the addresses of both parties for notices to be given under the call-off contract;

confirmation of the contract price for that order, as calculated in accordance with the Commercial Schedule set out in the Framework Agreement;

confirmation of the payment profile, i.e. whether this is monthly in arrears or immediately following completion of the provision of the services / delivery of the goods;

any delivery timescales, delivery dates, and delivery instructions (to include delivery location and delivery times) to the extent these are not set out in the Specification and Tender Response Document;

details of KPI's and associated service credits relevant to the Order, if any;

where appropriate, details of the assessment of KPIs set for contracts with a value which is more than £5million (including VAT) and publication of the outcome of the assessment;

details of any implementation phase and associated implementation plan;

if the Supplier is processing personal data, confirmation of whether the Supplier is doing so as a data controller or data processor;

details of or reference to any lease or licence being granted by the Participating Authority to the Supplier to enable it to provide the Services; and

other supplementary details relevant to the particular Order (in particular, any reference to the Participating Authority's requirements set out in any documents relating to a mini-competition and the Supplier's proposal).

Also allow for the inclusion of any order numbers and other administrative details as required by any internal systems and processes.

Part 1: Order Procedure

1. Call-Off Contract Process

- 1.1 Participating Authorities wishing to use the Framework Agreement must contact the Framework Host directly.
- 1.2 The Framework Host will issue the Participating Authority with a detailed briefing pack.
- 1.3 The Participating Authority will determine for itself whether the Framework Agreement offers adequate governance and value.
- 1.4 If a Participating Authority decides to source Services through this Framework Agreement, then it will award its Call-off Contract in accordance with the procedure in this Schedule and the requirements of Law.
- 1.5 If the Participating Authority can determine that:
 - 1.5.1 its requirements can be met by the Suppliers' catalogues and description of the Services as set out in Framework Agreement Schedule 5 (Specification and Tender Response Document) and Framework Agreement Schedule 6 (Commercial Schedule); and

- 1.5.2 all of the terms of the proposed Call-off Contract are laid down in this Framework Agreement and do not require amendment or any supplementary terms and conditions;

then the Participating Authority may award a Call-off Contract in accordance with the procedure set out in paragraph 2 below.

- 1.6 If all of the terms of the proposed Call-off Contract are not laid down in this Framework Agreement and the Participating Authority:

- 1.6.1 requires the Supplier to develop proposals or a solution in respect of such Services; and/or

- 1.6.2 needs to amend or refine the terms of the Framework Agreement to reflect its Services to the extent permitted by and in accordance with Law;

then the Buyer may award a Call-off Contract in accordance with the further competition procedure set out in paragraph 3 below.

2. Direct Award Procedure

- 2.1 Subject to paragraph 1.5 above the Contracting Authority awarding a Call-Off Contract under this Framework Agreement without holding a further competition shall:

- 2.1.1 develop a clear statement of requirements;

- 2.1.2 apply the direct award criteria to the Suppliers' catalogues and description of the Services as set out in Framework Agreement Schedule 5 (Specification and Tender Response Document) and Framework Agreement Schedule 6 (Commercial Schedule) for all Suppliers capable of meeting the statement of requirements in order to establish which Supplier provides the most economically advantageous solution; and

- 2.1.3 on the basis set out above, award the Call-off Contract with the successful Supplier in accordance with paragraph 6 below.

3. Further Competition Procedure

Contracting Authority actions

- 3.1 The Contracting Authority awarding a Call-off Contract under this Framework Agreement through a further competition shall:

- 3.1.1 develop a statement of requirements setting out its requirements for the Services and identify the Suppliers capable of supplying them;

- 3.1.2 amend or refine the template Call-off Contract to reflect its requirements only to the extent permitted by and in accordance with the requirements of Law;

