TERMS AND CONDITIONS FOR SURGERY CONNECT

The Contract below is mandated for use by X-on Health Ltd under the Interim Arrangements for the Better Purchasing Framework of advanced cloud based telephony services for Primary Care in England. The NHS Commercial Hub have reviewed and approved the attached contract which is based on NHS Terms and Conditions for the Supply of Goods and the Provision of Services (Contract Version) (August 2022).

Contract for Advanced Telephony Services

The Authority	**{Surgery Name}** {Surgery Address} ODS: {ODS Code}
The Supplier	**X-on Health Ltd** 22 Riduna Park Melton Suffolk IP12 1QT. Company Registration Number: 2578478

Date	The date of signature by the Authority (see below)
Type of Goods and Services	**GP Advanced Cloud Based Telephony** **Better Purchasing Framework**

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

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

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

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Signed by the authorised representative of THE AUTHORITY

Name:	{Surgery Contact}	Signature:	
Position:	{Surgery Contact Position}	Date:	

Signed by the authorised representative of THE SUPPLIER

Name:	Julian Coe	Signature:	
Position:	Managing Director	Date:	

Schedule 1

Key Provisions

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 Contract.

1.2 The optional Key Provisions at Clauses 9 to 33 of this Schedule 1 shall only apply to this Contract where they have been checked and information completed as applicable.

1.3 Extra Key Provisions shall only apply to this Contract where such provisions are set out at the end of this Schedule 1.

2 Term

2.1 This Contract shall commence on the Commencement Date and the Term of this Contract shall expire on the day before the third anniversary of the Actual Services Commencement Date.

3 Contract Managers

3.1 The Contract Managers at the commencement of this Contract are:

3.1.1 for the Authority: GP Practice Manager

3.1.2 for the Supplier: Sales Support Manager

4 Names and addresses for notices

4.1 Notices served under this Contract are to be delivered to:

4.1.1 for the Authority: GP Practice Manager

4.1.2 for the Supplier: Managing Director

22 Riduna Park, Melton, Suffolk IP12 1QT .

5 Management levels for escalation and dispute resolution

5.1 The management levels at which a Dispute may be dealt with as referred to as part of the Dispute Resolution Procedure are as follows:

Level	Authority representative	Supplier representative
1	Practice Manager	Debbie Hughes, Sales Director
2	Contract Manager	Julian Coe, Managing Director

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 Contract the order of priority for construction purposes shall be:

6.1.1 the provisions on the front page of this NHS Contract for the Supply of Goods and the Provision of Services (Contract Version);

6.1.2 Schedule 1: Key Provisions;

6.1.3 Schedule 5: Specification and Participation Documents (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 7: Staff Transfer;

6.1.8 Schedule 4: Definitions and Interpretations;

6.1.9 the order in which all subsequent schedules, if any, appear; and

6.1.10 any other documentation forming part of the Contract in the date order in which such documentation was created with the more recent documentation taking precedence over older documentation to the extent only of any conflict.

6.2 For the avoidance of doubt, the Specification and Participation Documents 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 Participation Documents, 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.

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

7.1 The Parties agree that at the commencement of the provision of Services by the Supplier, TUPE shall not apply so as to transfer the employment of any employees of the Authority or a Third Party to the Supplier and the provisions of Schedule 7 shall apply.

8 Net Zero and Social Value Commitments

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 in accordance with the requirements and timescales set out in the NHS Net Zero Supplier Roadmap (see Greener NHS »Suppliers (england.nhs.uk) (https://www.england.nhs.uk/greenernhs/get-involved/suppliers/)), as may be updated from time to time.

8.2 A supplier assessment for benchmarking and reporting progress against the requirements detailed in the Net Zero Supplier Roadmap will be available in 2023 ("**Evergreen Supplier Assessment**"). The Supplier shall report its progress through published progress reports and continued carbon emissions reporting through the Evergreen Supplier Assessment once this becomes available and as may be updated from time to time.

8.3 The Supplier has appointed Julian Coe, Joint Managing Director ("**Supplier Net Zero Corporate Champion"**) who shall be responsible for overseeing the Supplier's compliance with Clauses 8.1 and 8.2 of this Schedule 1. Without prejudice to the Authority's other rights and remedies under this Contract, if the Supplier fails to comply with Clauses 8.1 and 8.2 of this Schedule 1, the Authority may escalate such failure to the Supplier Net Zero Corporate Champion who shall within ten (10) Business 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) to ensure that such failure is remedied by the earliest date reasonably possible.

Net zero and social value in the delivery of the contract

8.4 The Supplier shall deliver its net zero and social value contract commitments in accordance with the requirements and timescales set out in the Specification and Participation Documents forming part of this Contract ("**Net Zero and Social Value Contract Commitments**").

8.5 The Supplier shall report its progress on delivering its Net Zero and Social Value Contract Commitments through progress reports, as set out in the Specification and Participation Documents forming part of this Contract.

8.6 The Supplier has appointed Julian Coe, Joint Managing Director ("**Supplier Net Zero and Social Value Contract Champion"**) who shall be responsible for overseeing the Supplier's compliance with Clauses 8.4 and 8.5 of this Schedule 1. Without prejudice to the Authority's other rights and remedies under this Contract, if the Supplier fails to comply with Clauses 8.4 and 8.5 of this Schedule 1, the Authority may escalate such failure to the Supplier Net Zero and Social Value Contract Champion who shall within ten (10) Business 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) to ensure that such failure is remedied by the earliest date reasonably possible.

Optional Key Provisions

9 Implementation phase ☒ (only applicable to the Contract if this box is checked and the Schedule inserted)

9.1 Prior to commencement of delivery of Goods and/or provision of the Services, there is an implementation phase and therefore all references in Schedule 2 to the Implementation Plan shall apply and the Implementation Plan as set out in Schedule 11. The Actual Services Commencement Date shall be the date of completion of the Implementation Plan or such other date as may be agreed by the Parties in writing.

9.2 The Supplier will require the Authority to provide full and timely access to the sites detailed in Schedule 11 to conduct a site survey, install equipment and lines and to train staff. Up to three alternative dates may be provided for each visit and the Supplier will agree with the Authority suitable dates. Site visits will be conducted during normal working hours (8am to 5:30pm, Monday to Friday). Alternative or special arrangements will incur further installation charges as detailed in the Schedule 6 Commercial Schedule. The Supplier retains the right to delay the Actual Services Commencement Date where access has not been provided on a timely basis.

9.3 It is the Authority's responsibility to cancel any lines, equipment rentals and maintenance agreements with providers who were delivering telephony services that are no longer required by the Authority post the Actual Services Commencement Date. The Supplier cannot cancel agreements on behalf of the Authority, nor can the Supplier be liable for any charges raised by third parties unless a Contract Buy Out is detailed in the Commercial Schedule or another arrangement has explicitly been agreed by the Supplier and Authority in writing in advance.

9.4 The following provisions shall apply if the Implementation Plan as set out in Schedule 11 includes the porting of telephone numbers currently used by the Authority.

9.4.1 Ofcom regulations state that a service provider must offer the opportunity for the Authority to port a number(s) from the current service provider to the Supplier.

9.4.2 A Letter of Authority from the Authority is required to transfer the telephone number(s) from the current service provider and then reassign the number(s) to the Supplier.

9.4.3 A pre-order validation check can only be conducted following the receipt of a Letter of Authority. If this pre-order validation check is not conducted prior to the date of the Agreement or reveals reasons why numbers cannot be ported, a Change Request may be required and the Actual Services Commencement Date may be subject to change by agreement. If there are missing numbers or any that are incorrect, this may also cause delays to the Actual Services Commencement Date. The Supplier shall work with the Practice to ensure a complete and accurate list of numbers is obtained in a timely manner.

9.4.4 There are no additional telephone number porting charges or costs incurred by the caller or the Authority once the telephone number has been ported.

9.4.5 The Implementation Plan may require that the Authority request calls are diverted to numbers owned by the Supplier as an interim or permanent solution. In these circumstances, the Authority will be responsible for any costs levied by the service provider for this service.

9.4.6 The process of porting a phone number typically takes under an hour but potentially 2-3 hours. During this time, the number is not taken out of service and calls will continue to be connected and ongoing calls not interrupted. However it is likely that there will be a period during which calls arrive both on the existing and new services. Managing the calls during this period will be explained by the engineer present on the Actual Services Commencement Date and any minor disruption encountered will be addressed in the Implementation Plan.

9.4.7 The porting of international numbers is subject to the restrictions and limitations specified by the country's regulator.

9.4.8 The Supplier retains the right to delay the Actual Services Commencement Date where the Authority or current service provider has not met their responsibilities on a timely basis.

9.5 The Authority is responsible for ensuring that it meets any applicable contractual, regulatory and compliance requirements relating to any building works such as cabling to be carried out by the Supplier. This shall include but not be limited to:

9.5.1 The Authority’s legal responsibility to provide an Asbestos register or report for buildings pre year 2000 construction.

9.5.2 Ensuring that any additional interested parties needing to be involved such as building managers, landlords or tenant liaisons, are notified to the Supplier and managed through the agreed Implementation Plan by the Authority. For example, such interested parties may need to be involved during the site surveys, any installation works and external connectivity works where drilling or cabling on site is required. Any permissions will need to be agreed for these works and delay in permissions being granted may impact the Actual Services Commencement Date.

10 Supply of Goods Commencement Date/Services Commencement Date (where the supply of Goods and/or provision of Services are to start at a date after the Commencement Date) ☐ (only applicable to the Contract if this box is checked and the dates are inserted in Clause 10.1 of this Schedule 1)

10.1 Not Used

11 Induction training for Services ☐ (only applicable to the Contract if this box is checked)

11.1 Not used

12 Quality assurance standards ☒ (only applicable to the Contract if this box is checked and the standards are listed)

12.1 The Supplier shall comply with:

12.1.1 all quality assurance standards as set out in Schedule 16;

13 Different levels and/or types of insurance ☒ (only applicable to the Contract if this box is checked and the table sets out the requirements)

13.1 The Supplier shall put in place and maintain in force the following insurances with the following minimum cover per claim:

Type of insurance required	**Minimum cover**
Employer's Liability	**£5m**
Public Liability	**£5m**
Product liability insurance	**£5m**
Professional Indemnity	**£5m**
Cyber Insurance	**£5m**

13.2 The Supplier must comply with the insurance requirements as detailed Schedule 10:

14 Further Authority obligations ☒ (only applicable to the Contract if this box is checked and the Schedule inserted)

14.1 Where the Authority has provisioned connectivity on site and calls are to be delivered to the Premises and Locations using voice over IP (VoIP) protocol, it is the responsibility of the Authority that sufficient bandwidth and lack of latency is available on these connections to provide the quality of service that the Authority requires. The Supplier will provide consultation on the bandwidth requirements for optimal performance of its Services but will not be responsible for the performance of the third party connectivity and the Authority will be responsible for liaising with their third party provider in respect of all performance and quality issues. The supplier will provide all the assistance they can.

14.2 The Authority is responsible for operating the services provided by the Supplier in accordance with the regulatory and legal framework of the countries within which the service operates. This includes, but is not limited to, the specific items listed within this section.

14.2.1 Services must not promote or assist illegal or fraudulent activity. Where there is good reason to suggest non-compliant or fraudulent activity on services, such services may be discontinued without notice and any revenue or prepayments withheld until the matter is resolved. The use of the service for robocalling is prohibited.

14.2.2 Services which charge the consumer through their phone bill (phone paid services) are regulated by the Phone-paid Services Authority. This includes SMS short codes, phone numbers beginning 09 and from 1st August 2009, 0871 numbers. The Authority is responsible for operating and promoting such services within the current guidelines of the Phone-paid Services Authority which are updated from time to time.

14.2.3 All promotional material for phone paid services must receive prior approval from the Supplier before publication. Services that notify individuals through SMS and automated phone calls are subject to Ofcom regulations, the Data Protection Act 2018 and the Electronic Communications (EC Directive) Regulations 2003. The Authority takes sole responsibility for operation of such services within the provisions of these regulations. from time to time.

15 Assignment of Intellectual Property Rights in deliverables, materials and outputs of the Services ☐ (only applicable to the Contract if this box is checked)

15.1 Not Used

16 Inclusion of a Change Control Process ☒ (only applicable to the Contract if this box is checked and the Schedule inserted)

16.1 Any changes to this Contract, including to the Goods and/or Services, may only be agreed in accordance with the Change Control Process set out in Schedule 15.

17 Authority step-in rights ☐ (only applicable to the Contract if this box is checked and the Schedule inserted)

17.1 Not Used

18 Grant of lease or licence ☐ (only applicable to the Contract if this box is checked)

18.1 Not Used

19 Guarantee ☐ (only applicable to the Contract if this box is checked)

19.1 Not Used

20 Data Protection Protocol ☒ (only applicable to the Contract if this box is checked)

20.1 The Parties shall comply with their respective obligations under the Data Protection Protocol.

20.2 The Parties acknowledge that the Authority is the Controller and the Supplier is the Processor in respect of Personal Data Processed under this Contract.

20.3 When the Authority records calls, it is their responsibility to ensure that all parties to the call are informed and any necessary consent is provided. The Supplier recommends that every reasonable effort must be made by the Authority to inform all parties to a telephone conversation that it may or will be recorded.

20.4 If the Authority takes payment details from a patient on a call it is their responsibility to ensure their practice on call recording is appropriate.

21 Purchase Orders ☐ (only applicable to the Contract if this box is checked)

21.1 Not Used

22 Monthly payment profile ☐ (only applicable to the Contract if this box is checked)

22.1 The payment profile for this Contract shall be monthly in arrears

23 Termination for convenience ☒ (only applicable to the Contract if this box is checked and Clause 23.1 of this Schedule 1 is completed)

23.1 The Authority may terminate this Contract by issuing a Termination Notice to the Supplier at any time on three (3) months' written notice. Such notice shall not be served within six (6) months of the Commencement Date.

23.2 Should the Authority terminate this Contract in accordance with Clause 23.1 of this Schedule 1, then the Authority shall pay to the Supplier the termination sum calculated in accordance with Schedule 14.

23.3 Subject to Clause 23.4 of this Schedule 1, if the Supplier has leased or rented any equipment to the Authority, the costs of which the Supplier intended to amortise over a period not exceeding three (3) years, and the Authority terminates this Contract under Clause 23.1 above, the Parties shall enter into good faith discussions to arrange for the Authority to purchase or continue leasing such equipment under arrangements distinct from this Contract.

24 Pre-Acquisition Questionnaire ☐ (only applicable to the Contract if this box is checked)

24.1 Not Used

25 Time of the essence ☐ (only applicable to the Contract if this box is checked)

25.1 Time is of the essence as to any delivery dates in respect of the Goods under this Contract and if the Supplier fails to meet any such delivery date this shall be deemed to be a breach incapable of remedy for the purposes of Clause 15.4.1 of Schedule 2.

26 Specific time periods for inspection ☐ (only applicable to the Contract if this box is checked)

26.1 Not Used

27 Specific time periods for rights and remedies under Clause 3.6 of Schedule 2 ☐ (only applicable to the Contract if this box is checked and Clause 28.1 of Schedule 1 is completed)

27.1 Not Used

28 Right to terminate following a specified number of material breaches ☒ (only applicable to the Contract if this box is checked and Clause 29.1 of this Schedule 1 is completed)

28.1 Either Party may terminate this Contract by issuing a Termination Notice to the other Party if such other Party commits a material breach of this Contract in circumstances where it is served with a valid Breach Notice having already been served with at least two (2) previous valid Breach Notices within the last twelve (12) calendar month rolling period as a result of any previous material breaches of this Contract which are capable of remedy (whether or not the Party in breach has remedied the breach in accordance with a Remedial Proposal). The twelve (12) month rolling period is the twelve (12) months immediately preceding the date of the third Breach Notice.

29 Installation and Commissioning Services ☒ (only applicable to the Contract if this box is

checked)

29.1 The Supplier shall provide the Installation and Commissioning Services in accordance with the terms set out in Schedule 8.

30 Maintenance Services ☒ (only applicable to the Contract if this box is checked)

30.1 The Supplier shall provide the Maintenance Services in accordance with the terms set out in Schedule 9.

31 Expert Determination ☐ (only applicable to the Contract if this box is checked)

31.1 Not used

32 Consigned Goods ☐ (only applicable to the Contract if this box is checked)

32.1 Not Used

33 COVID-19 related enhanced business continuity provisions ☒ (only applicable to the Contract if this box is checked)

33.1 Subject to Clause 33.2 of this Schedule 1, the Supplier's Business Continuity Plan and, where required, its implementation must ensure the continuity of the supply of the Goods and/or the provision of the Services under this Contract in all circumstances where there is a COVID-19 related Business Continuity Event and the text in Clause 6.6 of Schedule 2 to "use reasonable endeavours to" shall be deemed deleted for the purposes of any COVID-19 related Business Continuity Events. For the avoidance of doubt, to the extent that the Supplier fails to ensure such continuity, it shall be deemed not to have fulfilled its business continuity obligations pursuant to Clause 6 of Schedule 2 for the purposes of Clause 23.2.1 of Schedule 2.

33.2 To the extent only that the Supplier is prohibited from implementing its Business Continuity Plan (in full or part) due to any Laws or Guidance, it shall be relieved of its obligations under Clause 33.1 of this Schedule 1.

Extra Key Provisions

34 Performance Levels

34.1 The Performance Levels set out in Schedule 12 shall apply.

35 Exit Requirements

35.1 The Exit Requirements are set out in Schedule 17.

36 Right to terminate if the goods and services are not fit for purpose after the installation and testing period

36.1 If upon completion of the installation and implementation process (including any remediation processes) as set out in Schedule 11, the Supplier is unable to provide the Goods and Services in accordance with the Specification or the Goods and Services do not function in accordance with the Specification, the Authority may terminate this Contract without further obligation to the Supplier including payment of the Termination Sum.

37 Telephony Framework

37.1 The Parties agree that if (i) the Supplier is awarded a contract under the Telephony Framework; or (ii) the Goods and Services delivered under this Contract become available as a package under the Digital Care Services catalogue:

37.1.1 the Authority may terminate this Contract without any consequences; and

37.1.2 the Supplier shall deliver all Goods and Services which it is providing under this Contract to the Authority in accordance with the terms of:

(i) a contract awarded to the Supplier under the Telephony Contract Framework; or

(ii) a contract implemented by the Authority in respect of the Digital Care Services Catalogue.

38 Additional Pricing, Fair Usage and Hardware provisions

The following terms shall apply in relation to the Goods and Services provided to the Authority in accordance with this Agreement

38.1 PRICING – GENERAL

38.1.1 The Goods and Services are conditional on the Authority entering into a Direct Debit agreement for the payment of all sums due under the Agreement.

38.1.2 "**Monthly Subscription Charges**" are the monthly subscription fees payable in accordance with Schedule 6 and are based on a full month. Monthly Subscription Charges will be effective from the Actual Services Commencement Date and will be pro-rata according to the days in which Services are provided in the calendar month multiplied by 1/31 of the Monthly Subscription Charge.

38.1.3 The Supplier reserves the right to apply an annual price adjustment to the Monthly Subscription Charges, by a sum not to exceed the greater of:

(i) the prevailing headline rate of inflation, as recorded at January each calendar year, by the Office for National Statistics (Office for National Statistics) for the Consumer Price Index including owner occupiers' housing costs (CPIH) for All Items (2015=100), or

(ii) 5%.

38.1.4 The Supplier will notify the Authority by the 28th February, of the annual adjustment to be applied for that year, with the adjusted charges and fees being applied from the 1st April of that year.

38.2 PAYMENT PROFILE AND CREDIT TERMS

38.2.1 **"Monthly Subscription Charges"** shall be invoiced monthly in advance.

38.2.2 "**Transaction Charges**" are the monthly transaction fees calculated in accordance with the Commercial Schedule and shall be invoiced monthly in arrears.

38.2.3 "**Implementation Costs**" are the implementation and one-off hardware fees calculated in accordance with the Commercial Schedule and shall be invoiced on or within 30 days of the Commencement Date.

38.2.4 "**Monthly Hardware and Installation Charges**" are the monthly fees for hardware provided to the Authority on a monthly rental in accordance with the Commercial Schedule and shall be invoiced monthly in advance.

38.2.5 **"Additional Hardware and Installation Charges**" shown in the Commercial Schedule as "One-off" charges shall be invoiced on the Agreement Date or order date if ordered during the Term of the Agreement

38.2.6 "**Contract Buy Out**" is a monthly fee for contract buy out costs (if any) calculated in accordance with the Commercial Schedule and shall be invoiced monthly in advance.

38.2.7 For the purposes of this Agreement, the period for payment of an invoice in Clause 9.6 of Schedule 2 shall be 15 days from the Authority's receipt of an invoice instead of 30 days.

38.3 FAIR USAGE PROVISIONS IN RESPECT OF PAID USERS:

38.3.1 Access to the Services is licensed on the basis of the number of "PAID USERS" set out in the Commercial Schedule. PAID USERS can be less than the number of "NAMED USERS" in order to make allowance for part time staff, temporary staff and locums etc. There is no system restriction on the number of NAMED USERS you can have configured on the system, so you can have many more NAMED USERS than PAID USERS.

38.3.2 Each NAMED USER can log onto devices that are not the handsets in the practice, such as a personal mobile or a softphone on a laptop in order to make or receive calls.

38.3.3 The Supplier regularly monitors the usage of the Services to ensure that the number of PAID USERS is a fair reflection of the actual usage of the Services. The primary metric in assessing the level of usage is concurrent usage during a month.

38.3.4 The Supplier will inform the Authority if it considers that the fair usage of the Services exceeds the PAID USERS currently subscribed for in order to mutually agree an appropriate increase in the number of PAID USERS in writing. The Supplier reserves the right to restrict usage of the system if fair usage levels are exceeded and an increase in PAID USERS is not agreed providing the supplier's request is reasonable.

38.4 FAIR USAGE PROVISIONS FOR INCLUSIVE CALL COST BUNDLE:

38.4.1 The fair usage threshold is set at 10,000 minutes per PAID USER per month. The total minutes will be pooled across the Service.

38.5 MONTHLY TRANSACTION CHARGES FOR CALL AND SMS BILLING

38.5.1 Calls to 084 and 087 Premium Rate numbers and international calls are permissible and chargeable at the rates set out in the Commercial Schedule. These numbers can be blocked on your service on special request via Supplier's Service Desk - https://support.x-onweb.com

38.5.2 Calls to 09 Premium Rate numbers are disabled by default. Should the Authority wish to enable these numbers, it will be charged at the then current published Supplier rate card from the Supplier's web site.

38.5.3 A minimum call charge of 1p applies for all chargeable call types, thereafter per second billing applies.

38.5.4 Transaction Charges detailed in the Commercial Schedule are based on the rates charged by network operators and are thus subject to change during the term of the Agreement, such third party rate changes being outside of the Supplier's control. The Supplier will notify the Authority's billing contact by email prior to the revised rates taking effect providing evidence of the third party increase that is outside the supplier's control.

38.5.5 All rate changes are applied from the first day of the calendar month.

38.5.6 There is no rollover allowed of any "unused" Inclusive Call allowance (being the fair usage threshold multiplied by the number of PAID USERS in a month) to any subsequent billing period.

38.5.7 Further clarification on SMS billing is available at https://help.x-onweb.com/en/articles/10517-sms-charges

38.6 HARDWARE RELATED PROVISIONS

38.6.1 The Supplier reserves the right to substitute the hardware detailed in the Commercial Schedule with compatible models of an equivalent or superior type in the event of issues arising in the availability of the hardware.

38.6.2 Hardware provided under the Implementation Cost whether paid as part of the Implementation Cost or Monthly Hardware and Installation Charges, constitute part of the Services and are not Goods. They remain the property of the Supplier and must be returned within 30 days of termination of the Agreement. Failure to return equipment will render the Authority liable for payment of the equipment at an agreed market value at the date of the termination.

38.6.3 Additional Items of Hardware purchased as a "One Off" are Goods and become the property of the Authority on payment. In respect of these Goods, the Supplier warrants to the Authority that these Goods shall be free of defects in workmanship and materials for the period of 24 months after dispatch to the Authority. If such a defect arises within the warranty period in respect of the Goods of one or more of its component parts, the Supplier will either repair or replace the defective Goods or component.

38.6.4 Equipment that fails such that there is not a critical loss of Service as defined by the KPIs may be replaced by Supplier via a next day courier service. This will typically be phones, handsets, headsets, connecting leads or mobile devices. The Authority should report such failures via email, phone or web form in the normal way. Once the need for replacement equipment is diagnosed, a replacement will be dispatched to the Authority within 8 working hours.

38.6.5 The Authority will for equipment under warranty be emailed an equipment return label (including postage) to return the faulty equipment to Supplier.

38.6.6 The warranty given by Supplier above shall not apply and any replacement equipment provided by the Supplier will be charged to the Authority in line with Supplier's then current list price if:

(i) The repair or replacement is required because of an accident, neglect or misuse of the equipment by the Authority outside of the manufacturer's recommended operating conditions

(ii) Interference with the equipment by persons other than the Supplier Personnel; or

(iii) supplies from sources which have not been authorised by Supplier are used in the equipment

38.6.7 Supplier provides no warranty and makes no guarantees for suitability of third party telecommunications devices and services for use with these Services that are purchased outside this Agreement.

Schedule 2

General Terms and Conditions

Contents

1. Supply of Goods and the provision of Services
2. Delivery of the Goods and passing of risk in and ownership of the Goods
3. Inspection, rejection, return and recall of the Goods
4. Operation of the Services
5. Staff and Lifescience Industry Accredited Credentialing Register
6. Business continuity
7. The Authority's obligations
8. Contract management
9. Price and payment
10. Warranties
11. Intellectual property
12. Indemnity
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16. Consequences of expiry or early termination of this Contract
17. Staff information and the application of TUPE at the end of the Contract
18. Packaging, identification, end of use and coding requirements
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23. Force majeure
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25. Conflicts of interest and the prevention of fraud
26. Equality and human rights
27. Notice
28. Assignment, novation and Subcontracting
29. Prohibited Acts
30. General
31. Application of the Key Provisions

1 Supply of Goods and the provision of Services

1.1 The Supplier shall supply the Goods ordered by the Authority and provide the Services under this Contract:

1.1.1 promptly and in any event within any time limits as may be set out in this Contract;

1.1.2 in accordance with all other provisions of this Contract;

1.1.3 using reasonable skill and care;

1.1.4 in accordance with any quality assurance standards as set out in the Key Provisions and/or the Specification and Participation Documents;

1.1.5 in accordance with the Law and with Guidance;

1.1.6 in accordance with Good Industry Practice;

1.1.7 in accordance with the Policies; and

1.1.8 in a professional and courteous manner.

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

1.2 The Supplier shall comply with the Implementation Requirements (if any) in accordance with any timescales as may be set out in the Specification and Participation Documents. Without limitation to the foregoing provisions of this Clause 1.2 of this Schedule 2, the Supplier shall, if specified in the Key Provisions, carry out all implementation activities fully in accordance with the Implementation Plan. If the Implementation Plan is an outline plan, the Supplier shall, as part of implementation, develop the outline plan into a full plan and agree this with the Authority. Once this is agreed, the Supplier shall comply with the full Implementation Plan.

1.3 The Supplier shall commence:

1.3.1 supply of the Goods on the Supply of Goods Commencement Date; and

1.3.2 delivery of the Services on the Services Commencement Date.

1.4 The Supplier shall comply fully with its obligations set out in the Specification and Participation Documents (to include, without limitation, the KPIs and all obligations in relation to the quality, performance characteristics, supply, delivery, installation, commissioning, maintenance and training in relation to the Goods and their use).

1.5 Unless otherwise agreed by the Parties in writing, the Goods shall be new, consistent with any sample, and shall comply with any applicable specification set out in this Contract (to include, without limitation, the provisions of the Authority's requirements set out in the Specification and Participation Documents and the Supplier's response to such requirements) and any applicable manufacturers' specifications.

1.6 The Supplier shall ensure that all relevant consents, authorisations, licences and accreditations:

1.6.1 required to supply the Goods are in place prior to the delivery of any Goods to the Authority; and

1.6.2 required to provide the Services are in place at the Actual Services Commencement Date and are maintained throughout the Term.

1.7 If there are any incidents that in any way relate to or involve the use of the Goods by the Authority, or the use of the Services by the Authority, the Supplier shall cooperate fully with the Authority in relation to the Authority's application of the Policies on reporting and responding to all incidents, including serious incidents requiring investigation, and shall respond promptly to any reasonable and proportionate queries, questions and/or requests for information that the Authority may have in this context in relation to the Goods or Services.

1.8 If there are any quality, performance and/or safety related reports, notices, alerts or other communications issued by the Supplier or any regulatory or other body in relation to the Goods or the Services, the Supplier shall promptly provide the Authority with a copy of any such reports, notices, alerts or other communications.

1.9 Upon receipt of any such reports, notices, alerts or other communications pursuant to Clause 1.8 of this Schedule 2, the Authority shall be entitled to request further information from the Supplier and/or a meeting with the Supplier, and the Supplier shall cooperate fully with any such request.

2 Delivery of the Goods and passing of risk and ownership in the Goods

2.1 The Supplier shall deliver the Goods in accordance with any delivery timescales, delivery dates and delivery instructions (to include, without limitation, as to delivery location and delivery times) set out in the Specification and Participation Documents, a Consignment Request, or a Purchase Order or as otherwise agreed with the Authority in writing.

2.2 Delivery shall be completed when the Goods have been unloaded at the location specified by the Authority and such delivery has been received by a duly authorised agent, employee or location representative of the Authority. The Authority shall procure that such duly authorised agent, employee or location representative of the Authority is at the delivery location at the agreed delivery date and times in order to accept such delivery. Any arrangement by which the Goods are collected by the Authority in return for a discount on the Contract Price shall be agreed by the Parties in writing (where due to an emergency such arrangements cannot be committed to writing prior to collection, the Parties shall confirm such arrangements in writing as soon as possible following collection). Where the Authority collects the Goods, collection is deemed delivery for the purposes of the Contract.

2.3 The Supplier shall ensure that a delivery note shall accompany each delivery of the Goods. Such delivery note shall contain the information specified in the Specification and Participation Documents or as otherwise agreed with the Authority in writing. Where such information requirements as to the content of delivery notes are not specified or separately agreed, such delivery notes shall, as a minimum, contain the Authority's order number, the name and address of the Authority, a description and quantity of the Goods, and shall show separately any extra agreed charges for containers and/or any other item not included in the Contract Price or, where no charge is made, whether the containers are required to be returned.

2.4 Part deliveries and/or deliveries outside of the agreed delivery times/dates may be refused unless the Authority has previously agreed in writing to accept such deliveries. Where delivery of the Goods is refused by the Authority in accordance with this Clause 2.4 of this Schedule 2, the Supplier shall be responsible for all risks, costs and expenses associated with the re-delivery of the Goods in accordance with the agreed delivery times/dates. Where the Authority accepts delivery more than five (5) days before the agreed delivery date, the Authority shall be entitled to charge the Supplier for the costs of insurance and storage of the Goods until the agreed date for delivery.

2.5 Unless otherwise set out in the Specification and Participation Documents or agreed with the Authority in writing, the Supplier shall be responsible for carriage, insurance, transport, all relevant licences, all related costs, and all other costs associated with the delivery of the Goods to the delivery location and unloading of the Goods at that location. Without limitation to the foregoing provision of this Clause 2.5 of this Schedule 2, unless otherwise stated in the Specification and Participation Documents or agreed with the Authority in writing, the Supplier shall be responsible for obtaining all export and import licences for the Goods and shall be responsible for any delays to the delivery time due to such licences not being available when required. In the case of any Goods supplied from outside the United Kingdom, the Supplier shall ensure that accurate information is provided to the Authority as to the country of origin of the Goods and shall be liable to the Authority for any extra duties or taxes for which the Authority may be accountable should the country of origin prove to be different from that set out in the Specification and Participation Documents.

2.6 All third party carriers engaged to deliver the Goods shall at no time be an agent of the Authority and accordingly the Supplier shall be liable to the Authority for the acts and omissions of all third party carriers engaged to deliver the Goods to the Authority.

2.7 Risk in the Goods shall pass to the Authority when the Goods are delivered as specified in this Contract or, in the case of Goods which require installation by the Supplier, when that installation process is complete.

2.8 Ownership of the Goods shall pass to the Authority on the earlier of:

2.8.1 full payment for such Goods; or

2.8.2 where the goods are consumables or are non-recoverable (e.g. used in clinical procedures), at the point such Goods are taken into use. For the avoidance of doubt, where ownership passes in accordance with this Clause 2.8.2 of this Schedule 2, then the full Contract Price for such Goods shall be recoverable by the Supplier from the Authority as a debt if there is non-payment of a valid undisputed invoice issued by the Supplier to the Authority in relation to such Goods.

2.9 All tools, equipment and materials of the Supplier required in the performance of the Supplier's obligations under this Contract shall be and remain at the sole risk of the Supplier, whether or not they are situated at a delivery location.

3 Inspection, rejection, return and recall of the Goods

3.1 As relevant and proportionate to the Goods in question and subject to reasonable written notice, the Supplier shall permit any person authorised by the Authority, to inspect work being undertaken in relation to the Goods and/or the storage facilities used in the storage of the Goods at all reasonable times at the Supplier's premises or at the premises of any Sub-contractor or agent of the Supplier in order to confirm that the Goods are being manufactured and/or stored in accordance with Good Industry Practice and in compliance the requirements of this Contract and/or that stock holding and quality assurance processes are in accordance with the requirements of this Contract.

3.2 Without prejudice to the provisions of Clause 3.6 of this Schedule 2 and subject to Clause 3.7 of this Schedule 2, the Authority shall visually inspect the Goods within a reasonable time following delivery (or such other period as may be set out in the Key Provisions, if any) and may by written notice reject any Goods found to be damaged or otherwise not in accordance with the requirements of this Contract ("**Rejected Goods**"). The whole of any delivery may be rejected if a reasonable sample of the Goods taken indiscriminately from that delivery is found not to conform in all material respects to the requirements of the Contract.

3.3 Without prejudice to the provisions of Clause 3.5 of this Schedule 2, upon the rejection of any Goods in accordance with Clauses 3.2 and/or 3.6 of this Schedule 2, the Supplier shall at the Authority's written request:

3.3.1 collect the Rejected Goods at the Supplier's risk and expense within ten (10) Business Days of issue of written notice from the Authority rejecting the Goods; and

3.3.2 without extra charge, promptly (and in any event within twenty (20) Business Days or such other time agreed by the Parties in writing acting reasonably) supply replacements for the Rejected Goods to the Authority subject to the Authority not cancelling its purchase obligations in accordance with Clause 3.5 of this Schedule 2.

If the Supplier requests and the Authority accepts that the Rejected Goods should be disposed of by the Authority rather than returned to the Supplier, the Authority reserves the right to charge the Supplier for the costs associated with the disposal of the Rejected Goods and the Supplier shall promptly pay any such costs.

3.4 Risk and title in respect of any Rejected Goods shall pass to the Supplier on the earlier of: (a) collection by the Supplier in accordance with Clause 3.3 of this Schedule 2; or (b) immediately following the expiry of ten (10) Business Days from the Authority issuing written notification rejecting the Goods. If Rejected Goods are not collected within ten (10) Business Days of the Authority issuing written notification rejecting the Goods, the Authority may return the Rejected Goods at the Supplier's risk and expense and charge the Supplier for the cost of storage from the expiry of ten (10) Business Days from the date of notification of rejection.

3.5 Where the Authority rejects any Goods in accordance with Clauses 3.2 and/or 3.6 of this Schedule 2 and the Authority no longer requires replacement Goods, the Authority may by written notice cancel its purchase obligations in relation to such quantity of Rejected Goods. Should the Authority have paid for such Rejected Goods the Supplier shall refund such payment to the Authority within thirty (30) days of the Authority cancelling such purchase obligations and informing the Supplier that the Authority does not require replacements for such Rejected Goods.

3.6 Without prejudice to any other provisions of this Contract or any other warranties or guarantees applicable to the Goods supplied and subject to Clause 3.7 of this Schedule 2, if at any time following the date of the delivery of any Goods, all or any part of such Goods are found to be defective or otherwise not in accordance with the requirements of this Contract ("**Defective Goods**"), the Supplier shall, at the Authority's discretion:

3.6.1 upon written request and without charge, promptly (and in any event within twenty (20) Business Days or such other time agreed by the Parties in writing acting reasonably) remedy the deficiency by repairing such Defective Goods; or

3.6.2 upon written notice of rejection from the Authority, treat such Defective Goods as Rejected Goods in accordance with Clauses 3.2 to 3.5 of this Schedule 2.

3.7 The Supplier shall be relieved of its liabilities under Clauses 3.2 to 3.5 (inclusive) and/or Clause 3.6 of this Schedule 2 to the extent only that the Goods are damaged, there are defects in the Goods and/or the Goods fail to comply with the requirements of this Contract due, in each case, to any acts or omissions of the Authority.

3.8 The Authority's rights and remedies under Clause 3.6 of this Schedule 2 shall cease within a reasonable period of time from the date on which the Authority discovers or might reasonably be expected to discover that the Goods are Defective Goods or within such other period as may be set out in the Key Provisions, if any. For the avoidance of doubt, Goods not used before their expiry date shall in no event be considered Defective Goods following the date of expiry provided that at the point such Goods were delivered to the Authority they met any shelf life requirements set out in the Specification and Participation Documents.

3.9 Where the Supplier is required by Law, Guidance, and/or Good Industry Practice to order a product recall ("**Requirement to Recall**") in respect of the Goods, the Supplier shall:

3.9.1 promptly (taking into consideration the potential impact of the continued use of the Goods on patients, service users and the Authority as well as compliance by the Supplier with any regulatory requirements) notify the Authority in writing of the recall together with the circumstances giving rise to the recall;

3.9.2 from the date of the Requirement to Recall treat the Goods the subject of such recall as Defective Goods in accordance with Clause 3.6 of this Schedule 2;

3.9.3 consult with the Authority as to the most efficient method of executing the recall of the Goods and use its reasonable endeavours to minimise the impact on the Authority of the recall; and

3.9.4 indemnify and keep the Authority indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings suffered or incurred by the Authority as a result of such Requirement to Recall.

4 Operation of the Services

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

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

4.3 Subject to Clause 4.4 of this Schedule 2, any access granted to the Supplier and its Staff under Clause 4.2 of this Schedule 2 shall be non-exclusive and revocable. Such access shall not be deemed to create any greater rights or interest than so granted (to include, without limitation, any relationship of landlord and tenant) in the Premises and Locations. The Supplier warrants that it shall carry out all such reasonable further acts to give effect to this Clause 4.3 of this Schedule 2.

4.4 Where, in order to provide the Services, the Supplier requires any greater rights to use or occupy any specific Premises and Locations over and above such reasonable access rights granted in accordance with Clause 4.2 and Clause 4.3 of this Schedule 2, such further rights shall be limited to any rights granted to the Supplier by the Authority in accordance with any licence and/or lease entered into by the Supplier in accordance with the Key Provisions.

4.5 Where it is provided for by a specific mechanism set out in the Specification and Participation Documents, the Authority may increase, reduce or otherwise vary the Premises and Locations in accordance with such mechanism subject to the provisions of any licence or lease entered into by the Parties as referred to at Clause 4.4 of this Schedule 2. Where there is no such specific mechanism set out in the Specification and Participation Documents, any variations to the Premises and Locations where the Services are to be provided shall be agreed by the Parties in accordance with Clause 21 of this Schedule 2. If agreement cannot be reached the matter shall be referred to, and resolved in accordance with, the Dispute Resolution Procedure.

4.6 Unless otherwise set out in the Specification and Participation Documents or otherwise agreed by the Parties in writing, any equipment or other items provided by the Authority for use by the Supplier:

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

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

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

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

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

4.8 The Supplier shall notify the Authority forthwith in writing:

4.8.1 of any pending inspection of the Services, or any part of them, by a regulatory body immediately upon the Supplier becoming aware of such inspection; and

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

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

4.10 Upon receipt of notice pursuant to Clause 4.8 of this Schedule 2 or any report or communication pursuant to Clause 4.9 of this Schedule 2, the Authority shall be entitled to request further information from the Supplier and/or a meeting with the Supplier, and the Supplier shall cooperate fully with any such request.