- 3.1.3 invite tenders by conducting a further competition for its requirements in accordance with Law and in particular:
- (a) if an Electronic Reverse Auction (as defined in paragraph 7 below) is to be held, the Contracting Authority shall notify the Suppliers identified in accordance with paragraph 3.1.1 and shall conduct the Further Competition Procedure in accordance with the procedures set out in paragraph 3; or
 - (b) if an electronic reverse auction is not used, the Contracting Authority shall:
 - (i) invite the Suppliers identified in accordance with paragraph 3.1.1 to submit a tender in writing for each proposed Call-Off Contract to be awarded by giving written notice by email to the relevant Supplier Representative of each Supplier or, if the further competition is conducted via the Contracting Authority's e-procurement system, any formal action required by that system;
 - (ii) set a time limit for the receipt by it of the tenders which takes into account factors such as the complexity of the subject matter of the proposed Call-off Contract and the time needed to submit tenders; and
 - (iii) keep each tender confidential until the time limit set out for the return of tenders has expired.
- 3.1.4 apply the further competition award criteria to the Suppliers' compliant tenders submitted through the further competition procedure as the basis of its decision to award a Call-off Contract for its Services;
- 3.1.5 on the basis set out above, award its Call-off Contract to the successful Supplier in accordance with paragraph 6. The Call-off Contract shall:
- (a) state the Services;
 - (b) state the tender submitted by the successful Supplier;
 - (c) state the Charges payable for the Services in accordance with the tender submitted by the successful Supplier; and
 - (d) incorporate the terms of the Order Form and Call-off Contract (as may be amended or refined by the Contracting Authority in accordance with paragraph 3.1.2. above) applicable to the Services,
- 3.1.6 provide unsuccessful Suppliers with written feedback in relation to the reasons why their tenders were unsuccessful.

Supplier actions

- 3.2 The Supplier shall in writing, by the time and date specified by the Contracting Authority following an invitation to tender pursuant to paragraph 3.1.3 above, provide the Contracting Authority with either:
- 3.2.1 a statement to the effect that it does not wish to tender in relation to the Services; or
 - 3.2.2 the full details of its tender made in respect of the relevant statement of requirements. In the event that the Supplier submits such a tender, it should include, as a minimum:
 - (a) an email response subject line to comprise unique reference number and Supplier name, so as to clearly identify the Supplier or, if the further competition is conducted via the Contracting Authority's e-procurement system, any formal response required by that system;
 - (b) a brief summary, in the email (followed by a confirmation letter), stating that the Supplier is bidding for the statement of requirements;
 - (c) a proposal covering the Services;
 - (d) confirmation of discounts applicable to the Services, as referenced in Framework Agreement Schedule 6 (Commercial Schedule) (if applicable).
 - 3.2.3 The Supplier shall ensure that any prices submitted in relation to a further competition procedure held pursuant to this paragraph 3 shall be based on the charging structure and take into account any discount to which the Contracting Authority may be entitled as set out in Framework Agreement Schedule 6 (Commercial Schedule).
 - 3.2.4 The Supplier agrees that:
 - (a) all tenders submitted by the Supplier in relation to a further competition procedure held pursuant to this paragraph 3 shall remain open for acceptance by the Contracting Authority for ninety (90) Working Days (or such other period specified in the invitation to tender issued by the Contracting Authority in accordance with the Call-off procedure); and
 - (b) all tenders submitted by the Supplier are made and will be made in good faith and that the Supplier has not fixed or adjusted and will not fix or adjust the price of the tender by or in accordance with any agreement or arrangement with any other person. The Supplier certifies that it has not and undertakes that it will not:
 - (i) communicate to any person other than the person inviting these tenders the amount or approximate amount of the tender, except where the disclosure, in confidence, of the

approximate amount of the tender was necessary to obtain quotations required for the preparation of the tender; and

- (ii) enter into any arrangement or agreement with any other person that the Supplier or the other person(s) shall refrain from submitting a tender or as to the amount of any tenders to be submitted.