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

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

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

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

4.15 Should the Authority be of the view, acting reasonably, that the Supplier can no longer provide the Services, then without prejudice to the Authority's rights and remedies under this Contract, the Authority shall be entitled to exercise its Step In Rights if the Key Provisions refer to the Authority having such rights under this Contract.

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

5 Staff and Lifescience Industry Accredited Credentialing Register

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

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

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

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

5.5 The Supplier shall:

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

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

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

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

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

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

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

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

5.7.1 are questioned concerning their Convictions; and

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

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

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

5.9.1 the person has disclosed any Convictions upon being questioned about their Convictions in accordance with Clause 5.7.1 of this Schedule 2;

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

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

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

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

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

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

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

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

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

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

6 Business continuity

6.1 The Supplier shall use reasonable endeavours to ensure its Business Continuity Plan operates effectively alongside the Authority's business continuity plan where relevant to the supply of the Goods and the provision of the Services. The Supplier shall also ensure that its Business Continuity Plan complies on an ongoing basis with any specific business continuity requirements, as may be set out in the Specification and Participation Documents.

6.2 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:

6.2.1 the criticality of this Contract to the Authority; and

6.2.2 the size and scope of the Supplier's business operations, regarding continuity of the supply of the Goods and the provision of the Services during and following a Business Continuity Event.

6.3 The Supplier shall test its Business Continuity Plan at reasonable intervals, and in any event no less than once every twelve (12) months or such other period as may be agreed between the Parties taking into account the criticality of this Contract to the Authority and the size and scope of the Supplier's business operations. The Supplier shall promptly provide to the Authority, at the Authority's written request, copies of its Business Continuity Plan, reasonable and proportionate documentary evidence that the Supplier tests its Business Continuity Plan in accordance with the requirements of this Clause 6.3 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.

6.4 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 a Business Continuity Plan it will explain the reasons for not doing so to the Authority.

6.5 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.

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

7 The Authority's obligations

7.1 Subject to the Supplier supplying the Goods and providing the Services in accordance with this Contract, the Authority will pay the Supplier for the Goods and/or Services in accordance with Clause 9 of this Schedule 2.

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

7.3 The Authority shall comply with the Authority's Obligations, as may be referred to in the Key Provisions.

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

8 Contract management

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

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

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

8.3.1 details of the performance of the Supplier when assessed in accordance with the KPIs since the last such performance report;

8.3.2 details of any complaints by the Authority regarding the supply of Goods or provision of Services and any complaints from or on behalf of patients or other service users, their nature and the way in which the Supplier has responded to such complaints since the last review meeting written report;

8.3.3 the information specified in the Specification and Participation Documents;

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 Participation Documents, 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 Procedure.

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

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

8.6.1 storing and analysing the management information and producing statistics; and

8.6.2 sharing the management information or any statistics produced using the management information with any other Contracting Authority.

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

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

9 Price and payment

9.1 The Contract Price shall be calculated as set out in the Commercial Schedule.

9.2 Unless otherwise stated in the Commercial Schedule the Contract Price:

9.2.1 shall remain fixed during the Term; and

9.2.2 in respect of the Goods, is the entire price payable by the Authority to the Supplier in respect of the provision of the Goods and includes, without limitation:

(i) packaging, packing materials, addressing, labelling, loading, delivery to and unloading at the delivery location, the costs of any import or export licences, all appropriate taxes (excluding VAT), duties and tariffs, any expenses arising from import and export administration, any installation costs and associated works, the costs of all associated documentation and information supplied or made accessible to the Authority in any media, and any training in relation to the use, storage, handling or operation of the Goods;

(ii) any royalties, licence fees or similar expenses in respect of the making, use or exercise by the Supplier of any Intellectual Property Rights for the purposes of performing this Contract, and any licence rights granted to the Authority in accordance with Clause 11 of this Schedule 2; and

(iii) costs and expenses in relation to supplies and materials used by the Supplier or any third party in the manufacture of the Goods, and any other costs incurred by the Supplier in association with the manufacture, supply or installation of the Goods; and

9.2.3 in respect of the Services:

(i) shall be payable from the Actual Services Commencement Date; and

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

9.3 Unless stated otherwise in the Commercial Schedule:

9.3.1 where the Key Provisions confirm that the payment profile for this Contract is monthly in arrears, the Supplier shall invoice the Authority, within fourteen (14) days of the end of each calendar month, the Contract Price in respect of the Goods supplied or the Services provided in compliance with this Contract in the preceding calendar month;

9.3.2 where Consigned Goods are to be provided by the Supplier in accordance with the Key Provisions, the Supplier shall invoice the Authority in relation to such Consigned Goods in accordance with the relevant Key Provision applicable to such Consigned Goods; or

9.3.3 where Clauses 9.3.1 or 9.3.2 of this Schedule 2 do not apply, the Supplier shall invoice the Authority for the Goods or Services at any time following completion of the supply of the Goods or the provision of the Services in compliance with this Contract.

9.3.4 Each invoice shall contain such information and be addressed to such individuals as the Authority may inform the Supplier from time to time. Each invoice may be submitted electronically by the Supplier if it complies with the standard on electronic invoicing as set out in the European standard and any of the syntaxes published in Commission Implementing Decision (EU) 2017/2870.

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

9.5 Where the Contract Price is or may become subject to any pricing requirements of any voluntary and/or statutory pricing regulation schemes, the Parties shall comply with such pricing requirements as required by Law from time to time and specifically as required by the statutory pricing regulation scheme (and any future regulation) or to the extent applicable to the Supplier from time to time as an industry member of a voluntary scheme, including any reductions in price by reason of the application of such schemes.

9.6 The Authority shall verify and pay each valid and undisputed invoice received in accordance with Clause 9.3 of this Schedule 2 within thirty (30) days of receipt of such invoice at the latest. However, the Authority shall use its reasonable endeavours to pay such undisputed invoices sooner in accordance with any applicable government prompt payment targets. If there is undue delay in verifying the invoice in accordance with this Clause 9.6 of this Schedule 2, the invoice shall be regarded as valid and undisputed for the purposes of this Clause 9.6 of this Schedule 2 after a reasonable time has passed.

9.7 Where the Authority raises a query with respect to an invoice the Parties shall liaise with each other and agree a resolution to such query within thirty (30) days of the query being raised. If the Parties are unable to agree a resolution within thirty (30) days the query shall be referred to dispute resolution in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, the Authority shall not be in breach of any of any of its payment obligations under this Contract in relation to any queried or disputed invoice sums unless the process referred to in this Clause 9.7 of this Schedule 2 has been followed and it has been determined that the queried or disputed invoice amount is properly due to the Supplier and the Authority has then failed to pay such sum within a reasonable period following such determination.

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

9.9 The Authority reserves the right to set-off:

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

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

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

9.11 If a Party fails to pay any undisputed sum properly due to the other Party under this Contract, the Party due such sum shall have the right to charge interest on the overdue amount at the rate of two percent (2%) above the Bank of England base rate accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgement. The Parties agree that this is a substantial remedy for late payment of debts under this Contract.

10 Warranties

10.1 The Supplier warrants and undertakes that:

10.1.1 the Goods shall be suitable for the purposes and/or treatments as referred to in the Specification and Participation Documents, be of satisfactory quality, fit for their intended purpose and shall comply with the standards and requirements set out in this Contract;

10.1.2 unless otherwise confirmed by the Authority in writing (to include, without limitation, as part of the Specification and Participation Documents), it will ensure that the Goods and any products purchased by the Supplier partially or wholly for the purpose of providing the Services comply with requirements five (5) to eight (8), as set out in Annex 1 of the Cabinet Office Procurement Policy Note – Implementing Article 6 of the Energy Efficiency Directive (Action Note 07/14 3rd June 2014), to the extent such requirements apply to the relevant Goods;

10.1.3 it shall ensure that prior to actual delivery to the Authority the Goods are manufactured, stored and/or distributed using reasonable skill and care and in accordance with Good Industry Practice;

10.1.4 without prejudice to the generality of the warranty at Clause 10.1.3 of this Schedule 2, it shall ensure that, the Goods are manufactured, stored and/or distributed in accordance with any Law, Guidance and/or Good Industry Practice relevant to the Goods, and in accordance with any specific instructions of the manufacturer of the Goods;

10.1.5 it shall ensure that all facilities used in the manufacture, storage and distribution of the Goods are kept in a state and condition necessary to enable the Supplier to comply with its obligations in accordance with this Contract;

10.1.6 it has, or the manufacturer of the Goods has, manufacturing and warehousing capacity sufficient to comply with its obligations under this Contract;

10.1.7 it will ensure sufficient stock levels to comply with its obligations under this Contract;

10.1.8 it shall ensure that the transport and delivery of the Goods mean that they are delivered in good and useable condition;

10.1.9 where the Goods are required to be stored at a certain temperature, it shall provide, or shall procure the provision of, complete and accurate temperature records for each delivery of the Goods during the period of transport and/or storage of the Goods from the point of manufacture to the point of delivery to the Authority;

10.1.10 where there is any instruction information, including without limitation patient information leaflets, that accompany the Goods, it shall provide a sufficient number of copies to the Authority and provide updated copies should the instruction information change at any time during the Term;

10.1.11 all Goods delivered to the Authority shall comply with any shelf life requirements set out in the Specification and Participation Documents;

10.1.12 it shall not make any significant changes to the Goods without the prior written consent of the Authority, such consent not to be unreasonably withheld or delayed;

10.1.13 any equipment it uses in the manufacture, delivery, or installation of the Goods shall comply with all relevant Law, Guidance and Good Industry Practice, be fit for its intended purpose and maintained fully in accordance with the manufacturer's specification;

10.1.14 it has and shall as relevant maintain all rights, consents, authorisations, licences and accreditations required to supply the Goods;

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

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

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

10.1.18 it shall not make any significant changes to its system of quality controls and processes in relation to the Goods and/or Services without notifying the Authority in writing at least twenty one (21) days in advance of such change (such notice to include the details of the consequences which follow such change being implemented);

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

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

10.1.21 it will comply with all Law, Guidance, Good Industry Practice, Policies and the Supplier Code of Conduct in so far as is relevant to the supply of the Goods and/or the provision of the Services;

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

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

10.1.24 without limitation to the generality of Clause 10.1.21 of this Schedule 2, it shall comply with all health and safety processes, requirements safeguards, controls, and training obligations in accordance with its own operational procedures, Law, Guidance, Policies, Good Industry Practice, the requirements of the Specification and Participation Documents and any notices or instructions given to the Supplier by the Authority and/or any competent body, as relevant to the supply of the Goods, the provision of the Services and the Supplier’s access to the Premises and Locations in accordance with this Contract;

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

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

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

10.1.28 it shall comply with its Net Zero and Social Value Commitments;

10.1.29 it shall provide to the Authority any information that the Authority may request as evidence of the Supplier's compliance with Clause 10.1.28 of this Schedule 2;

10.1.30 it will fully and promptly respond to all requests for information and/or requests for answers to questions regarding this Contract, the Goods, 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);

10.1.31 all information included within the Supplier's responses to any documents issued by the Authority as part of the procurement relating to the award of this Contract (to include, without limitation, as referred to in the Specification and Participation Documents and Commercial Schedule) and all accompanying materials is accurate;

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

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

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

10.1.35 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;

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

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

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

10.2 Where the sale, manufacture, assembly, importation, storage, distribution, supply, delivery, or installation of the Goods under this Contract relates to medical devices and/or medicinal products (both as defined under any relevant Law and Guidance), the Supplier warrants and undertakes that it will comply with any such Law and Guidance and with Good Industry Practice relating to such activities in relation to such medical devices and/or medicinal products. In particular, but without limitation, the Supplier warrants that:

10.2.1 at the point such Goods are supplied to the Authority, all such Goods which are medical devices shall have valid CE marking or UKCA marking as required by Law and Guidance and that all relevant marking, authorisation, registration, approval and documentation requirements as required under Law and Guidance relating to the sale, manufacture, assembly, importation, storage, distribution, supply, delivery, or installation of such Goods shall have been complied with. Without limitation to the foregoing provisions of Clause 10.2 of this Schedule 2, the Supplier shall, upon written request from the Authority, make available to the Authority evidence of the grant of such valid CE marking or UKCA marking, and evidence of any other authorisations, registrations, approvals or documentation required;

10.2.2 at the point such Goods are supplied to the Authority, all such Goods which are medicinal products shall have a valid marketing authorisation as required by Law, Guidance and Good Industry Practice in order to supply the Goods to the Authority and that all relevant authorisation, labelling, registration, approval and documentation requirements as required under Law and Guidance relating to the sale, manufacture, assembly, importation, storage, distribution, supply or delivery of such Goods shall have been complied with. Without limitation to the foregoing provisions of Clause 10.2 of this Schedule 2, the Supplier shall, upon written request from the Authority, make available to the Authority evidence of the grant of any required valid marketing authorisation, and evidence of any other authorisations, labelling, registrations, approvals or documentation required; and

10.2.3 it shall maintain, and no later than any due date when it would otherwise expire, obtain a renewal of, any authorisation, registration or approval (including without limitation CE marking, UKCA marking and/or marketing authorisation) required in relation to the Goods in accordance with Law and Guidance until such time as the Goods expire or the Authority notifies the Supplier in writing that it has used or disposed of all units of the Goods supplied under this Contract.

10.3 If the Supplier is in breach of Clause 10.2 of this Schedule 2, then, without prejudice to any other right or remedy of the Authority, the Authority shall be entitled to reject and/or return the Goods and the Supplier shall, subject to Clause 13.2 of this Schedule 2, indemnify and keep the Authority indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings suffered or incurred by the Authority as a result of such breach.

10.4 The Supplier agrees to use reasonable endeavours to assign to the Authority upon request the benefit of any warranty, guarantee or similar right which it has against any third party manufacturer or supplier of the Goods in full or part.

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

10.6 Without prejudice to the generality of Clause 10.5 of this Schedule 2, the Supplier acknowledges that a failure by the Supplier to submit accurate invoices and other information on time to the Authority may result in the commissioner of health services, or other entity responsible for reimbursing costs to the Authority, delaying or failing to make relevant payments to the Authority. Accordingly, the Supplier warrants that it shall submit accurate invoices and other information on time to the Authority.

10.7 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.

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

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

10.8.2 promptly provide to the Authority:

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

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

10.9 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.

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

11 Intellectual property

11.1 Unless specified otherwise in the Specification and Participation Documents or elsewhere in this Contract, the Supplier hereby grants to the Authority, for the life of the use of Goods by the Authority, an irrevocable, royalty-free, non-exclusive licence (with the right to sub-license to any supplier or other third party contracted by, engaged by and/or collaborating with the Authority) of any Intellectual Property Rights required for the purposes of receiving and using, and to the extent necessary to receive and use, the Goods (to include any associated technical or other documentation and information supplied or made accessible to the Authority in any media) in accordance with this Contract.

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

11.3 Unless specified otherwise in the Key Provisions and/or in the Specification and Participation Documents or elsewhere in this Contract, the Supplier hereby grants to the Authority, for the life of the use by the Authority of any deliverables, material or any other output supplied to the Authority in any format as part of the Services, an irrevocable, royalty-free, non-exclusive licence (with the right to sub-license to any supplier or other third party contracted by, engaged by and/or collaborating with the Authority) to use, modify, adapt or enhance such items in the course of the Authority's normal business operations. For the avoidance of doubt, unless specified otherwise in the Key Provisions and/or in the Specification and Participation Documents and/or elsewhere in this Contract, the Authority shall have no rights to commercially exploit (e.g. by selling to third parties) any deliverables, matter or any other output supplied to the Authority in any format as part of the Services.

12 Indemnity

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

12.1.1 any injury or allegation of injury to any person, including injury resulting in death;

12.1.2 any loss of or damage to property (whether real or personal);

12.1.3 any breach of Clause 10.1.20 and/or Clause 11 of this Schedule 2; and/or

12.1.4 any failure by the Supplier to commence the delivery of the Services by the Services Commencement Date;

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

12.2 Liability under Clauses 12.1.1, 12.1.3 and 17.13 of this Schedule 2 and Clause 2.6 of Schedule 3 shall be unlimited. Liability under Clauses 3.9.4, 10.3, 12.1.2 and 12.1.4 of this Schedule 2 shall be subject to the limitation of liability set out in Clause 13 of this Schedule 2.

12.3 In relation to all third party claims against the Authority, which are the subject of any indemnity given by the Supplier under this Contract, the Authority shall use its reasonable endeavours, upon a written request from the Supplier, to transfer the conduct of such claims to the Supplier unless restricted from doing so. Such restrictions may include, without limitation, any restrictions:

12.3.1 relating to any legal, regulatory, governance, information governance, or confidentiality obligations on the Authority; and/or

12.3.2 relating to the Authority's membership of any indemnity and/or risk pooling arrangements.

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

13 Limitation of liability

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

13.1.1 for death or personal injury resulting from its negligence;

13.1.2 for fraud or fraudulent misrepresentation; or

13.1.3 in any other circumstances where liability may not be limited or excluded under any applicable law.

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

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

13.3.1 extra costs incurred purchasing replacement or alternative goods and/or services;

13.3.2 costs incurred in relation to any product recall;

13.3.3 costs associated with advising, screening, testing, treating, retreating or otherwise providing healthcare to patients;

13.3.4 the costs of extra management time; and/or

13.3.5 loss of income due to an inability to provide health care services,i

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

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

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

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

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

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

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

13.6 Clause 13 of this Schedule 2 shall survive the expiry of or earlier termination of this Contract for any reason.

14 Insurance

14.1 Subject to Clauses 14.2 and 14.3 of this Schedule 2 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, product liability and professional indemnity in accordance with Good Industry Practice with the minimum cover per claim of the greater of five million pounds (£5,000,000) or any sum as required by Law unless otherwise agreed with the Authority in writing. These requirements shall not apply to the extent that the Supplier is a member and maintains membership of each of the indemnity schemes run by the NHS Litigation Authority.

14.2 Without limitation to any insurance arrangements as required by Law, the Supplier shall put in place and/or maintain the different types and/or levels of indemnity arrangements 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 Contract. It shall be the responsibility of the Supplier to determine the amount of indemnity and/or self insurance cover that will be adequate to enable it to satisfy its potential liabilities under this Contract. Accordingly, the Supplier shall be liable to make good any deficiency if the proceeds of any indemnity cover and/or self insurance arrangement is insufficient to cover the settlement of any claim.

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

14.6 The Supplier shall from time to time and in any event within five (5) Business Days of written demand provide documentary evidence to the Authority that insurance arrangements taken out by the Supplier pursuant to Clause 14 of this Schedule 2 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 Contract, the Supplier shall ensure that any ongoing liability it has or may have arising out of this Contract shall continue to be the subject of appropriate indemnity arrangements for the period of twenty one (21) years from termination or expiry of this Contract or until such earlier date as that liability may reasonably be considered to have ceased to exist.

15 Term and termination

15.1 This Contract shall commence on the Commencement Date and, unless terminated earlier in accordance with the terms of this Contract or the general law, shall continue until the end of the Term.

15.2 The Authority shall be entitled to extend the Term on one or more occasions by giving the Supplier written notice no less than three (3) months prior to the date on which this Contract would otherwise have expired, provided that the duration of this Contract shall be no longer than the total term specified in the Key Provisions.

15.3 In the case of a breach of any of the terms of this Contract by either Party that is capable of remedy (including, without limitation any breach of any KPI and, subject to Clause 9.7 of this Schedule 2, any breach of any payment obligations under this Contract), the non-breaching Party may, without prejudice to its other rights and remedies under this Contract, issue a Breach Notice and shall allow the Party in breach the opportunity to remedy such breach in the first instance via a remedial proposal put forward by the Party in breach ("**Remedial Proposal**") before exercising any right to terminate this Contract in accordance with Clause 15.4.2 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 Contract by the Party in breach not remedied in accordance with an agreed Remedial Proposal.

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

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 Contract by issuing a Termination Notice to the Supplier:

15.5.1 if the Supplier does not commence supply of the Goods and/or delivery of the Services by any Long Stop Date;

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

15.5.3 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 Contract or the reputation of the Authority;

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

15.5.5 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;

15.5.6 if the warranty given by the Supplier pursuant to Clause 10.8 of this Schedule 2 is materially untrue, the Supplier commits a material breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance as required by Clause 10.8 of this Schedule 2, or the Supplier fails to provide details of proposed mitigating factors as required by Clause 10.8 of this Schedule 2 that in the reasonable opinion of the Authority are acceptable; or

15.5.7 pursuant to and in accordance with any termination rights set out in the Data Protection Protocol, as applicable to this Contract.