4. No requirement to award

- 4.1 Notwithstanding the fact that the Contracting Authority has followed a procedure as set out above in paragraph 2 or 3 (as applicable), the Supplier acknowledges and agrees that the Contracting Authority shall be entitled at all times to decline to make an award for its Services and that nothing in this Framework Agreement shall oblige the Contracting Authority to award any Call-off Contract.

5. Responsibility for award

- 5.1 The Supplier acknowledges that the Contracting Authority is independently responsible for the conduct of its award of Call-off Contracts under this Framework Agreement and that the Framework Host is not responsible or accountable for and shall have no liability whatsoever, except where it is the Contracting Authority, in relation to:
 - 5.1.1 the conduct of the Contracting Authority in relation to this Framework Agreement; or
 - 5.1.2 the performance or non-performance of any Call-off Contracts between the Supplier and Contracting Authority entered into pursuant to this Framework Agreement.

6. Awarding and creating a Call-Off Contract

- 6.1 Subject to paragraphs 1 to 5 above and 7, a Contracting Authority may award a Call-off Contract with the Supplier by sending (including electronically) a signed Order Form substantially in the form (as may be amended or refined by the Contracting Authority in accordance with paragraph 3.1.2 above) of the template Call-off Contract set out in Appendix A of this Framework Agreement Schedule 7 (Ordering Procedure, Award Criteria and Order Form).
- 6.2 The Parties agree that any document or communication (including any document or communication in the apparent form of a Call-off Contract) which is not as described in this paragraph 6 shall not constitute a Call-off Contract under this Contract.
- 6.3 On receipt of an Order Form as described in Paragraph 6.1 from a Contracting Authority the Supplier shall accept the Call-off Contract by promptly signing and returning (including by electronic means) a copy of the order form to the Contracting Authority concerned.
 - 6.3.1 On receipt of the countersigned Order Form from the Supplier, the Contracting Authority shall send (including by electronic means) a written notice of receipt to the Supplier within two (2) Working Days and

the Call-off Contract shall be formed with effect from the Call-off Contract Commencement Date stated in the Order Form.

- 6.4 Notwithstanding paragraph 5 above, the Supplier acknowledges that the Contracting Authority is required to send a copy of each completed Call-off Contract to the Framework Host (personally identifiable information may be redacted prior to sending), for the purposes of ensuring that all Charges payable for the Services are in line with Framework Prices.
- 6.5 The Supplier acknowledges that this is a requirement of NHS England framework host accreditation; Countess of Chester Hospital Commercial Procurement Services will not be party to the Call-off Contract and will not be involved in contract negotiations.

7. Electronic Reverse Auctions

- 7.1 Contracting Authorities shall be entitled to include a reverse auction in the Further Competition Procedure in accordance with the rules laid down by the Contracting Authority and the Regulations.
- 7.2 Where the Contracting Authority wishes to undertake an electronic reverse auction, where Suppliers compete in real time by bidding as the auction unfolds ("Electronic Reverse Auction") then before undertaking it, the Contracting Authority will make an initial full evaluation of all tenders received in response to its statement of requirements. The Contracting Authority will then invite to the Electronic Reverse Auction only those tenders that are admissible in accordance with the Regulations. The invitation shall be accompanied by the outcome of the full initial evaluation of the relevant tenders.
- 7.3 The Contracting Authority will inform the Suppliers of the specification for the Electronic Reverse Auction which shall include:
 - (a) the information to be provided at auction, which must be expressed in figures or percentages of the specified quantifiable features;
 - (b) the mathematical formula to be used to determine automatic ranking of bids on the basis of new prices and/or new values submitted;
 - (c) any limits on the values which may be submitted;
 - (d) a description of any information which will be made available to Suppliers in the course of the Electronic Reverse Auction, and when it will be made available to them;
 - (e) the conditions under which Suppliers will be able to bid and, in particular, the minimum differences which will, where appropriate, be required when bidding;
 - (f) relevant information concerning the electronic equipment used and the arrangements and technical specification for connection;
 - (g) subject to paragraph 7.5, the date and time of the start of the Electronic Reverse Auction; and

- (h) details of when and how the Electronic Reverse Auction will close.
- 7.4 The Electronic Reverse Auction may not start sooner than two (2) Working Days after the date on which the specification for the Electronic Reverse Auction has been issued.
- 7.5 Throughout each phase of the Electronic Reverse Auction the Contracting Authority will communicate to all Suppliers sufficient information to enable them to ascertain their relative ranking.
- 7.6 The Supplier acknowledges and agrees that:
 - (a) the Contracting Authority and its officers, servants, agents, group companies, assignees and customers (including the Framework Host) do not guarantee that its access to the Electronic Reverse Auction will be uninterrupted or error-free;
 - (b) its access to the Electronic Reverse Auction may occasionally be restricted to allow for repairs or maintenance; and
 - (c) it will comply with all such rules that may be imposed by the Contracting Authority in relation to the operation of the Electronic Reverse Auction.
- 7.7 The Contracting Authority will close the Electronic Reverse Auction on the basis of:
 - (a) a date and time fixed in advance;
 - (b) when no new prices or values meeting the minimum differences required pursuant to paragraph 7.3 have been received within the prescribed elapsed time period; or
 - (c) when all the phases have been completed.

Part 2: Award Criteria

1. This Part 2 lays out award criteria for direct award (Annex A) and for further competition (Annex B) in accordance with the Call-off Contract process.
2. A Call-off Contract may be awarded on the basis of most the economically advantageous tender ("MEAT") or the most advantageous tender (MAT).

Annex A: Direct award criteria

The following criteria and weightings shall apply to the evaluation for direct award of each Call-off Contract.

Contracting Authorities may apply sub-criteria appropriate to their requirements. Weightings and sub-weightings for the evaluation criteria will be set by the Contracting Authority and shall add up to 100%

Criterion	Relative weighting percentage
Technical - Technology	As determined by the Participating Authority
Technical - Intelligence	As determined by the Participating Authority
Technical – Managed Service and Support	As determined by the Participating Authority
Technical – Advisory and Improvement	As determined by the Participating Authority
Technical – Innovation and Future Developments	As determined by the Participating Authority
Social Value (NHS organisations must include the Social Value Model theme of “Fighting Climate Change” in contracts)	As determined by the Participating Authority subject to a minimum weighting of 10%
Commercial	As determined by the Participating Authority

Annex B: Further Competition Award Criteria

The following criteria and weightings shall apply to the evaluation of tenders received through the further competition procedure.

Contracting Authorities may apply sub-criteria appropriate to their requirements. Weightings and sub-weightings for the evaluation criteria will be set by the Contracting Authority and shall add up to 100%

Criterion	Relative weighting percentage
Technical - Technology	As determined by the Participating Authority
Technical - Intelligence	As determined by the Participating Authority
Technical – Managed Service and Support	As determined by the Participating Authority
Technical – Advisory and Improvement	As determined by the Participating Authority
Technical – Innovation and Future Developments	As determined by the Participating Authority
Social Value (NHS organisations must include the Social Value Model theme of “Fighting Climate Change” in contracts)	As determined by the Participating Authority subject to a minimum weighting of 10%
Commercial	As determined by the Participating Authority