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

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

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

15.6.3 a failure to resolve such breach in accordance with such Dispute Resolution Procedure by the end of the escalation stage of such process shall entitle, but shall not compel, the Authority to terminate this Contract in accordance with Clause 15.4.1 of this Schedule 2.

15.7 In order that the Authority may act reasonably in exercising its discretion in accordance with 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.

15.8 The Authority may terminate this Contract by issuing a Termination Notice to the Supplier where 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 Contract under this Clause 15.7 of Schedule 2.

15.9 Within three (3) months of the Commencement Date the Supplier shall develop and agree an exit plan with the Authority consistent with the Exit Requirements, which shall ensure continuity of the Services on expiry or earlier termination of this Contract. The Supplier shall provide the Authority with the first draft of an exit plan within one (1) month of the Commencement Date. The Parties shall review and, as appropriate, update the exit plan on each anniversary of the Commencement Date of this Contract. If the Parties cannot agree an exit plan in accordance with the timescales set out in this Clause 15.8 of this Schedule 2 (such agreement not to be unreasonably withheld or delayed), such failure to agree shall be deemed a Dispute, which shall be referred to and resolved in accordance with the Dispute Resolution Procedure.

16 Consequences of expiry or early termination of this Contract

16.1 Subject to the provision set out in Clause 16.6 of this Schedule 2, upon expiry or earlier termination of this Contract, the Authority agrees to pay the Supplier for:

16.1.1 the Goods which have been supplied by the Supplier and not rejected by the Authority in accordance with this Contract prior to the expiry or earlier termination of this Contract; and

16.1.2 the Services which have been completed by the Supplier in accordance with this Contract prior to expiry or earlier termination of this Contract.

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

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

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

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

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

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

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

16.6 If the Authority terminates the Contract in accordance with Clause 15.5.1 of this Schedule 2, the Authority shall be entitled to a refund of any sums paid under this Contract provided the Authority informs the Supplier in writing of its intention to claim such refund no later than thirty (30) days of the effective date of such termination. Should the Authority seek a refund in respect of Goods already delivered, the Authority shall return such Goods to the Supplier at the Supplier's written request and at the Supplier's cost and expense.

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

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

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

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

17.2 No later than twenty eight (28) days prior to the Subsequent Transfer Date, the Supplier shall or shall procure that any Sub-contractor shall provide a final list to the Successor and/or the Authority, as appropriate, containing the names of all the Subsequent Transferring Employees whom the Supplier or Sub-contractor expects will transfer to the Successor or the Authority and all employee liability information identified in regulation 11 of TUPE in relation to the Subsequent Transferring Employees.

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

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

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

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

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

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

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

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

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

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

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

17.7 Where the obligations on the Supplier under Clause 17 of this Schedule 2 are subject to the Data Protection Legislation, the Supplier will, and shall procure that any Sub-contractor will, use its best endeavours to seek the consent of the Supplier Personnel to disclose any information covered under the Data Protection Legislation and utilise any other exemption or provision within the Data Protection Legislation which would allow such disclosure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 Packaging, identification, end of use and coding requirements

18.1 The Supplier shall comply with all obligations imposed on it by Law and Guidance relevant to the Goods in relation to packaging, identification, and obligations following end of use by the Authority.

18.2 Unless otherwise specified in the Specification and Participation Documents or otherwise agreed with the Authority in writing, the Goods shall be securely packed in trade packages of a type normally used by the Supplier for deliveries of the same or similar goods in the same quantities within the United Kingdom.

18.3 The Supplier shall comply with any labelling requirements in respect of the Goods: (a) specified in the Specification and Participation Documents; (b) agreed with the Authority in writing; and/or (c) required to comply with Law or Guidance.

18.4 The Supplier shall ensure that all Goods that are required by Law or Guidance to bear any safety information, environmental information, any mark, tab, brand, label, serial numbers or other device indicating place of origin, inspection by any government or other body or standard of quality at the point such Goods are delivered shall comply with such requirements at the point of delivery.

18.5 Unless otherwise set out in the Specification and Participation Documents or agreed with the Authority in writing, the Supplier shall collect without charge any returnable containers and/or packages (including pallets) within twenty one (21) days of the date of the relevant delivery. Empty containers and/or packages not so removed may be returned by the Authority at the Supplier's expense or otherwise disposed of at the Authority's discretion. The Supplier shall credit the Authority in full for any containers for which the Authority has been charged upon their collection, return and/or disposal by the Authority in accordance with this Clause 18.5 of this Schedule 2.

18.6 Unless otherwise confirmed and/or agreed by the Authority in writing and subject to Clause 18.7 of this Schedule 2, the Supplier shall ensure full compliance with any Guidance issued by the Department of Health and Social Care in relation to the adoption of GS1 and PEPPOL standards (to include, without limitation, any supplier compliance timeline and other policy requirements published by the Department of Health and Social Care in relation to the adoption of GS1 and PEPPOL standards for master data provision and exchange, barcode labelling, and purchase-to-pay transacting).

18.7 Once compliance with any published timelines has been achieved by the Supplier pursuant to Clause 18.6 of this Schedule 2, the Supplier shall, during the Term, maintain the required level of compliance relating to the Goods in accordance with any such requirements and Guidance referred to as part of this Contract.

18.8 Once product information relating to Goods is placed by the Supplier into a GS1 certified data pool, the Supplier shall, during the Term, keep such information updated with any changes to the product data relating to the Goods.

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, social and labour Law requirements in force from time to time in relation to the Goods and 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 Participation Documents. 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 Participation Documents in relation to any stated environmental, social and labour requirements, characteristics and impacts of the Goods and 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 Goods and Services being supplied and 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 this Schedule 2.

19.4 The Supplier undertakes on an ongoing basis that:

19.5 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;

19.6 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

19.6.1 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.

19.7 The Supplier shall notify the Authority as soon as it becomes aware of:

19.7.1 any breach, or potential breach, of the Anti-Slavery Policy; or

19.7.2 any actual or suspected slavery or trafficking in its supply chain.

19.8 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 Contract.

19.9 If the Supplier is in breach of Clause 19.3 or the undertaking at Clause 19.4 of this Clause 19.5 of this Schedule 2 in addition to its other rights and remedies provided under this Contract, the Authority may:

19.9.1 by written notice require the Supplier to remove from performance of any contract or framework agreement with the Authority (including this Contract) any Sub-contractor, Staff or other persons associated with it whose acts or omissions have caused the breach; or

19.9.2 terminate this Contract by issuing a Termination Notice to the Supplier.

Further corporate social responsibility requirements

19.10 The Supplier shall comply with any further corporate social responsibility requirements set out in the Specification and Participation Documents.

Provision of further information

19.11 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 Clause 19 of this Schedule 2 in accordance with Clause 24 of this Schedule 2.

20 Electronic product and services information

20.1 Not used

21 Change management

21.1 The Supplier acknowledges to the Authority that the Authority's requirements for the Goods and/or 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 Participation Documents, 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 Goods and/or Services or other variation to this Contract shall only be binding once it has been agreed either: (a) in accordance with the Change Control Process if the Key Provisions specify that changes are subject to a formal change control process; or (b) if the Key Provisions make no such reference, in writing and signed by an authorised representative of both Parties.

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

21.4 The Supplier shall neither be relieved of its obligations to supply the Goods or provide the Services in accordance with the terms and conditions of this Contract nor be entitled to an increase in the 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 Contract, it is agreed that the Supplier shall continue its performance of the provisions of the Contract (unless the Authority requests in writing that the Supplier does not do so).

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

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

22.4 If the procedure set out in Clause 22.3 of this Schedule 2 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 Contract shall prevent:

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

22.6.2 either Party seeking from any court any interim or provisional relief that may be necessary to protect the rights or property of that Party or that relates to the safety of patients and other service users or the security of Confidential Information, pending resolution of the relevant Dispute in accordance with the Dispute Resolution Procedure.

22.7 Clause 22 of this Schedule 2 shall survive the expiry of or earlier termination of this Contract for any reason.

23 Force majeure

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

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

23.2.1 the Supplier has fulfilled its obligations pursuant to Clause 6 of this Schedule 2;

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 Contract, and to resume the performance of its obligations affected by the Force Majeure Event as soon as practicable.

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

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

23.6 Subject to service of such notice, the Party affected by such circumstances shall have no liability for its failure to perform or for any delay in performance of its obligations affected by the Force Majeure Event only for so long as such circumstances continue and for such time after they cease as is necessary for that Party, using its best endeavours, to recommence its affected operations in order for it to perform its obligations.

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

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

23.9 Following such termination in accordance with Clause 23.8 of this Schedule 2 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 Contract.

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 Contract.

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

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

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

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

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

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

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

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

25 Conflicts of interest and the prevention of fraud

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

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

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

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

26 Equality and human rights

26.1 The Supplier shall:

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

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

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

26.1.4 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 22.5 of Schedule 2, any notice required to be given by either Party under this Contract shall be in writing quoting the date of the Contract and shall be delivered by hand or sent by prepaid first class recorded delivery or by email to the person referred to in the 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 Sub-contracting

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

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

28.2.1 the deduction of any sums in respect of which the Authority exercises its right of recovery under Clause 9.9 of this Schedule 2;

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

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

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

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

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

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

28.4.1 contain at least equivalent obligations as set out in this Contract in relation to such manufacture, supply, delivery or installation of or training in relation to the Goods or the performance of the Services to the extent relevant to such Sub-contracting;

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

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

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

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

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

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

28.4.8 permitting the Supplier to terminate, or procure the termination of, the relevant Sub-contract in the event the Sub-contractor fails to comply in the performance of its Sub-contract with legal obligations in the fields of environmental, social or labour Law where the Supplier is required to replace such Sub-contractor in accordance with Clause 15.7 of this Schedule 2; and

28.4.9 requires the Sub-contractor to include a clause to the same effect as Clause 28.4 of this Schedule 2 in any Sub-contract which it awards.

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

28.6 The Authority shall upon written request have the right to review any Sub-contract entered into by the Supplier in respect of the supply of the Goods and/or 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.

28.7 The Authority may at any time transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Contract or any part of this Contract and the Supplier warrants that it will carry out all such reasonable further acts required to effect such transfer, assignment, novation, sub-contracting or disposal.

29 Prohibited Acts

29.1 The Supplier warrants and represents that:

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

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

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

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

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

29.2.1 the Authority shall be entitled:

(i) to terminate this Contract and recover from the Supplier the amount of any loss resulting from the termination;

(ii) to recover from the Supplier the amount or value of any gift, consideration or commission concerned; and

(iii) to recover from the Supplier any other loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence under the Bribery Act 2010;

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

29.2.3 notwithstanding the Dispute Resolution Procedure, 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 Contract shall be construed to imply that there is any relationship between the Parties of partnership or of principal/agent or of employer/employee nor are the Parties hereby engaging in a joint venture and accordingly neither of the Parties shall have any right or authority to act on behalf of the other nor to bind the other by agreement or otherwise, unless expressly permitted by the terms of this Contract.

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

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

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

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

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

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

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

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

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

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

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

31 Application of the Key Provisions

31.1 The standard Key Provisions at Clauses 1 to 8 of this Schedule 1 shall apply to this Contract.

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 Contract or other act or omissions of the Recipient;

(ii) which is obtained from a third party who is lawfully authorised to disclose such information without any obligation of confidentiality;

(iii) which is authorised for disclosure by the prior written consent of the Discloser;

(iv) which the Recipient can demonstrate was in its possession without any obligation of confidentiality prior to receipt of the Confidential Information from the Discloser; or

(v) which the Recipient is required to disclose purely to the extent to comply with the requirements of any relevant stock exchange.

1.2 Nothing in Clause 1 of this Schedule 3 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.

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

1.3.1 on a confidential basis to NHS England organisations;

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

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

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

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

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

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

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

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

2 Data protection

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

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

1.1 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).

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

1.2.1 complete and publish an annual information governance assessment using the Data Security and Protection toolkit;

1.2.2 achieve all relevant requirements in the relevant Data Security and Protection toolkit;

1.2.3 nominate an information governance lead able to communicate with the Supplier's board of directors or equivalent governance body, who will be responsible for information governance and from whom the Supplier's board of directors or equivalent governance body will receive regular reports on information governance matters including, but not limited to, details of all incidents of data loss and breach of confidence;

1.2.4 report all incidents of data loss and breach of confidence in accordance with Department of Health and Social Care and/or the NHS England and/or Health and Social Care Information Centre guidelines;

1.2.5 put in place and maintain policies that describe individual personal responsibilities for handling Personal Data and apply those policies vigorously;

1.2.6 put in place and maintain a policy that supports its obligations under the NHS Care Records Guarantee (being the rules which govern information held in the NHS Care Records Service, which is the electronic patient/service user record management service providing authorised healthcare professionals access to a patient's integrated electronic care record);

1.2.7 put in place and maintain agreed protocols for the lawful sharing of Personal Data with other NHS organisations and (as appropriate) with non-NHS organisations in circumstances in which sharing of that data is required under this Contract;

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

1.2.9 at all times comply with any information governance requirements and/or processes as may be set out in the Specification and Participation Documents; and

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

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

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

2 Not used

3 Information Security

3.1 Without limitation to any other information governance requirements set out in this Schedule 3, the Supplier shall:

3.1.1 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

3.1.2 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.

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

3.3 Where required in accordance with the Specification and Participation Documents or the Key Provisions in Schedule 1, the Supplier shall obtain and maintain certification under the HM Government Cyber Essentials Scheme at the level set out in the Specification and Participation Documents and Schedule 16.

3.4 The Data Protection Protocol applies to the Parties in accordance with Annex A of Schedule 3.

Annex A to Schedule 3

DATA PROTECTION PROTOCOL

Table A – Processing, Personal Data and Data Subjects

Description	Detail
Subject matter of the Processing	*Advanced Cloud Based Telephony System which integrates with the clinical system/patient record via secure API by passing the telephone number to identify the patient record.*
Duration of the Processing	*For an initial contract term of 3 years. Call recordings to be held in the cloud for the time period as stated within the contract. Any entries to the medical record will be held for the period required by law.*
Nature and purposes of the Processing	*As per functionality of Advanced Telephony system including integration with clinical system. Call data records between callers are processed. Data is not shared outside of the supplier organisation.* *The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.* *Including but not limited to any patient record access, associated processing, statutory obligation, clinical system access and notes assessment etc. For the purposes of patient consultation and referrals. No associated patient data is stored on the supplier system and remains under the domain of the clinical system.* *Call data records between patients and health organisations are processed only in order to provide a telephone system for customers. Data is made available to the customer. No further interest or processing by the supplier takes place.*
Type of Personal Data	*name, address, date of birth, NI number, telephone number, images, clinical notes, clinical records, medical notes, biometric data etc. Medical history and associated records and information for the purposes of GP consultation. Only via the clinical system by secure api using the patient's telephone number as the lookup/identifier. No patient data is stored by the telephone provider and remains under the domain of the clinical system. Personal, Special and Confidential Information. Criminal Offence data. Sensitive health data.*
Categories of Data Subject	*Staff and patients of the practice including but not limited to volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc. Healthcare Professionals, GPs, Social workers, pharmacists, employees, vulnerable data subjects.*

Plan for return and destruction of the data once the Processing is complete UNLESS requirement under union or member state law to preserve that type of data	*The information shall be held for as long as is required by the medical practice or as instructed by law. If permitted shall be deleted or destroyed upon termination or expiry of the contract or upon receipt of permission from the data subject .* *Data is retained in accordance with the contractually agreed retention period of 36 months. This 36 month call retention period complies with the NHS standard data retention period for calls not part of health records in line with Records Management Code of Practice for Health and Social Care 2016 data retention schedules. The code of practice advises the transfer of any relevant information from call recordings into the main health record through transcription or summarisation. Call handlers may perform this task as part of the call for surgeries that have the clinical system integration. Where it is not possible to transfer the clinical information from the recording to the health record the recording must be considered part of the record and be retained accordingly.* *All call recording data is permanently deleted by internal processing after agreed retention periods. Call data records are subject to Ofcom regulated retention periods.*
Technical and organisational measures including technical and organisational measures to ensure the security of the data	***ISO 27001*** *Data held in UK data centres.* ***DCB0129** Clinical Risk Management: its Application in the Manufacture of Health IT Systems* ***Cyber Essentials Plus Certificate*** ***IG Toolkit*** *The telephone number (non sensitive personal identifiers) are not associated with patient names or other personal identifiers within the telephone system. Telephone numbers are subject to the highest security controls.* *The application does a lookup to get non clinical patient data (name, date of birth, patient ID. The name and date of birth stays locally within the application on the PC. Only the Patient ID is stored against the phone call record. Patient ID is not considered a personal identifier in the context of personal information.* *It is the supplier Network Team's responsibility to provide adequate protection and confidentiality of all corporate data and proprietary software systems whether held centrally, on local storage media or remotely to ensure the continued availability of data and programs to all authorised members of staff, and to ensure the integrity of all data and configuration controls.*

Definitions

The definitions and interpretative provisions at Schedule 4 (Definitions and Interpretations) of the Contract shall also apply to this Protocol. For example, the following terms are defined in Schedule 4 of the Contract: “Authority”, “Data Protection Legislation”, “UK GDPR”, “Process” and “Processor” and “Supplier” are defined in Schedule 4 of the Contract. Additionally, in this Protocol the following words shall have the following meanings unless the context requires otherwise:

“Controller”	shall have the same meaning as set out in the UK GDPR;
“**Data Protection Impact Assessment**”	means an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
“**Data Protection Officer**”	shall have the same meaning as set out in the UK GDPR;
“**Data Recipient**”	means that Controller who receives the relevant Personal Data;
“**Data Subject**”	shall have the same meaning as set out in the UK GDPR;
“**Data Subject Request**”	means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
“**Data Transferor**”	means that Controller who transfers the relevant Personal Data;
“**Information Commissioner**”	means the Information Commissioner in the UK;
“**Joint Controllers**”	means where two or more Controllers jointly determine the purposes and means of Processing;
“**Personal Data Breach**”	shall have the same meaning as set out in the UK GDPR;
“Processor”	shall have the same meaning as set out in the UK GDPR;
“**Protocol**” or “**Data Protection Protocol**”	means this Data Protection Protocol;
“**Sensitive Data**”	shall mean the types of data set out in Article 9(1) or 10 of the UK GDPR;
“**Sub-processor**”	means any third Party appointed to Process Personal Data on behalf of that Processor related to this Contract.

1 Supplier as data processor

1.1 **Purpose and scope**

1.1.1 The purpose of this Clause 1 is to ensure compliance with Article 28(3) and (4) of the UK GDPR.

1.1.2 This Clause 1 applies to the Processing of Personal Data as specified in Table A.

1.1.3 Table A is an integral part of this Clause 1.

1.1.4 This Clause 1 is without prejudice to obligations to which the Controller is subject by virtue of the UK GDPR.

1.1.5 This Clause 1 does not by itself ensure compliance with obligations related to international transfers in accordance with Chapter V of the UK GDPR.

1.2 **Invariability of Clause 1**

1.2.1 The Parties undertake not to modify Clause 1, except for adding information to Table A or updating information in it.

1.2.2 This does not prevent the Parties from including the standard contractual clauses laid down in this Clause 1 in a broader contract, or from adding other clauses or additional safeguards provided that they do not directly or indirectly contradict Clause 1 or detract from the fundamental rights or freedoms of Data Subjects.

1.3 **Interpretation**

1.3.1 Where this Clause 1 uses the terms defined in the UK GDPR, those terms shall have the same meaning as in the UK GDPR.

1.3.2 This Clause 1 shall be read and interpreted in the light of the provisions of the UK GDPR.

1.3.3 This Clause 1 shall not be interpreted in a way that runs counter to the rights and obligations provided for in the UK GDPR or in a way that prejudices the fundamental rights or freedoms of the Data Subjects.

1.4 **Hierarchy**

1.4.1 In the event of a contradiction between this Clause 1 and the provisions of the Contract and/or related agreements between the Parties existing at the time when this Clause 1 is agreed or entered into thereafter, this Clause 1 shall prevail.