Schedule 8

Continuous Improvement

1. Continuous Improvement

- 1.1 The Supplier shall implement a programme of Continuous Improvement focused on continually improving the delivery and outcomes of the Services, delivering innovation and providing added value ("Continuous Improvement").
- 1.2 The Supplier shall work with the Framework Host and Contracting Authorities to identify areas for improvement and shall proactively review service operations to identify areas for improvement and innovation throughout the operation of the Framework Agreement.
- 1.3 The Supplier shall have an ongoing obligation throughout the Framework Agreement Term to identify new or potential improvements to the provision of the Services in accordance with this Schedule 8 with a view to reducing the Contracting Authorities' costs (including the Call-off Contract charges) and/or improving the quality and efficiency of the Services and their supply to the Contracting Authorities. As part of this obligation the Supplier shall identify and report to the Framework Host as a minimum quarterly in each Framework Agreement Year throughout the Framework Agreement Term:
 - 1.3.1 the emergence of new and evolving relevant technologies which could improve the Services, and those technological advances potentially available to the Supplier and the Contracting Authorities which the Parties may wish to adopt;
 - 1.3.2 new or potential improvements to the provision of the Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and Contracting Authority support Services in relation to the Services;
 - 1.3.3 changes in business processes and ways of working that would enable the Services to be provided at lower costs and/or at greater benefits to the Contracting Authorities; and/or
 - 1.3.4 changes to the Supplier's business processes and ways of working that would enable reductions in the total energy consumed annually in the provision of the Services.
- 1.4 The Supplier shall ensure that the information that it provides to the Framework Host shall be sufficient for the Framework Host to decide whether any improvement should be implemented. The Supplier shall provide any further information that the Framework Host requests.
- 1.5 If the Framework Host wishes to incorporate any improvement identified by the Supplier, the Framework Host shall request a Framework Agreement Variation in accordance with the Change Control Process and the Supplier shall implement such Variation at no additional cost to Contracting Authorities or to Participating

Authorities. The Supplier will not refuse to agree and implement a Variation under this paragraph 1.5 of this Schedule 8 and failure to do so may constitute a material Breach of this Framework Agreement (without prejudice to any other accrued rights or remedies the Framework Host may have at the relevant time). The Supplier will implement any Call-Off Contract Variation where appropriate in accordance with the Call-Off Contract Change Control Process.

- 1.6 The Supplier will implement and/or apply to all applicable Call-Off Contracts any improvements or reductions in costs that are identified as part of a continuous improvement exercise undertaken. Implementation and/or application of this paragraph 1.6 of this Schedule 8 will follow the process set out in Schedule 12 of the Call-Off Terms and Conditions of this Framework Agreement.

2. Continuous Improvement Plan

- 2.1 Following the Framework Agreement Commencement Date, the Supplier shall develop a Continuous Improvement Plan setting out the continuous improvement objectives, targets, implementation plan, timelines and deliverables ("Continuous Improvement Plan").
- 2.2 The Supplier shall provide the Continuous Improvement Plan to the Framework Host within two (2) Months of the Framework Agreement Commencement Date. The Framework Host shall approve it within one (1) Month of receipt except where it requires any changes. Where the Framework Host requires changes, the Supplier shall make all such changes promptly and resubmit the Continuous Improvement Plan to the Framework Host within two (2) weeks of the request for changes for the Framework Host's approval.
- 2.3 At any time during the Framework Agreement Term, the Framework Host shall have the right to request changes to the Continuous Improvement Plan (acting reasonably). The Supplier shall update the Continuous Improvement Plan as required promptly and provide the updated Continuous Improvement Plan to the Framework Host for its approval.
- 2.4 The Supplier shall report to the Framework Host, as a minimum quarterly in each Framework Agreement Year throughout the Framework Agreement Term, on progress towards delivery of the Continuous Improvement Plan.
- 2.5 The Supplier shall, at all times, apply industry best practice in the provision of the Services and as part of the continuous improvement programme.