1.5 **Description of the processing**

1.5.1 The details of the Processing operations, in particular the categories of Personal Data and the purposes of Processing for which the Personal Data is Processed on behalf of the Controller, are specified in Table A.

1.6 **Obligations of the Parties**

1.6.1 Instructions

(i) The Processor shall Process Personal Data only on documented instructions from the Controller, unless required to do so by Law to which the Processor is subject. In this case, the Processor shall inform the Controller of that legal requirement before Processing, unless the Law prohibits this on important grounds of public interest. Subsequent instructions may also be given by the Controller throughout the duration of the Processing of Personal Data. These instructions shall always be documented.

(ii) The Processor shall immediately inform the Controller if, in the Processor's opinion, instructions given by the Controller infringe the UK GDPR.

1.6.2 Purpose Limitation

(i) The Processor shall Process the Personal Data only for the specific purpose(s) of the Processing, as set out in Table A, unless it receives further instructions from the Controller.

1.6.3 Duration of the Processing of Personal Data

(i) Processing by the Processor shall only take place for the duration specified in Table A.

1.6.4 Security of Processing

(i) The Processor shall at least implement the technical and organisational measures specified in Table A to ensure the security of the Personal Data. This includes protecting the data against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to the data. In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purposes of Processing and the risks involved for the Data Subjects.

(ii) The Processor shall grant access to the Personal Data undergoing Processing to members of its personnel only to the extent strictly necessary for implementing, managing and monitoring of the Contract. The Processor shall ensure that persons authorised to Process the Personal Data received have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

1.6.5 Sensitive Data

(i) If the Processing involves Sensitive Data as set out in Table A, or data relating to criminal convictions and offences, the Processor shall apply specific restrictions and/or additional safeguards as agreed between the Parties in Table A.

1.6.6 Documentation and compliance

(i) The Parties shall be able to demonstrate compliance with this Clause 1.

(ii) The Processor shall deal promptly and adequately with inquiries from the Controller about the Processing of data in accordance with this Clause 1.

(iii) The Processor shall make available to the Controller all information necessary to demonstrate compliance with the obligations that are set out in this Clause 1 and stem directly from the UK GDPR. At the Controller's request, the Processor shall also permit and contribute to audits of the Processing activities covered by this Clause 1, at reasonable intervals or if there are indications of non-compliance. In deciding on a review or an audit, the Controller may take into account relevant certifications held by the Processor.

(iv) The Controller may choose to conduct the audit by itself or mandate an independent auditor. Audits may also include inspections at the premises or physical facilities of the Processor and shall, where appropriate, be carried out with reasonable notice.

(v) The Parties shall make the information referred to in this Clause 1, including the results of any audits, available to the Information Commissioner on request.

1.6.7 Use of Sub-processors

(i) The Processor shall not subcontract any of its Processing operations performed on behalf of the Controller in accordance with this Clause 1 to a Sub-processor, without the Controller's prior specific written authorisation. The Processor shall submit the request for specific authorisation at least fourteen (14) days prior to the engagement of the Sub-processor in question, together with the information necessary to enable the Controller to decide on the authorisation.

(ii) Where the Processor engages a Sub-processor for carrying out specific Processing activities (on behalf of the Controller), it shall do so by way of a contract which imposes on the Sub-processor, in substance, the same data protection obligations as the ones imposed on the Processor in accordance with this Clause 1. The Processor shall ensure that the Sub-processor complies with the obligations to which the Processor is subject pursuant to this Clause 1 and to the UK GDPR.

(iii) At the Controller's request, the Processor shall provide a copy of such a Sub-processor agreement and any subsequent amendments to the Controller. To the extent necessary to protect business secret or other confidential information, including Personal Data, the Processor may redact the text of the agreement prior to sharing the copy.

(iv) The Processor shall remain fully responsible to the Controller for the performance of the Sub-processor's obligations in accordance with its contract with the Processor. The Processor shall notify the Controller of any failure by the Sub-processor to fulfil its contractual obligations.

(v) The Processor shall agree a third party beneficiary clause with the Sub-processor whereby - in the event the Processor has factually disappeared, ceased to exist in law or has become insolvent - the Controller shall have the right to terminate the Sub-processor contract and to instruct the Sub-processor to erase or return the Personal Data.

1.6.8 International Transfers

(i) Any transfer of data to a third country or an international organisation by the Processor shall be done only on the basis of documented instructions from the Controller or in order to fulfil a specific requirement under Law to which the Processor is subject and shall take place on the basis of an adequacy regulation (in accordance with Article 45 of the UK GDPR) or standard data protection clauses (in accordance with Article 46 1 the UK GDPR). All transfers shall comply with Chapter V of the UK GDPR and any other applicable Data Protection Legislation.

(ii) The Controller agrees that where the Processor engages a Sub-processor in accordance with Clause 1.6.7. for carrying out specific Processing activities (on behalf of the Controller) and those Processing activities involve a transfer of Personal Data within the meaning of Chapter V of GDPR, the Processor and the Sub-processor can ensure compliance with Chapter V of the UK GDPR by using standard contractual clauses adopted by the Information Commissioner in accordance with Article 46(2) of the UK GDPR, provided the conditions for the use of those standard contractual clauses are met.

2 Assistance to the Controller

2.1 The Processor shall promptly notify the Controller if it receives a Data Subject Request. It shall not respond to the request itself, unless authorised to do so by the Controller.

2.2 The Processor shall assist the Controller in fulfilling its obligations to respond to Data Subject Requests to exercise their rights, taking into account the nature of the Processing. In fulfilling its obligations in accordance with Clauses 1.7.1 and 1.7.3 the Processor shall comply with the Controller's instructions.

2.3 In addition to the Processor's obligation to assist the Controller pursuant to Clause 1.7.2, the Processor shall furthermore assist the Controller in ensuring compliance with the following obligations, taking into account the nature of the data Processing and the information available to the Processor:

2.3.1 the obligation to carry out a Data Protection Impact Assessment where a type of Processing is likely to result in a high risk to the rights and freedoms of natural persons;

2.3.2 the obligation to consult the Information Commissioner prior to Processing where a Data Protection Impact Assessment indicates that the Processing would result in a high risk in the absence of measures taken by the Controller to mitigate the risk;

2.3.3 the obligation to ensure that Personal Data is accurate and up to date, by informing the Controller without delay if the Processor becomes aware that the Personal Data it is Processing is inaccurate or has become outdated; and

2.3.4 the obligations in Article 32 of the UK GDPR.

2.4 The Parties shall set out in Table A the appropriate technical and organisational measures by which the Processor is required to assist the Controller in the application of this Clause 1.7 as well as the scope and the extent of the assistance required.

3 Notification of Personal Data Breach

3.1 In the event of a Personal Data Breach, the Processor shall co-operate with and assist the Controller to comply with its obligations under Articles 33 and 34 of the UK GDPR, where applicable, taking into account the nature of Processing and the information available to the Processor.

3.1.1 <u>Personal Data Breach concerning data Processed by the Controller</u>

(i) In the event of a Personal Data Breach concerning data Processed by the Controller, the Processor shall assist the Controller:

(ii) in notifying the Personal Data Breach to the Information Commissioner, without undue delay after the Controller has become aware of it, where relevant (unless the Personal Data Breach is unlikely to result in a risk to the rights and freedoms of natural persons);

(iii) in obtaining the following information which, pursuant to Article 33(3) of the UK GDPR, shall be stated in the Controller's notification, and must at least include:

(A) the nature of the Personal Data including where possible, the categories and approximate number of Data Subjects concerned and the categories and approximate number of Personal Data records concerned;

(B) the likely consequences of the Personal Data Breach; and

(C) the measures taken or proposed to be taken by the Controller to address the Personal Data Breach, including, where appropriate, measures to mitigate its possible adverse effects.

Where, and insofar as, it is not possible to provide all this information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

(iv) in complying, pursuant to Article 34 of the UK GDPR, with the obligation to communicate without undue delay the Personal Data Breach to the Data Subject, when the Personal Data Breach is likely to result in a high risk to the rights and freedoms of natural persons.

3.1.2 Personal Data Breach concerning data Processed by the Processor

(i) In the event of a Personal Data Breach concerning data Processed by the Processor, the Processor shall notify the Controller without undue delay after the Processor having become aware of the breach. Such notification shall contain, at least:

(A) a description of the nature of the breach (including, where possible, the categories and approximate number of Data Subjects and data records concerned);

(B) the details of a contact point where more information concerning the Personal Data Breach can be obtained; and

(C) its likely consequences and the measures taken or proposed to be taken to address the breach, including to mitigate its possible adverse effects.

Where, and insofar as, it is not possible to provide all this information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.

(ii) The Parties shall set out in Table A all other elements to be provided by the Processor when assisting the Controller in the compliance with the Controller’s obligations under Articles 33 and 34 of the UK GDPR.

4 Non-compliance with Clause 1 and termination

4.1 Without prejudice to any provisions of the UK GDPR, in the event that the Processor is in breach of its obligations under this Clause 1, the Controller may instruct the Processor to suspend the Processing of Personal Data until the latter complies with this Clause 1 or the Contract is terminated. The Processor shall promptly inform the Controller in case it is unable to comply with this Clause 1 for whatever reason.

4.2 The Controller shall be entitled to terminate the Contract insofar as it concerns Processing of Personal Data in accordance with this Clause 1 if:

4.2.1 the Processing of Personal Data by the Processor has been suspended by the Controller pursuant to Clause 1.9.1 and if compliance with this Clause 1 is not restored within a reasonable time and in any event within one month following suspension;

4.2.2 the Processor is in substantial or persistent breach of this Clause 1 or its obligations under the UK GDPR;

4.2.3 the Processor fails to comply with a binding decision of a competent court or the Information Commissioner regarding its obligations pursuant to this Clause 1 or to the UK GDPR.

4.3 The Processor shall be entitled to terminate the Contract insofar as it concerns Processing of Personal Data under this Clause 1 where, after having informed the Controller that its instructions infringe applicable legal requirements in accordance with Clause 1.6.1(ii), the Controller insists on compliance with the instructions (provided that the Processor has clearly demonstrated the infringement by the provision of a legal opinion provided by a solicitor or barrister that both Parties can rely upon).

4.4 Following termination of the Contract, the Processor shall, at the choice of the Controller, delete all Personal Data Processed on behalf of the Controller and certify to the Controller that it has done so, or, return all the Personal Data to the Controller and delete existing copies unless the Law requires storage of the Personal Data. Until the data is deleted or returned, the Processor shall continue to ensure compliance with this Clause 1.

5 Parties as joint controllers

5.1 Where in Table A the Parties acknowledge that, for the purposes of the Data Protection Legislation, the Authority and the Supplier are Joint Controllers, this Clause 2 shall apply. The only Processing that a Joint Controller is authorised to do is listed in Table A of this Protocol by the Authority and may not be determined by the Supplier.

5.2 The Parties shall, in accordance with Article 26 of the UK GDPR, enter into a Joint Controller agreement based on the terms outlined in Annex 1.

6 Both data controllers

6.1 To the extent that the nature of the Supplier’s obligations under the Contract means that the Parties are acting both as Controllers (as may be referred to in Table A), each Party undertakes to comply at all times with its obligations under the Data Protection Legislation and shall:

6.1.1 implement such measures and perform its obligations (as applicable) in compliance with the Data Protection Legislation; and

6.1.2 be responsible for determining its data security obligations taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the Processing as well as the risk of varying likelihood and severity for the rights and freedoms of the Data Subjects, and shall implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful Processing and accidental destruction or loss and ensure the protection of the rights of the Data Subject, in such a manner that Processing will meet the requirements of the Data Protection Legislation where Personal Data has been transmitted by it, or while the Personal Data is in its possession or control.

6.2 Where Personal Data is shared between the Parties, each acting as Controller:

6.2.1 the Data Transferor warrants and undertakes to the Data Recipient that such Personal Data has been collected, Processed and transferred in accordance with the Data Protection Legislation and this Clause 3.2.1;

6.2.2 the Data Recipient will Process the Personal Data in accordance with the Data Protection Legislation and this Clause 3.2.2; and

6.2.3 where the Data Recipient is in breach of its obligations under this Protocol and the Data Protection Legislation, the Data Transferor may suspend the transfer of the Personal Data to the Data Recipient either on a temporary or permanent basis, depending on the nature of the breach.

7 Changes to this protocol

7.1 Any change or other variation to this Protocol shall only be binding once it has been agreed in writing and signed by an authorised representative of both Parties

Schedule 4

Definitions and Interpretations

Definitions

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

“**Actual Services Commencement Date**”	means the date the Supplier actually commences delivery of all of the Services;
“**Actual Supply of Goods Date**”	means the date the Supplier actually commences supply of the Goods;
"Actuary”	means a Fellow of the Institute and Faculty of Actuaries;
“Anti-Slavery Policy”	has the meaning given under Clause 19.2.2 of Schedule 2;
“Authority”	means the authority named on the form of Contract on the first page;
“Authority Confirmation”	means the written confirmation provided (or deemed to be provided) by the Authority that the Goods appear to have been correctly supplied, installed and commissioned ready for use;
“**Authority’s Obligations**”	means the Authority’s further obligations, if any, referred to in the Key Provisions;
“Breach Notice”	means a written notice of breach given by one Party to the other, notifying the Party receiving the notice of its breach of this Contract;
“Business Continuity Event”	means any event or issue that could impact on the operations of the Supplier and its ability to supply the Goods and/or provide the Services 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 supply of the Goods and the provision 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;
“Change Control Process”	means the change control process, if any, referred to in the Key Provisions;
“Change in Law”	means any change in Law which impacts on the supply of the Goods and/or provision of the Services which comes into force after the Commencement Date;

“Commencement Date”	means the date of this Contract;
“Commercial Schedule”	means the document set out at Schedule 6
“Comparable Supply”	means the supply of services and/or goods to another customer of the Supplier that are the same or similar to any of the Services and/or Goods;
“Confidential Information”	means information, data and material of any nature, which either Party may receive or obtain in connection with the conclusion and/or operation of the Contract including any procurement process which is: (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;
“**Contract**”	means the form of contract at the front of this document and all schedules attached to the form of contract;
“Consigned Goods”	means Goods delivered by the Supplier in response to a Consignment Request prior to their use by the Authority;
“Consignment Request”	means the Authority's request for Goods to be delivered on a consignment basis;
“Contracting Authority”	means any contracting authority as defined in Regulation 2(1) of the Public Contracts Regulations 2015 (SI 2015/102) (as amended), other than the Authority;
“Contract Manager”	means for the Authority and for the Supplier the individuals specified in the Key Provisions or such other person notified by a Party to the other Party from time to time in accordance with Clause 8.1 of Schedule 2;
“Controller”	shall have the same meaning as set out in the UK GDPR;
“Contract Price” or "Charges"	means the price exclusive of VAT that is payable to the Supplier by the Authority under the Contract for the full and proper performance by the Supplier of its obligations under the Contract;
“Convictions”	means, other than in relation to minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding-over orders (including any spent convictions as

	contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 or any replacement or amendment to that Act);
“Cost Increase”	shall have the meaning given to the term in Clause 1.3.2 of Part D of Schedule 7;
“Cost Saving”	shall have the meaning given to the term in Clause 1.3.4 of Part D of Schedule 7;
“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);
“Defective Goods”	has the meaning under Clause 3.6 of Schedule 2;
“Dispute(s)”	means any dispute, difference or question of interpretation or construction arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Goods and/or Services, any matters of contractual construction and interpretation relating to the Contract, or any matter where this Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
“Dispute Notice”	means a written notice served by one Party to the other stating that the Party serving the notice believes there is a Dispute;
“Dispute Resolution Procedure”	means the process for resolving Disputes as set out in Clause 22 of Schedule 2 or, where Clause 32 of Schedule 1 of the Contract applies, the process for resolving Disputes as set out in Schedule 10 For the avoidance of doubt, the Dispute Resolution Procedure is subject to Clause 29.2.3 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;
“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;
"Employee Transfer Date"	means the Transferred Staff's first day of employment with the Supplier (or its Sub-contractor);
"Employment Liabilities"	means all claims, demands, actions, proceedings, damages, compensation, tribunal awards, fines, costs (including but not limited to reasonable legal costs), expenses and all other liabilities whatsoever;
"Environmental Regulations"	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
"eProcurement Guidance"	means the NHS eProcurement Strategy available via: http://www.gov.uk/government/collections/nhs-procurement together with any further Guidance issued by the Department of Health 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 1.17 of this Schedule 4;
"Evergreen Supplier Assessment"	shall have the meaning given to the term in Clause 8.2 of Schedule 1;
"Exit Day"	shall have the meaning in the European Union (Withdrawal) Act 2018;
"Exit Requirements"	means the Authority's exit requirements, as set out in Schedule 17, which the Supplier must comply with during the Term and/or in relation to any expiry or early termination of this Contract;
"Force Majeure Event"	means any event beyond the reasonable control of the Party in question to include, without limitation: (a) war including civil war (whether declared or undeclared), riot, civil commotion or armed conflict materially affecting either Party's ability to perform its obligations under this Contract;

	(b) acts of terrorism; (c) flood, storm or other natural disasters; (d) fire; (e) unavailability of public utilities and/or access to transport networks to the extent no diligent supplier could reasonably have planned for such unavailability as part of its business continuity planning; (f) government requisition or impoundment to the extent such requisition or impoundment does not result from any failure by the Supplier to comply with any relevant regulations, laws or procedures (including such laws or regulations relating to the payment of any duties or taxes) and subject to the Supplier having used all reasonable legal means to resist such requisition or impoundment; (g) compliance with any local law or governmental order, rule, regulation or direction applicable outside of England and Wales that could not have been reasonably foreseen; (h) industrial action which affects the ability of the Supplier to supply the Goods and/or 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, 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;
"Fraud"	means any offence under any law in respect of fraud in relation to this Contract or defrauding or attempting to defraud or conspiring to defraud the government, parliament or any Contracting Authority;
"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 supplier and/or service provider engaged in the manufacture and/or supply of goods and/or the provision of services similar to the Goods and Services under the same or similar circumstances as those applicable to this Contract; including in accordance with any codes of practice published by relevant trade associations;
“Goods”	means all goods, materials or items that the Supplier is required to supply to the Authority under this Contract (including, without limitation, under Schedule 5 which sets out the requirements of the Authority as issued to tenderers as part of the procurement process and the Supplier’s response to these requirements);
“Guidance”	means any applicable guidance, supplier code of conduct, direction or determination and any policies, advice or industry alerts which apply to the Goods and/or 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;
“Implementation Plan”	means the implementation plan, if any, referred to in the Key Provisions;
“Implementation Requirements”	means the Authority’s implementation and mobilisation requirements (if any), as may be set out in the Specification and Participation Documents and/or otherwise as part of this Contract, which the Supplier must comply with as part of implementing the Services;
“Installation and Commissioning Services”	means the installation and commissioning services set out in this Contract (including, without limitation, Schedule 5, Schedule 6 and Schedule 11 which sets out the requirements of the

	Authority as issued to tenderers as part of the procurement process and the Supplier's response to these requirements);
"Intellectual Property Rights"	means all patents, copyright, design rights, registered designs, trade marks, know-how, database rights, confidential formulae and any other intellectual property rights and the rights to apply for patents and trade marks and registered designs;
"Interested Party"	means any organisation which has a legitimate interest in providing services of the same or similar nature to the Services in immediate or proximate succession to the Supplier or any Sub-contractor and who had confirmed such interest in writing to the Authority;
"Key Provisions"	means the key provisions set out in Schedule 1;
"KPI"	means the key performance indicators as set out in Schedule 12
"Law"	means any applicable legal requirements including, without limitation: (a) any applicable statute or proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument as applicable in England and Wales; (b) any applicable European Union obligation, directive, regulation, decision, law or right (including any such obligations, directives, regulations, decisions, laws or rights that are incorporated into the law of England and Wales or given effect in England and Wales by any applicable statute, proclamation, delegated or subordinate legislation, bye-law, order, regulation or instrument); (c) any enforceable community right within the meaning of section 2(1) European Communities Act 1972; (d) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales; (e) requirements set by any regulatory body as applicable in England and Wales; (f) any relevant code of practice as applicable in England and Wales; and (g) any relevant collective agreement and/or international law provisions (to include, without limitation, as referred to in (a) to (f) above);
"Long Stop Date"	means the date, if any, specified in the Key Provisions;
"Losses"	all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services)

	proceedings, demands and charges whether arising under statute, contract or at common law;
“Maintenance Inventory”	means the maintenance inventory as referred to at Clause 4.1.1 of Schedule 9;
“Maintenance Services”	means the maintenance services set out in this Contract (including, without limitation, Schedule 5, which sets out the requirements of the Authority);
“Measures”	means any measures proposed by the Supplier or any Sub-contractor within the meaning of regulation 13(2)(d) of TUPE;
“Mediation Notice”	has the meaning given under Clause 22.5.1 of Schedule 2;
“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 Participation Documents;
“Net Zero and Social Value Contract Commitments”	shall have the meaning given in Clause 8.4 of Schedule 1;
“NHS”	means the National Health Service;
“NHS Body”	has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012;
“NHSE DPIA”	means the Data Protection Impact Assessment (as defined in the Data Protection Protocol) appended to Annex A of Schedule 3;
“Non-performed Services”	has the meaning give under Clause 11.1 of Schedule 9;

“Occasion of Tax Non-Compliance”	means: (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: (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 (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;
“Party”	means the Authority or the Supplier as appropriate and Parties means both the Authority and the Supplier;
“Payment Date”	means twenty (20) Business Days after the last of the conditions in Clause 1.7 of Part D of Schedule 7 has been satisfied;
“Pension Benefits”	any benefits (including but not limited to pensions related allowances and lump sums) relating to old age, invalidity or survivor’s benefits provided under an occupational pension scheme;
“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;
“Pre-Acquisition Questionnaire”	means any pre-acquisition questionnaire or documents with a similar title or purpose issued by the Authority and completed by the Supplier relevant to the Goods;
“Premises and Locations”	has the meaning given under Clause 4.1 of Schedule 2;
“Privacy Statement”	means the privacy statement to be provided to Data Subjects (as defined in the Data Protection Protocol) and appended to Annex A of Schedule 3;
“Process”	shall have the same meaning as set out in the UK GDPR. Processing and Processed shall be construed accordingly;

“Product Information”	means information concerning the Goods 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 product catalogue from time to time;
“Purchase Order”	means the purchase order required by the Authority’s financial systems, if a purchase order is referred to in the Key Provisions;
“Rejected Goods”	has the meaning given under Clause 3.2 of Schedule 2;
“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;
“Requirement to Recall”	has the meaning given under Clause 3.9 of Schedule 2;
“Services”	means the services set out in this Contract (including, without limitation, Schedule 5 which sets out the requirements of the Authority as issued to tenderers as part of the procurement process and the Supplier’s response to these requirements), which shall include, without limitation, any Installation and Commissioning Services and/or any Maintenance Services in respect of the Goods;
“Services Commencement Date”	means the date delivery of the Services shall commence as specified in the Key Provisions. If no date is specified in the Key Provisions this date shall be the Commencement Date;
“Services Information”	means information concerning the Services as may be reasonably requested by the Authority and supplied by the Supplier to the Authority in accordance with Clause 20 of Schedule 2 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 Participation Documents”	means the documents set out in Schedule 5 as amended and/or updated in accordance with this Contract;
“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 Contract including any Sub-contractors and person employed or engaged by such Sub-contractors;
“Step In Rights”	means the step in rights, if any, referred to in the Key Provisions;

“Sub-contract”	means a contract between two or more suppliers, at any stage of remoteness from the Supplier in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract;
“Sub-contractor”	means a party to a Sub-contract other than the Supplier;
“Subsequent Transfer Date”	means the point in time, if any, at which services which are fundamentally the same as the Services (either in whole or in part) are first provided by a Successor or the Authority, as appropriate, giving rise to a relevant transfer under TUPE;
“Subsequent Transferring Employees”	means any employee, agent, consultant and/or contractor who, immediately prior to the Subsequent Transfer Date, is wholly or mainly engaged in the performance of services fundamentally the same as the Services (either in whole or in part) which are to be undertaken by the Successor or Authority, as appropriate;
“Successor”	means any third party who provides services fundamentally the same as the Services (either in whole or in part) in immediate or subsequent succession to the Supplier upon the expiry or earlier termination of this Contract;
“Supplier”	means the supplier named on the form of Contract 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 8.3 of Schedule 1;
“Supplier Net Zero and Social Value Contract Champion”	shall have the meaning given to the term in Clause 8.6 of Schedule 1;
“Supplier Personnel”	means any employee, agent, consultant and/or contractor of the Supplier or Sub-contractor who is either partially or fully engaged in the performance of the Services;
“Supply of Goods Commencement Date”	means the date supply of the Goods shall commence as specified in the Key Provisions. If no date is specified in the Key Provisions this date shall be the Commencement Date;
Telephony Framework	means the framework arrangement established or to be established under the NHS Digital Care Services Catalogue - https://digital.nhs.uk/services/digital-care-services-catalogue;

“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 Contract on a specified date and setting out the grounds for termination;
“Termination Sum”	has the meaning given in Schedule 14;
“Third Party”	means any supplier of services fundamentally the same as the Services (either in whole or in part) immediately before the Transfer Date;
“Third Party Body”	has the meaning given under Clause 8.5 of Schedule 2;
“Third Party Employees”	means all those employees, if any, assigned by a Third Party to the provision of a service that is fundamentally the same as the Services immediately before the Transfer Date;
“Transfer Date”	means the Actual Services Commencement Date;
“Transfer Option Deadline”	the first Business Day to fall at least three (3) months after the notice detailing the Transfer Option has been sent to each Eligible Employee;
“Transferred Staff”	means those employees (including Transferring Employees and any Third Party Employees) whose employment compulsorily transfers to the Supplier or to a Sub-contractor by operation of TUPE or for any other reasons, as a result of the award of this Contract;
“Transferring Employees”	means all those employees, if any, assigned by the Authority to the provision of a service that is fundamentally the same as the Services immediately before the Transfer Date;
"TUPE"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (2006/246) and/or any other regulations or other legislation enacted for the purpose of implementing or transposing the Acquired Rights Directive (77/187/EEC, as amended by Directive 98/50 EC and consolidated in 2001/23/EC) into English law;
“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
“Update”	in relation to any Goods or software provided as part of the Services means a version of such item which has been produced primarily to overcome defects in, or to improve the operation of, that item;

"VAT"	means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax.

1 References

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

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

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

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

1.6 Unless set out in the 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 Contract.

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

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

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

1.10 Where there is a conflict between the Supplier's responses to the Authority's requirements (the Supplier's responses being set out in Schedule 5) and any other part of this Contract, such other part of this Contract shall prevail.

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

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

1.13 Any guidance notes in grey text do not form part of this Contract.

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

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

1.16 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 Contract) shall be deemed to include any fine and any related costs imposed by a commissioner, regulator or other competent body.

1.17 Any reference in this Contract 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 Participation Documentation

The Premises and Locations are the sites set out in the Implementation Plan.

TELEPHONY SYSTEM SPECIFICATION

<table>
<tr><th>Capability</th><th>Requirement from commissioning support pack</th><th>Epic / Acceptance Criteria</th></tr>
<tr><td rowspan="7">Auto-Attendant & Interactive Voice Response (IVR)</td><td>A line specific greeting message is available to confirm to the caller the practice name
A line specific greeting message is available which can be tailored for example to inform callers of opening hours during out of hours</td><td>- Line specific greeting message
- Configure line specific greeting message</td></tr>
<tr><td>Menu options are available to other services (for example prescriptions)</td><td>- Interactive menu options
- Configure interactive menu options</td></tr>
<tr><td>Locally configurable Interactive Voice Response (IVR) for incoming call handling e.g. patient triage</td><td>- interactive call flows
- interactive call flow data capture
- configurable interactive call flows
- configurable interactive call flow data capture</td></tr>
<tr><td>The service user is held in a queue and announcements are made to inform them of their position</td><td>- position in queue announcement
- in queue announcement
- configure in queue announcements</td></tr>
<tr><td>A service user is able to phone their practice outside of service hours and is signposted to out of hours services</td><td>- signpost Patient/Service User to out of hours services
- configure signposting of out of hours services</td></tr>
<tr><td rowspan="2">View reporting metrics in real time to support demand management
i. Number of calls received by day/time
ii. Abandoned calls
iii. Caller waiting times</td><td>- real time call data reporting
- configure real time call data reporting</td></tr>
<tr><td>- display real time call data on a dashboard
- configure dashboard</td></tr>
<tr><td>Call History</td><td>View reporting metrics retrospectively
i. Number of calls received by day/time</td><td>- view reports on call events
- view call event activity report</td></tr>
</table>

	ii. Abandoned calls iii. Caller waiting times	- view call event failure report Additional Implementation Details: Call abandoned · Time period abandoned · Missed call volumes · Call backs requested · Call backs made · Average call length times · Call times to answer (time taken for a patient to reach their required destination or speak to a member of staff) · Call volumes · System outage reports
Office telephony	The practice can enable and configure call forwarding when busy - Externally to other practices in a PCN	call forwarding - forward call - configure call forwarding
	The practice can enable and configure call forwarding when busy - To hunt groups within the practice	- manage incoming call by hunt groups - configure hunt groups
	The practice staff can record calls	- record a call event - enable recording of call event during call event - notify call participants the call is being recorded - disable recording of call event during call event - configure recording of call events
	Management and re-routing of incoming calls both within a general practice and to alternative numbers in general practices and services within the same Primary Care Network or ICB to support resilience and business continuity	- transfer call to Practise extension - configure call transfer to Practise extension

TELEPHONY SYSTEM CAPACITY

Inbound Voice Calls	Unlimited concurrent calls answered and queued if required. (A limit on queue size may be imposed by configuration if required).
Outbound Voice Calls	Each Named User guaranteed to make a call regardless of concurrent usage
Outbound SMS	10 per second
Voicemail Storage	36 months or until the termination of the Agreement if sooner
Report Data Storage	Unlimited for the duration of the Agreement
Conversation Recording	36 months or until the termination of the Agreement if sooner

HELPDESK SERVICE LEVELS

Operational Hours for the Support team are between 8.00am and 5.30pm Monday to Friday, excluding public and bank holidays. All other hours are classed as being outside working hours.

Agreement level: Gold	
Minor Problems	Report via the X-on Support Portal or report by phone 0333 332 6633, in working hours. **Time to respond - 4 working hours.** **Time to fix - 8 working hours**
Serious Problems	Report via the X-on Support Portal or report by phone 0333 332 6633, in working hours. **Time to respond - 1 working hour** **Time to fix - 4 working hours**
Critical Problems	Report via the X-on Support Portal and then follow up by phone, quoting the ticket number, to 0333 332 6633, in working hours. Report by phone to duty engineer on 0333 555 8 999 at all other times. **Time to respond - 15 minutes.** **Time to fix - 1 working hour.**
Assistance with Self-serve Configuration Changes	Available by phone 0333 332 6633 in working hours. Subject to service level general terms and conditions.
Service Availability	99.9% availability
Compensation for failure to meet Service Availability	See Schedule 12 Performance Levels
Escalation Path	If not satisfied by the response provided by the Support Team,

	escalate in the first instance to the Support Team Leaders on 0333 111 0000. Within Operational Hours contact the Support Team Leaders by email to supportteamleaders@x-on.co.uk
Further Escalation Path	If not satisfied by the response provided by the Support Team Leaders, escalate by email stating ticket number(s) to: a. Chief Operating Officer neil.miles@x-on.co.uk a. Managing Director julian.coe@x-on.co.uk
X-on Service Testing and Resilience Plan	Automated service monitoring. Guaranteed multi-site deployment.

Examples of Levels of Criticality

The levels of criticality shown in the table below are examples of possible scenarios. They are not representative of actual faults which have been experienced and are not exclusive and are intended merely to give guidance as to levels of criticality.

"Inbound" calls are calls delivered to the Authority from Supplier's service platform. "Outbound" calls and SMS are communications sent from the Authority to other numbers from handsets or PCs using Supplier software.

Minor	**Serious**	**Critical**
Non-service affecting queries	More than 1 in 5 inbound calls fail to be processed by Supplier.	Failure of service to respond to any inbound calls.
Problems with reports and on-line real time statistical monitors.	Problems causing incorrect routing of outbound calls or SMS through Supplier.	Failure of the service to deliver any outbound calls or SMS.
Short delays in voice call service response (less than 2 seconds)	Delays in voice call service response of up to 10 seconds.	Delays to voice call service response exceeding 10 seconds.
Intermittent queries with audio quality where attributed to Supplier's Service Delivery Platform.	Degradation of call quality affecting all calls.	Call quality problem causing complete lack of intelligibility on all calls.
Delays on administration web site.	Failure of administration web site.	.

Like all service providers, Supplier relies on other Network Providers for delivery of calls to and from an Authority, particularly BT who have a near monopoly on the “Final Mile” connection to premises. This means that when a fault originates with these providers, Supplier is dependent on their services for rectification. Where the fault lies with the Network Provider, the Service Level Agreement will not apply beyond service levels given by these third party providers. Supplier will work with these providers to rectify any faults originating on their networks with minimum delay.

REVIEW DATE: Review Dates will be bi-annually unless mutually agreed otherwise.

Schedule 6

Commercial Schedule

MONTHLY SUBSCRIPTIONS				
ITEM	**Notes**	**Units**	**Price per unit**	**Total**
SURGERY CONNECT Paid Users	(1)		£22.00	£
SURGERY CONNECT Paid Users ex. Hardware & installation.	(1)		£16.00	£
Leased Lines			£25.00	£
Access to Surgery Connect API			£25.00	£
X-fax (Electronic Fax)			£20.00	£
Trunk to external number including Patient Partner			£20.00	£
Trunk to another Surgery Connect service using X-on number			£0.00	£0.00
Contract Buy Out monthly fee	(2)	1	£	£
MONTHLY CHARGES				**£**

IMPLEMENTATION AND HARDWARE COSTS		One-Off		
Item	**Notes**	**Units**	**Price per unit**	**Total**
Standard Hardware and Installation Services Bundle for each Paid User	(1)		£216.00	£
Additional Installation Services				
CAT5e cabling - **per port**			£120.00	£
Installation and/or cabling requested outside of working hours - **per day**			£1,795.00	£
On site training - **per half day**			£400.00	£
Additional Hardware				
Wallboard - Installation of 43” Monitor with wall bracket			£895.00	£

Conference Phone - Yealink CP925			£340.00	£
PA System - Algo 8180 or Algo 8301 SIP			£380.00	£
Standard Cordless Handset - Yealink W56H cordless handset and W70B base station			£125.00	£
Standard Handset - Yealink T31 Desk Phone			£80.00	£
Standard Softphone Headset - Yealink UH34 Lite Monaural USB Headset for softphone			£39.00	£
Standard Headset for handsets			£39.00	£
Wireless monural headset for T31 phone			£160.00	£
Wireless binaural headset for T31 phones			£185.00	£
UPFRONT CHARGES				**£**

TOTAL Contract Value ex VAT	**£**

(1) Surgery Connect meets the minimum specification laid out in Schedule 5. Annex A contains the full functionality specification for the product.

(2) Full details of the Standard Hardware and Installation Services are included in Schedule 11

(3) The Contract Buy Out monthly fee is based on a maximum payment to the Authority's current provider of £X inclusive of VAT {Delete paragraph if no Buy Out Cost}

(4) **Transaction Charges:**

MONTHLY TRANSACTION CHARGES FOR EXCLUDED CALLS AND ADDITIONAL SMS		
Capability		**Price per unit**
Calls to 084 Numbers (Premium Rate)	per minute	£0.10
Calls to 087 Numbers (Premium Rate)	per minute	£0.18
Calls to 09 Numbers (Premium Rate) (Disabled)	per minute	per rate card
Calls to International Numbers	per minute	per rate card

Chargeable SMS	per SMS segment	£0.0199
SMS for patient callback, voicemail alerts, missed calls **above the** threshold of 5,000 SMS per service per month	per SMS segment	£0.0199

POST IMPLEMENTATION CHARGES	
Item	**Price per unit**
Additional online training session - post implementation (up to a maximum 2 hour session)	£95.00
No show fee for pre-booked training - **per session**	£95.00
Reconnection to X-on service fee	£150.00
To provide a downloaded copy of all encrypted stored conversation recordings	£595.00
Network connectivity installation (Openreach etc) - Abortive visit fee (will be based on cost from Third Party plus £30 handling fee)	£195.00
Site Move Inside Working hours, subject to Site Survey * - to include: - New broadband connectivity at new site - 1 day site survey per site/move - 1 day removal of hardware and installation at new site by X-on Engineer - Disbursements included for X-on Engineer mileage and expenses	£2,500.00
Outside of working hours** - supplement **per day** in addition to the above	£595.00
Customer requested site visit by X-on Engineer - **per day**	£595.00
Service merge or split (in addition to site move fees if applicable)	£2,500.00
Service Merge Per extra site	£500.00
X-on remote support of 3rd party faults in working hours - **per hour**	£50.00
X-on remote support of 3rd party faults outside of working hours - **per hour**	£50.00

Annex B to Schedule 6

FUNCTIONALITY

The Functionality included in Surgery Connect is as follows:

MUST DO FUNCTIONALITY	
Auto-Attendant & Interactive Voice Response (IVR) capability Analysis	
Auto Attendant	included in PAID USER Licence
Time condition call routing	included in PAID USER Licence
Line specific messages	included in PAID USER Licence
Interactive Voice Response menu	included in PAID USER Licence
Interact with solution using Dual Tone Multi-Frequency (DTMF) Tones	included in PAID USER Licence
Interactive Call Flow	included in PAID USER Licence
Re-routing of unanswered routed calls	included in PAID USER Licence
Ability to use Hunt Groups	included in PAID USER Licence
Call Queue	included in PAID USER Licence
In queue call back option	included in PAID USER Licence
Identify Patient/Service User from caller ID	included in PAID USER Licence
Office Telephony	
Conduct audio calls - Inclusive Call Cost Bundle Unlimited calls dialled to the following destinations: - UK Geographic Numbers starting 01, 02 - UK Non-geographic Numbers starting 03 - UK Mobile Numbers starting 07 (Excludes Isle of Man, Jersey and Guernsey) - Freephone numbers starting 080	included in PAID USER licence, subject to FAIR USAGE provisions. Rate card applies for excluded calls as shown in TRANSACTION CHARGES section.
Configure the blocking of outbound phone numbers	included in PAID USER Licence
Calling Line Identifier	included in PAID USER Licence
Call Transfer	included in PAID USER Licence
Manage Directory	included in PAID USER Licence
Search Directory	included in PAID USER Licence

Call Forwarding	included in PAID USER Licence
Call Hold	included in PAID USER Licence
Mute call	included in PAID USER Licence
3rd party conferencing	included in PAID USER Licence
Play received voicemail	included in PAID USER Licence
Call Waiting Indication	included in PAID USER Licence
Call Monitoring	included in PAID USER Licence
Call Reporting and Forecasting	
View Call Event reports	included in PAID USER Licence
View real-time call data dashboard	included in PAID USER Licence
Export report results	included in PAID USER Licence
View in-queue call backs conducted	included in PAID USER Licence
Call Recording	
View Call Events	included in PAID USER Licence
Record audio call - Call Recording 36 Months Retention	included in PAID USER Licence
Export Call Recordings	included in PAID USER Licence
Search for Call Recordings	included in PAID USER Licence
Playback Call Recordings	included in PAID USER Licence
Configure retention period of Call Recordings	included in PAID USER Licence
Manually record audio calls	included in PAID USER Licence
Configure real-time call data dashboard	included in PAID USER Licence
In-queue position announcements	included in PAID USER Licence

MAY DO FUNCTIONALITY	
Auto-Attendant & Interactive Voice Response (IVR) capability Analysis	
Respond to Interactive Voice Response menu using speech	Not included
High priority Patient/Service User Call Queue prioritisation	included in PAID USER Licence