Schedule 9

Change Control Process

- 1.1 Either Party can request a Variation which is only effective if agreed in writing and signed by both Parties.
- 1.2 The Supplier must provide an Impact Assessment either:
 - 1.2.1 with the Variation Form, where the Supplier requests the Variation; or
 - 1.2.2 within the time limits included in a Variation Form requested by the Framework Host or the Contracting Authority.
- 1.3 If the Variation cannot be agreed or resolved by the Parties, the Framework Host or the Contracting Authority can either:
 - 1.3.1 agree that the Framework Agreement or Call-off Contract continues without the Variation; or
 - 1.3.2 terminate the affected Framework Agreement or Call-off Contract, unless in the case of a Call-off Contract, the Supplier has already provided part or all of the provision of the Services, or where the Supplier can show evidence of substantial work being carried out to provide them; or
 - 1.3.3 refer the Dispute to be resolved using Clause 22 of Framework Agreement Schedule 2 (Dispute Resolution).
- 1.4 The Framework Host and the Contracting Authorities are not required to accept a Variation request made by the Supplier.
- 1.5 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Framework Prices or the Call-off Contract Prices.
- 1.6 If there is a Specific Change in Law or one is likely to happen during the Framework Agreement Term or the Term of a Call-off Contract the Supplier must give the Framework Host and the Contracting Authority notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Services, Framework Prices or a Call-off Contract and provide evidence:
 - 1.6.1 that the Supplier has kept costs as low as possible, including in Subcontractor costs; and
 - 1.6.2 of how it has affected the Supplier's costs.
- 1.7 Any change in the Framework Prices or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 1.1 to 1.4 of this Schedule 9.
- 1.8 If there is a change to NHS terms and conditions for the procurement of goods and non-clinical services that is published by NHS England or any successor body during

the Framework Agreement Term or the Term of a Call-off Contract, the Framework Host and the Contracting Authority reserve the right to amend the Framework Agreement and Call-off Terms and Conditions at Appendix A to incorporate the changed terms and conditions into this Framework Agreement and to the template call-off contracts. Contracting Authorities shall have the right to incorporate changed NHS terms and conditions into their Call-off Contract.

- 1.9 If there is a change to NHS terms and conditions for the procurement of goods and non-clinical services that is published by NHS England or any successor body during the Framework Agreement Term or the Term of a Call-off Contract and the Framework Agreement and/or any Call-off Contract is subsequently changed to incorporate the changed terms and conditions as described in Clause 1.8 of this Schedule 9, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Framework Prices or the Call-off Contract Prices.
- 1.10 If the Court declares any Variation ineffective, the Parties agree that their mutual rights and obligations will be regulated by the terms of the Framework Agreement as they existed immediately prior to that Variation and as if the Parties had never entered into that Variation.

Appendix 1 to this Schedule 9

Variation Form

This form is to be used in order to change a contract in accordance with Key Provision 17 and Schedule 9 (Change Control Process).

Framework Agreement Details		
This variation is between:	Countess of Chester Hospital NHS Foundation Trust Commercial Procurement Services ("the Framework Host") And [insert name of Supplier] ("the Supplier")	
Framework name:	[insert name of framework to be changed] ("the Framework Agreement")	
Framework Agreement reference number:	[insert framework reference number]	
Details of Proposed Variation		
Variation initiated by:	[delete as applicable: CPS/Supplier]	
Variation number:	[insert variation number]	
Date variation is raised:	[insert date]	
Proposed variation		
Reason for the variation:	[insert reason]	
An Impact Assessment shall be provided within:	[insert number] days	
Impact of Variation		
Likely impact of the proposed variation:	[Supplier to insert assessment of impact]	
Outcome of Variation		
Framework Agreement variation:	This Framework Agreement detailed above is varied as follows: <ul style="list-style-type: none"> [CPS to insert original clauses or paragraphs to be varied and the changed clauses/paragraphs] 	
Financial variation:	Original Framework Agreement Value:	£ [insert amount]
	Additional cost due to variation:	£ [insert amount]
	New Framework Agreement value:	£ [insert amount]

1. This Variation must be agreed and signed by both Parties to the Framework Agreement and shall only be effective from the date it is signed by the Framework Host.
2. Words and expressions in this Variation shall have the meanings given to them in the Framework Agreement.
3. The Framework Agreement, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Framework Host

Signature	
Date	
Name (in Capitals)	
Address	

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature	
Date	
Name (in Capitals)	
Address	

Schedule 10

[Delete at final framework agreement stage if not required. Insert extra schedules in following pages if required]