Configure self-service Patient/Service User Appointment booking	Not included
Self-service Patient/Service User Appointment booking	Not included
Configure self-service Patient/Service User order Repeat Prescription	Not included
Self-service Patient/Service User order Repeat Prescription	Not included
Auto Attendant to announce purpose of the call to Health or Care Professional	included in PAID USER Licence
Skill based call allocation	included in PAID USER Licence
Patient/Service User after call survey	included in PAID USER Licence
Office Telephony	
Share Directory	included in PAID USER Licence
conduct a video Consultation with other Health and Care Professionals	included in PAID USER Licence
support calling Patient/Service Users from their Electronic Patient Records (EPR)	included in PAID USER Licence
support sending SMS messages to Patient/Service User from their Electronic Patient Record (EPR)	Chargeable SMS - see Transaction Charges
Patient/Service Users consent to receive SMS message alert	Not included
Patient/Service Users receiving SMS message is the same as displayed in the Electronic Patient Record (EPR) alert	included in PAID USER Licence
call switching between devices	included in PAID USER Licence
Health or Care Professional availability status	included in PAID USER Licence
Call Scripts	included in PAID USER Licence
Call Reporting and Forecasting	
View call demand forecasting	included in PAID USER Licence
View Patient/Service User after call survey reports	included in PAID USER Licence
View Interactive Call Flow reports	included in PAID USER Licence
Call Recording	
Log inbound Call Events to the Patient/Service User's Electronic Patient Record (EPR)	included in PAID USER Licence

Log outbound Call Events to the Patient/Service User's Electronic Patient Record (EPR)	included in PAID USER Licence
Automatic Call Recordings	included in PAID USER Licence
Attach inbound Call Recordings to the Patient/Service User's Electronic Patient Record (EPR)	included in PAID USER Licence
Attach outbound Call Recordings to the Patient/Service User's Electronic Patient Record (EPR)	included in PAID USER Licence
Categorise Call Recordings	Not available
Add free text notes to Call Recordings	Not available
manually record video calls	included in PAID USER Licence
Video Consultation	
Conduct a Video Consultation with a Patient/Service User	included in PAID USER Licence

ADDITIONAL FUNCTIONALITY	
SMS From Call Flow to send information and links to online resources include consultation forms	Chargeable SMS - see Transaction Charges
SMS Templates from desktop app including from NHS Conditions Library	included in PAID USER Licence
Silent Monitoring and Coaching	included in PAID USER Licence
X-flow Script visual management system, test and deploy process	included in PAID USER Licence
Bundle all communications into single consultation note and file to Clinical System	included in PAID USER Licence
Build Appointments list and manage communications	included in PAID USER Licence
Heads up SMS Message to upcoming appointments	Chargeable SMS - see Transaction Charges
In-queue playlists can give flexible information and options depending on patient wait time	included in PAID USER Licence
Step in of other resources to skill groups depending on wait	included in PAID USER Licence

Patient self serve appointment check with cancel option for appropriate appointments	included in PAID USER Licence
Integration with EMIS Community and EMIS Clinical Services with support for multi CDB	included in PAID USER Licence
Request a high definition photo from patient from Clinical System	included in PAID USER Licence
Store received photo to Clinical System after examination	included in PAID USER Licence
Configurable departmental calendar and timer including UK Bank Holiday management	included in PAID USER Licence
Click to Call from Patient Record in Clinical System	included in PAID USER Licence
Click to SMS from Patient Record in Clinical System	Chargeable SMS - see Transaction Charges
Priority Patient Routing and queue bypass (RAG)	included in PAID USER Licence
Visual Voicemail console with email delivery of messages as attachments	included in PAID USER Licence
SMS to patients who missed a callback, Voicemail Notification, Group Missed Calls Notification, Photo Requests from the Phonebar, Video invites	Total of 5000 SMS segments included in Monthly Subscription. Additional SMS charged as Chargeable SMS
Priority in queue for patients who missed a callback	included in PAID USER Licence

Schedule 7

Staff Transfer

The optional parts of this Schedule 7 below shall only apply to this Contract where such parts have been checked.

Part A ☒ No staff transfer to the Supplier under TUPE (only applicable to the Contract if this box is checked)

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

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

1.1.1 the Supplier will, within seven (7) days of becoming aware of that fact, give notice in writing to the Authority;

1.1.2 the Authority or Third Party may offer employment to such person within twenty-eight (28) days of the notification by the Supplier;

1.1.3 if such offer of employment is accepted, the Supplier or a Sub-contractor shall immediately release the person from their employment;

1.1.4 if after that period specified in Clause 1.2.2 of Part A of this Schedule 7 has elapsed, no offer of employment has been made by the Authority or Third Party, or such offer has been made by the Authority or Third Party but not accepted within a reasonable time, the Supplier or Sub-contractor shall employ that person in accordance with its obligations and duties under TUPE.

Schedule 8

Installation and Commissioning Services

1 Installation and Commissioning Services

1.1 The Goods shall be installed and commissioned at the relevant Premises and Locations by the Supplier as set out in the Specification and Participation Documents or as otherwise agreed by the Authority in writing.

1.2 The Supplier shall provide the Installation and Commissioning Services:

1.2.1 promptly and in any event within any time limits as may be set out in this Contract;

1.2.2 in accordance with all other provisions of this Contract;

1.2.3 using reasonable skill and care;

1.2.4 in accordance with any quality assurance standards as set out in the Contract;

1.2.5 in accordance with the Law and with Guidance;

1.2.6 in accordance with Good Industry Practice;

1.2.7 in accordance with the original manufacturer's guidelines and recommendations relating to the Goods being installed and commissioned;

1.2.8 in accordance with the Policies;

1.2.9 in a professional and courteous manner; and

1.2.10 using appropriately skilled, trained and experienced Staff.

1.3 The Supplier will promptly notify the Authority of any health and safety hazard which arises, or the Supplier is aware may arise, in connection with the Installation and Commissioning Services and take such steps as are reasonably necessary to ensure the health and safety of persons likely to be affected by such hazards.

2 Inspection and Testing

2.1 Once the Goods have been installed and commissioned, the Supplier shall inform the Authority in writing that the Goods are ready for use. The following process will then apply:

2.1.1 within five (5) Business Days of receipt of such written confirmation from the Supplier that the Goods are ready to use, the Authority may carry out any such reasonable inspections and testing of the Goods as the Authority deems appropriate (in accordance with the relevant manufacturers' technical manuals relating to the Goods and/or as otherwise set out in the Specification and Participation Documents and/or as otherwise agreed by the Parties in writing) to confirm that the Goods comply with the requirements of this Contract and are ready for use;

2.1.2 as part of the Contract Price, the Supplier shall provide the Authority with all reasonable assistance and/or information requested by the Authority in relation to any such reasonable inspections and testing of the Goods;

2.1.3 if the Authority on inspection and testing is of the view that the Goods have been supplied, installed and commissioned (as appropriate) in conformance with the requirements of this Contract and are ready for use, it shall issue an Authority Confirmation to this effect to the Supplier;

2.1.4 if the Authority on inspection and testing is not of the view that the Goods have been supplied, installed and commissioned (as appropriate) in conformance with the requirements of this Contract and are ready for use, it shall inform the Supplier in writing and Clauses 2.3 and 2.4 of this Schedule 8 shall apply; and

2.1.5 if the Authority chooses not to inspect and/or test the Goods, then the Authority shall be deemed to have provided an Authority Confirmation in relation to such Goods on the sixth (6th) Business Day following receipt by the Authority of the written confirmation from the Supplier in accordance with Clause 2.1.1 of this Schedule 8 that the Goods are ready to use.

2.2 The issue by the Authority of any Authority Confirmation shall be a confirmation that the correct Goods appear to have been supplied and reasonable installation and commissioning procedures look to have been followed by the Supplier in accordance with the requirements and standards of this Contract. It does not imply any acceptance of such Goods or any endorsement of such installation and commissioning procedures. Responsibility for supplying the Goods in accordance with the requirements and standards of the Contract and the appropriateness of any installation and commissioning procedures shall remain with the Supplier notwithstanding any such Authority Confirmation.

2.3 Without prejudice to any other rights and remedies of the Authority under this Contract, in relation to any failure by the Supplier to supply, install or commission the correct Goods in accordance with the requirements and standards of this Contract, the Supplier shall, at its own expense as part of the Contract Price, forthwith re-supply, re-install and/or re-commission the Goods until such time as Goods in compliance with the requirements of this Contract are delivered, installed, and commissioned to the reasonable satisfaction of the Authority and the Authority has provided an Authority Confirmation to the Supplier to this effect. The Contract Price payable by the Authority under this Contract may be withheld by the Authority in full or part (to be determined at the Authority's sole discretion) until the Goods are supplied, installed and commissioned in accordance with the requirements and standards of this Contract to the reasonable satisfaction of the Authority and the Authority has provided its Authority Confirmation to this effect.

2.4 In the event of any Dispute between the Authority and the Supplier regarding the issue of an Authority Confirmation, the Dispute shall be dealt with in accordance with the Dispute Resolution Procedure.

2.5 In the event that the Specification and Participation Documents states that Goods shall be installed and commissioned on a phased basis and/or upon request, then the process for the inspection and testing of Goods set out in Clauses 2.1 to 2.4 (inclusive) of this Schedule 8 shall apply to the Goods within each phase and/or instance of supply.

2.6 In the event that the Specification and Participation Documents stipulates a refresh programme and/or that substitute or replacement Goods shall otherwise be installed in accordance with the requirements of this Contract (to include, without limitation, in connection with any Maintenance Services), then, following the installation and commissioning of the replacement Goods, the process for the inspection and testing of Goods set out in Clauses 2.1 to 2.4 (inclusive) of this Schedule 8 shall apply in relation to the inspection and testing of any substitute or replacement Goods.

3 Relocation of Goods

3.1 Upon reasonable written notice from the Authority, the Supplier shall, as part of the Installation and Commissioning Services, relocate such Goods within the Premises and Locations or to another location and the process for the inspection and testing of Goods set out in Clauses 2.1 to 2.4 (inclusive) of this Schedule 8 shall apply in relation to the inspection and testing of any relocated Goods.

3.2 The Authority shall meet the Supplier's reasonable charges and expenses incurred in complying with Clause 3.1 of this Schedule 8 provided that such reasonable charges and expenses are approved in writing by the Authority prior to being incurred by the Supplier.

4 Supplier's obligation to make good any damage

4.1 The Supplier shall make good at the Supplier's expense any damage to any property or equipment caused by the installation, commissioning, removal and/or relocation of the Goods by the Supplier

Schedule 9

Maintenance Services

1 Maintenance Services

1.1 From the point set out in the Specification and Participation Documents at which Maintenance Services are triggered or as otherwise agreed by the Parties in writing taking into account any warranty period applicable to the Goods, all Goods forming part of the Maintenance Inventory shall be maintained throughout the Term by the Supplier so as to comply with:

1.1.1 any applicable specification set out in this Contract (to include, without limitation, the provisions of the Authority's requirements set out in the Specification and Participation Documents and the Supplier's response to such requirements set out as part of the Specification and Participation Documents); and

1.1.2 any applicable manufacturers' specifications.

1.2 The Supplier shall provide the Maintenance Services:

1.2.1 promptly and in any event within any time limits as may be set out in this Contract;

1.2.2 in accordance with all other provisions of this Contract;

1.2.3 using reasonable skill and care;

1.2.4 in accordance with any quality assurance standards as set out in the Contract;

1.2.5 in accordance with the Law and with Guidance;

1.2.6 in accordance with Good Industry Practice;

1.2.7 in accordance with the original manufacture's guidelines and recommendations relating to the Goods being maintained;

1.2.8 in accordance with the Policies;

1.2.9 in a professional and courteous manner; and

1.2.10 using appropriately skilled, trained and experienced Staff.

2 General maintenance requirements

2.1 The Supplier, in accordance with Good Industry Practice and the original equipment manufacturer's guidelines and recommendations, shall:

2.1.1 provide effective planned preventive maintenance for all Goods to the extent this requirement is set out in the Specification and Participation Documents and/or as otherwise agreed between the Parties in writing; and

2.1.2 provide appropriate remedial maintenance for all Goods to the extent this requirement is set out in the Specification and Participation Documents and/or as otherwise agreed between the Parties in writing.

3 Service visits

3.1 The Supplier shall ensure that the Authority is notified in writing in advance of all service visits to any Premises and Locations and that Staff comply with any relevant Policies and/or reasonable instructions and/or security procedures notified to the Supplier by the Authority from time to time in connection with such site visits.

4 Provision of information

4.1 Without prejudice to any specific records keeping requirements set out in this Contract, including as part of the Specification and Participation Documents, the Supplier shall:

4.1.1 maintain a record of all Goods that are covered by the Maintenance Services ("**Maintenance Inventory**"). For the avoidance of doubt, such Maintenance Inventory shall be deemed to form part of the Specification and Participation Documents and may be in a single document or separate documents, as amended and/or updated in accordance with this Contract from time to time;

4.1.2 maintain records of all maintenance work carried out on any Goods in connection with this Contract; and

4.1.3 provide all required management information to the Authority promptly upon Authority's written request to demonstrate, to the Authority's reasonable satisfaction, compliance with requirements to provide planned preventative maintenance and, where applicable, remedial maintenance in connection with all Goods listed in the Maintenance Inventory.

4.2 Without prejudice to any other audit or information requirements set out as part of this Contract, any records kept by the Supplier in connection with the Maintenance Services, the Maintenance Inventory and any service visits shall be made available by the Supplier for inspection by the Authority and/or its authorised representatives on request.

4.3 Subject always to the provisions of Clause 8 of this Schedule 9, the Supplier shall inform the Authority in writing as soon as it becomes aware that either of the following circumstances will, or are likely to, arise in connection with any Goods forming part of the Maintenance Inventory:

4.3.1 the Supplier will no longer be able to maintain the item of Goods as any required third party support will no longer be available (including, without limitation, support from the original equipment manufacturer); or

4.3.2 the Supplier will no longer not be able to obtain from any third party (including, without limitation, the original equipment manufacturer) any required spare parts and/or consumable items required to provide the Maintenance Services in relation to those Goods.

4.4 Where the Supplier provides information to the Authority under Clause 4.3 of this Schedule 9, it will inform the Authority in writing promptly upon becoming aware that this information has changed or may change.

5 Loan Goods and replacement Goods

5.1 Where the Supplier is unable to fix any Goods forming part of the Maintenance Inventory as part of the Maintenance Services during a site visit, and the Specification and Participation Documents provides for substitute Goods to be provided to the Authority in these circumstances on a loan and/or replacement basis, the Supplier shall:

5.1.1 provide the Authority with such substitute Goods in accordance with the relevant provisions and timescales, as set out in the Specification and Participation Documents;

5.1.2 comply with any installation, commissioning, inspection and testing processes as may be set out in this Contract or otherwise agreed by the Parties in writing; and

5.1.3 update the Maintenance Inventory accordingly to include any substitute Goods.

Where the Supplier loans Goods to the Authority and subsequently replaces the loaned Goods, the Supplier shall comply with the provisions of Clauses 5.1.2 and 5.1.3 of this Schedule 9 in relation to such replacement of the loaned Goods.

5.2 Subject to Clauses 7 and 8 of this Schedule 9, any Goods added to the Maintenance Inventory in accordance with Clause 5.1.3 of this Schedule 9 will be covered by the Maintenance Services for the remainder of the Term from the point set out in the Specification and Participation Documents at which Maintenance Services are triggered for such substitute Goods or as otherwise agreed by the Parties in writing taking into account any warranty period applicable to such substitute Goods. For the avoidance of doubt, this Contract shall apply in full to the supply, installation, and commissioning (as applicable) of such substitute Goods.

6 Additional warranties

6.1 The Supplier warrants and undertakes that:

6.1.1 when providing the Maintenance Services (including, without limitation, providing any loan or replacement Goods), it shall comply with all timescales and KPIs set out in the Specification and Participation Documents associated with such requirements;

6.1.2 any replacement parts, consumable items, replacement Goods and/or loan Goods shall be of satisfactory quality, fit for their intended purpose, installed (where applicable) in accordance with Good Industry Practice and shall comply with the standards and requirements set out in this Contract;

6.1.3 it will ensure sufficient stock levels of any replacement parts, consumable items, replacement Goods and/or loan Goods to comply with its obligations to provide the Maintenance Services in accordance with the provisions of this Contract;

6.1.4 it has and shall maintain a properly documented system of quality controls in respect of the Maintenance Services including, without limitation, covering the supply of any replacement parts, consumable items, replacement Goods and/or loan Goods and shall at all times comply with such quality controls;

6.1.5 any equipment it uses in the installation of any replacement parts, consumable items, replacement Goods and/or loan Goods shall comply with all relevant Law and Guidance, be fit for its intended purpose and shall be maintained fully in accordance with the manufacturer's specification;

6.1.6 receipt of any replacement parts, consumable items, replacement Goods and/or loan Goods by or on behalf of the Authority and use of such items or of any other related item or information supplied, or made available, to the Authority will not infringe any third party rights, to include without limitation, any Intellectual Property Rights;

6.1.7 it will comply with all Law and Guidance in so far as it is relevant to the supply of any replacement parts, consumable items, replacement Goods and/or loan Goods to the Authority; and

6.1.8 it will promptly notify the Authority of any health and safety hazard which arises, or the Supplier is aware may arise, in connection with the Maintenance Services including, without limitation, in connection with the supply of any replacement parts, consumable items, replacement Goods and/or loan Goods and take such steps as are reasonably necessary to ensure the health and safety of persons likely to be affected by such hazards.

6.2 Where the supply of any replacement parts, consumable items, replacement Goods and/or loan Goods relates to medical devices (as defined under any relevant Law and Guidance), the Supplier warrants and undertakes that it will comply with any such Law and Guidance relating to such activities in relation to such medical devices. In particular, but without limitation, the Supplier warrants that at the point such replacement parts, consumable items, replacement Goods and/or loan Goods are supplied to the Authority, all such items which are medical devices shall have valid CE marking as required by Law and Guidance and that all relevant marking, authorisation, registration, approval and documentation requirements as required under Law and Guidance relating to the supply, manufacture, assembly, importation, storage, distribution, delivery, or installation of such items shall have been complied with. Without limitation to the foregoing provisions of this Clause 6.2 of this Schedule 9, the Supplier shall, upon written request from the Authority, make available to the Authority evidence of such valid CE marking, and evidence of any other authorisations, registrations, approvals or documentation required.

6.3 If the Supplier is in breach of Clause 6.2 of this Schedule 9, in relation to any items supplied to the Authority, then, without prejudice to any other right or remedy of the Authority, the Authority shall be entitled to reject and/or return such items and the Supplier shall, subject to Clause 13.2 of Schedule 2, indemnify and keep the Authority indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings suffered or incurred by the Authority as a result of such breach.

6.4 The Supplier agrees to use reasonable endeavours to assign to the Authority upon request the benefit of any warranty, guarantee or similar right which it has against any third party manufacturer or supplier of any replacement parts, consumable items and/or replacement Goods in full or part.

6.5 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 6 of this Schedule 9 have been breached or there is a risk that any warranties may be breached.

7 The Authority's rights to remove Goods from the Maintenance Inventory

7.1 By giving a minimum of thirty (30) days written notice to the Supplier, the Authority may remove any Goods from the Maintenance Inventory and discontinue the Maintenance Services on such Goods in the event that:

7.1.1 it decommissions or replaces the Goods for health and safety reasons and/or for reliability reasons;

7.1.2 it sells, transfers or otherwise disposes of the Goods;

7.1.3 the Goods are lost or stolen; or

7.1.4 the Goods are replaced by the Authority and the replacement Goods are still under warranty.

8 The Supplier's rights to remove Goods from the Maintenance Inventory

8.1 By giving a minimum of twelve (12) months written notice to the Authority, the Supplier may remove Goods from the Maintenance Inventory and discontinue the Maintenance Services on such Goods in the following circumstances:

8.1.1 the Supplier will no longer be able to maintain the Goods as any required third party support is no longer available (including, without limitation, support from the original equipment manufacturer); and/or

8.1.2 the Supplier will permanently not be able to obtain from any third party (including, without limitation, the original equipment manufacturer) any required spare parts and/or consumable items required to provide the Maintenance Services in relation to those Goods.

8.2 The Parties acknowledge that:

8.2.1 at all times the Supplier shall be required to provide the Authority with information in accordance with Clauses 4.3 and 4.4 of this Schedule 9 notwithstanding the length of the Term of the Contract or the period of the Term still remaining; and

8.2.2 Clause 8.1 of this Schedule 9 shall only apply where the Term of the Contract exceeds twelve (12) months.

9 Adjustment to the Contract Price where Goods are removed from the Maintenance Inventory

9.1 Following the removal of any Goods from the Maintenance Inventory in accordance with Clauses 7.1 or 8.1 of this Schedule 9:

9.1.1 there shall be a pro-rata adjustment to the Contract Price to account for such removal; and

9.1.2 where applicable, the Supplier shall make a full refund to the Authority in respect of the balance of the Contract Price paid in advance for any period following the removal of such Goods. Such refund shall be paid automatically by the Supplier to the Authority within thirty (30) days following the effective date of the removal of the relevant Goods from the Maintenance Inventory and may be by credit note where the Supplier continues to provide ongoing Maintenance Services to the Authority.

9.2 If the Parties are unable to agree the pro-rata adjustment to the Contract Price in accordance with Clause 9.1.1 of this Schedule 9 within thirty (30) days of the effective date of the removal of such Goods from the Maintenance Inventory, this failure to agree shall be referred to (and resolved in accordance with) the Dispute Resolution Procedure.

10 Additional termination provisions

10.1 If the Authority removes any Goods from the Maintenance Inventory in accordance with Clause 7.1 of this Schedule 9 and no Goods will remain part the Maintenance Inventory following such removal, the Authority may terminate the Maintenance Services by giving a minimum of thirty (30) days written notice to the Supplier. Such notice may be given by the Authority at the same time as it gives the notice of removal of the last remaining Goods in accordance with the Clause 7.1 of this Schedule 9 or at any time afterwards.

10.2 If the Supplier removes Goods from the Maintenance Inventory in accordance with Clause 8.1 of this Schedule 9 and no Goods will remain part of the Maintenance Inventory following such removal, the Authority may terminate the Maintenance Services by giving a minimum of thirty (30) days written notice to the Supplier. Such notice may be given by the Authority at any point after it receives the notice of removal of the last remaining Goods in accordance with Clause 8.1 of this Schedule 9 or at any time afterwards, but shall not take effect before the effective date of the removal of such Goods from the Maintenance Inventory.

10.3 Following any termination of the Maintenance Services by the Authority in accordance with Clause 10.1 or Clause 10.2 of this Schedule 9, the Supplier shall make a full refund to the Authority in respect of the balance of the Contract Price paid in advance for the Maintenance Services for any period following such termination to the extent such balance has not already been paid to the Authority in accordance with Clause 9.1.2 of this Schedule 9. Such refund shall be paid automatically by the Supplier to the Authority within thirty (30) days following the effective termination date of this Contact.

11 Non-performance

11.1 The Supplier acknowledges the critical importance that the Authority places on ensuring that all Goods used by the Authority are properly maintained in a timely manner so as to ensure the safety of its staff, patients and other service users. Therefore, without prejudice to any other provisions of the Contract, where the Supplier does not provide the Maintenance Services in accordance with any time periods and/or other requirements set out in the Contract ("**Non-performed Services**"), without prejudice to its other right and remedies under this Contract, the Authority may elect to: (i) follow the remedial process set out in Clause 15.3 of Schedule 2; or (ii) the Authority may procure alternative maintenance services from a third party.

11.2 The Authority confirms that it will act reasonably at all times when electing to exercise its rights to procure alternative services from a third party under Clause 11.1 of this Schedule 9. In particular, the Authority will only elect to procure alternative services from a third party where the following circumstances apply:

11.2.1 the alternative services are required urgently due to health and safety reasons and/or to keep the relevant Goods operative;

11.2.2 the Supplier has been notified of the urgency of the requirement and its failure to provide the Maintenance Services in accordance with the requirements of this Contract; and

11.2.3 the Supplier has been given a reasonable period of time (taking into account the urgency of the requirement) to perform the Non-performed Services itself. What is a "reasonable period of time" in the particular circumstances shall be determined at the Authority's sole discretion taking into account its obligation under Clause 11.2 of this Schedule 9 to act reasonably.

11.3 In the event that the Authority elects to procure alternative services from a third party in accordance with Clause 11.1 of this Schedule 9, the following provisions shall apply:

11.3.1 where the Supplier has been paid the Contract Price in advance for such Non-performed Services, the Supplier shall (i) refund the Authority the full Contract Price paid; and (ii) pay to the Authority upon demand any additional charges that the Authority has incurred in connection with any alternative services additional to the Contact Price paid to the Supplier; and

11.3.2 where the Supplier has not yet been paid the Contract Price for such Non-performed Services, the Supplier shall: (i) forfeit the Contact Price for such Maintenance Services; and (ii) pay to the Authority upon demand any additional charges that the Authority has incurred in connection with any alternative services additional to the Contact Price that would have been paid to the Supplier had the Supplier performed the Non-performed Services in accordance with any time periods and/or other requirements set out in the Contract.

12 Supplier's obligation to make good any damage

12.1 The Supplier shall make good at the Supplier's expense any damage to any property or equipment caused by the Supplier when providing the Maintenance Services.

Schedule 10

Insurance requirements

1 Obligation to maintain insurances

1.1 Without prejudice to its obligations to the Authority and/or any Authority Service Recipient under this Agreement, including its indemnity and liability obligations, the Supplier shall for the periods specified in this Schedule take out and maintain, or procure the taking out and maintenance of the insurances as set out in Schedule 1 Clause 13.1 and any other insurances as may be required by applicable Law (together the "**Insurances**"). The Supplier shall ensure that each of the Insurances is effective no later than the date on which the relevant risk commences.

1.2 The Insurances shall be maintained in accordance with Good Industry Practice and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time.

1.2.1 The Insurances shall be taken out and maintained with insurers who are:

(i) of good financial standing;

(ii) appropriately regulated;

(iii) regulated by the applicable regulatory body and is in good standing with that regulator; and

except in the case of any Insurances provided by an Affiliate of the Supplier, of good repute in the international insurance market.

1.3 The Supplier shall ensure that the public and products liability policy shall contain an indemnity to principals clause under which the Authority and/or any Authority Service Recipient shall be indemnified in respect of claims made against the Authority and/or any Authority Service Recipient in respect of death or bodily injury or third party property damage arising out of or in connection with the Agreement and for which the Supplier is legally liable.

2 General Obligations

2.1 Without limiting the other provisions of this Agreement, the Supplier shall:

2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to the Services as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;

2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and

2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

3 Failure to Insure

3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.

3.2 Where the Supplier has failed to purchase any of the Insurances or maintain any of the Insurances in full force and effect, the Authority and/or any Authority Service Recipient may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances, and the Authority and/or any Authority Service Recipient shall be entitled to recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

4 Evidence of Insurances

4.1 The Supplier shall upon the Effective Date and within 15 Working Days after the renewal or replacement of each of the Insurances, provide evidence, in a form satisfactory to the Authority and/or any Authority Service Recipient, that the Insurances are in force and effect and meet in full the requirements of this Schedule. Receipt of such evidence by the Authority and/or any Authority Service Recipient shall not in itself constitute acceptance by the Authority and/or any Authority Service Recipient or relieve the Supplier of any of its liabilities and obligations under this Agreement.

5 Cancellation

5.1 Subject to Paragraph 6.2, the Supplier shall notify the Authority and/or any Authority Service Recipient in writing at least 5 Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.

5.2 Without prejudice to the Supplier’s obligations under Paragraph 4, Paragraph 6.1 shall not apply where the termination of any Insurances occurs purely as a result of a change of insurer in respect of any of the Insurances required to be taken out and maintained in accordance with this Schedule.

6 Insurance Claims, Premiums and Deductibles

6.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Services and/or this Agreement for which it may be entitled to claim under any of the Insurances. In the event that the Authority and/or any Authority Service Recipient receives a claim relating to or arising out of the Services and/or this Agreement, the Supplier shall co-operate with the Authority and/or any Authority Service Recipient and assist it in dealing with such claims at its own expense including without limitation providing information and documentation in a timely manner.

6.2 The Supplier shall maintain a register of all claims under the Insurances in connection with this Agreement and shall allow the Authority and/or any Authority Service Recipient to review such register at any time.

6.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.

6.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Authority and/or any Authority Service Recipient any sum paid by way of excess or deductible under the Insurances whether under the terms of this Agreement or otherwise.

6.5 From the point set out in the Specification and Participation Documents at which Maintenance Services are triggered or as otherwise agreed by the Parties in writing taking into account any warranty period applicable to the Goods, all Goods forming part of the Maintenance Inventory shall be maintained throughout the Term by the Supplier so as to comply with:

Schedule 11

Implementation Plan

Implementation Plan Overview:

Target Actual Services Commencement Date: {date}

If the Supplier fails to:

(a) successfully complete any testing requirements as set out in Schedule 18 (Testing); or

(b) achieve any specified go live date within the required timescales as set out in the Implementation Plan or otherwise agreed in writing with the Authority,

and fails to remedy such failures following remedial action plans, the Authority has the right to terminate in accordance with Clause 36 (right to terminate if the goods and services are not fit for purpose after the installation and testing period) of Schedule 1.

The Supplier will provide the following "**Implementation Services**".

Annex C details the Supplier's Responsibilities, Authority's Responsibilities, Risk and Dependencies for each implementation service.

Annex C Ref	Implementation Services	Included
A.1	Project Coordination	Yes
A.2	Configuration and Service Build	Yes
A.3	Training	Yes
A.4	Phonebar Installation & CMS Integration	Yes
A.5	Hardware Installation	Yes
A.6	Testing and Go Live Support	Yes
	Optional	
B.1	Provision of new telephone numbers	Yes / No
B.2	Porting of existing telephone numbers	Yes / No
B.3	Installation of dedicated connectivity	Yes / No
B.4	Installation on existing connectivity (inc HSCN)	Yes / No
B.5	On Site Training	Yes / No
B.6	Installation of Cat5 cabling	Yes / No
B.7	Out of Hours installation	Yes / No

Implementation Requirements:

Installation Addresses		
Site Reference	**Site Contact**	**Site Address**
{Site Name} {Site Ref}	{Primary Contact name}	{Site Name} {Site Address}
{Site Name} {Site Ref}	{Primary Contact name}	{Site Name} {Site Address}

Hardware Schedule	
Reception Extension	Yealink T31 Handset - Back Up Mobile - Monaural Headset
Site 1	0
Site 2	0
Standard Extension	Yealink T31 Handset
Site 1	0
Site 2	0
Standard Headset	Wired Monaural Headset for handsets
Site 1	0
Site 2	0
USB Headset	USB Monaural Headset for Softphone
Site 1	0
Site 2	0
Cordless (DECT) Extension	Yealink W56P Handset
Site 1	0
Site 2	0
Broadband Router and POE (Power over Ethernet) switch	Broadband Router and POE (24 port/48 port) switch
Site 1	0
Site 2	0
Wallboard	Installation of 43” Monitor with wall bracket
Site 1	0
Site 2	0

Conference Phone	Yealink CP925	
	Site 1	0
	Site 2	0
PA System	Algo 8180 Audio Alterter/Algo 8301 Paging Adapter and Scheduler	
	Site 1	0
	Site 2	0
Back Up Mobile	Back Up Mobile	
	Site 1	0
	Site 2	0
Wireless Headset	USB Monaural Wireless Headset	
	Site 1	0
	Site 2	0
Wireless Headset	USB Binaural Wireless Headset	
	Site 1	0
	Site 2	0
Broadband Bundle	Broadband Router and POE (24 port/48 port) switch, dedicated broadband connection or Surgery Connect on HSCN	
	Site 1	0
	Site 2	0
Cat 5 Cabling		
	Site 1	0
	Site 2	0

Software Schedule	
SURGERY CONNECT Paid Users	
Site 1	0
Site 2	0
Leased Lines	
Site 1	0

Site 2	0
X-fax (Electronic Fax)	
Site 1	0
Site 2	0
Trunk to external number including Patient Partner	
Site 1	0
Site 2	0
Trunk to another Surgery Connect service using X-on number	
Site 1	0
Site 2	0
Installation of Phonebar & CMS Integration	
Site 1	0
Site 2	0

Numbers to be Ported to Supplier			
Site	**Number**	**Name**	**Billing Number**
{Site Name} {Site Ref}			
Numbers to be Allocated by Supplier			

<u>Annex C to Schedule 11</u>

The following table shows example Implementation Plans

Description	**Standard implementation**	**Expedited implementation** - accelerated based on local need
Timescale (From contract signature to "**go live**")	**6-8 Weeks delivery with desktop phones**	**2-4 weeks delivery on softphone only**
Key Elements and dependencies	● Delivery on new or existing numbers ● All positions requiring phones have functional Cat5e sockets already available . ● Site survey to be completed. ● Line connectivity to be installed. ▪ Openreach engineer must be allowed on site. ▪ Openreach engineer must be shown the location of where the line must go (shown on site survey by the X-on engineer) ▪ Openreach are a third party and therefore no-shows or failed first time visits are a risk. ● Hardware installation ▪ All CAT5 sockets/cabling must be available and ideally no changes since site survey was carried out ▪ Cabinet access and space must be available.	● Delivery on new numbers assumed ▪ porting of the existing numbers may require additional lead time ▪ diverts can be used to new numbers but surgeries must confirm/agree costs with current supplier ● Simple to moderate service build complexity supported ▪ Surgeries requiring multiple layers to their service such as multiple menus, calendars, prompts and/or language options may have to go live with a simpler call flow and upgrade at a later date ● Training ● Integration ▪ Should phonebar be required, the surgeries IT must be engaged and install the application on PCs and assist without hindrance
Note:	Technically, Surgery Connect is available immediately on contract signature for outbound calls and in-bound testing using softphones but in practice, surgeries need training and to configure the system.	

The following table details Supplier and Authority Responsibilities in relation to each of the Implementation Services:

Implementation Service	**Supplier Responsibilities**	**Authority Responsibilities**
A.1 Project Coordination	● Appoint one or more nominated staff members to oversee the implementation of Surgery Connect. Providing key information and dates at relevant times for the surgery to act on accordingly ● Where the appointed coordinator is unavailable to ensure that appropriate cover is available to support the surgery	● Appoint one or more nominated staff members (the administrator) who will take responsibility for providing key information to enable us to successfully build and deliver your service ● Where the appointed or nominated staff are unavailable for a duration of time to continue overseeing the delivery - someone else is made available to cover
A.2 Configuration and Service Build	● Build and test the service from the information supplied by the Customer. ● Provide all required support via telephone, email and training in order to aid the Customer's understanding of the service operation. ● Ensure all efforts are made in order to achieve the full satisfaction of the Customer within the limits of the features available within Surgery Connect.	● Provide X-on with essential information required to deliver the service no later than 2 weeks prior to the Commencement date, specifically: o Lists of users who will be accessing the service o Details of where extensions (phones, fax machines) will be located o Details of how calls to the numbers in this Agreement will be processed including menus and messages (prompts) to be played to callers. ● Surgeries will be asked at this point to test the service call flow
A.3 Training	● Assist with booking Management and User training sessions ● Deliver booked sessions via Google Meet or MS Teams (depending on the choice of the surgery) and supply supporting materials ● Ensure all efforts are made in order to achieve the full satisfaction of the Customer within the limits of the features	● Ensure that staff understand how Surgery Connect works and support the use of the system throughout the organisation. ● Agree dates and times for remote training sessions and ensure that booked slots are kept free for key staff wishing to attend. If staff do not attend a booked training session, additional training sessions will be charged at the rates in Appendix A. Training sessions may

	available within Surgery Connect	be cancelled with at least one working day's notice.
A.4 Clinical Management System Integration and Phonebar Installation	● Provide the download link for the relevant version of the Integration software. ● Provide all required support via telephone, email and training in order to aid the Customer's understanding of the service operation	● Download the integration software onto all PCs and Laptops used by the surgery. This may need to be done by your IT Team. ● Complete the initial setup to allow testing
A.5 Site Survey and Hardware Installation	● X-on will send an engineer to conduct a site survey on all/each site that is requiring hardware. The engineer will look at the following: o A check on the available space in the comms cabinet and surrounding power availability o DP entry point for BT Openreach or KCOM (Hull customers only) for when connectivity is ordered in the scenario where HSCN or own connectivity is not being utilised o A location check on where each extension (handset, wallboard or other) will be intended for. This will include checking available CAT5e cabling in that area o Access to loft areas may be required for checking o Firestopping? ● Hardware will be sent 1-2 weeks prior to any agreed installation date ● X-on will install the hardware on the provided dates given by the coordinator to the surgery. This will cover all necessary work found on site survey and cabling work that is agreed/paid for by the customer	● Make arrangements for X-on Staff and Subcontractors to have access to the premises and relevant rooms in order to complete a site survey and installation work. All site surveys requires a nominated member from the surgery to help guide the engineer where equipment is expected to go ● The surgery has a legal responsibility to provide an Asbestos register or report for buildings pre year 2000 construction. Failure to provide a register leading to the requirement to remove asbestos where cabling is required may significantly delay installation while still incurring rental charges ● Ensure that if additional interested parties need to be involved such as building managers, landlords or tenant liaisons, they are engaged during the Service Delivery Process. These interested parties may need to be involved during the Site Survey, as well as with any installation works and external connectivity works which may be invasive if drilling or cabling on site is required. Any permissions will need to be agreed for these works and delay in permissions being granted may impact delivery lead times ● The surgery must ensure that any construction or changes at any stage in the process is notified to the allocated supplier coordinator. Coordinators must be made aware

		as early as possible whether buildings are not yet completed to ensure site surveys are done at the appropriate point for the best information gathering. Changes between site surveys and installation, coordinators must be made aware of to ensure that all the requirements are still relevant in relation to timescales, hardware lists etc. Failure to notify may cause complications on installation day(s) and add delays ● Signoff from cabling supplier/assurance that any cabling done by them is their responsibility ● Hardware sent to site in advance of installation day(s) must be stored safely and left unopened where possible. Loss or removal of equipment prior to installation may cause delays ● Surgeries must not unplug or remove equipment once installed. Should any of the equipment be unplugged, moved or removed altogether may result in a delay or additional pressures in/on go-live
A.6 Testing and Go-live	● X-on will test the call flow during service configuration stage ● Checks will be carried out to ensure handset up time between installation and go-live ● X-on will provide go-live support on the day either via remote or on site with an engineer. This can be dependent on the surgery wants/needs. Faster delivery on softphone will be quicker with remote support. ● Go live commencement	● Negotiate and settle terminations of existing contracts for services that will no longer be required once Surgery Connect is installed except where specifically detailed herein and provide sufficient notice to the incumbent supplier. Please note that X-on are unable to cancel the services on behalf of the Customer. ● Allow engineer on site or provide a direct number/mobile number for remote support ● Arranging disposal/removal of old hardware with relevant suppliers ● Go live commencement
Optional		

B.1 Provision of new telephone numbers	• X-on will provide new numbers upon service creation	• Surgeries will still need to coordinate what happens with the old numbers. This can be requesting a message on them for a short period and/or when the numbers cease. • Surgeries will advertise new numbers how they see fit - text messages, letters or via website
B.2 Porting of existing telephone numbers	• X-on will send the surgery an LOA (Letter of Authority) to sign for permission to port • A pre-order-validation check will be carried out prior to porting to help ensure all details relating to the provided numbers are correct	• Surgeries will need to sign the LOA in good time to allow checks to be performed prior to number port submissions. Number porting can have varying lead times and the earlier this process can start the less risk of delays • Surgeries should ensure that all numbers they have provided are theirs and not relating to any other practice or business. • Surgeries should not provide any numbers in which X-on cannot support in which they do not want to lose the existing service on. Such as, alarms, CCTV, staff wifi etc.
B.3 Installation of dedicated connectivity	• A broadband line will be ordered to be installed post site survey and the allocated appointment slot will be communicated to the surgery as soon as X-on is notified	• Make sure access is provided to the engineer for installation turning the engineer away may result in delays • Ensure the line is installed as per the instruction of the X-on engineer shown on the site survey
B.4 Installation of existing connectivity (inc HSCN)	• X-on will work with surgeries IT teams where they have already confirmed and agreed the existing network can be utilised	• The surgery takes responsibility to ensure their existing IT teams have confirmed that the existing connectivity is usable for telephony traffic. The surgery must ensure that testing is conducted and accepts any risks associated in using this network route.
B.5 On Site Training	• X-on will provide on site training for Normal Delivery options (3 and 4 above) upon request, subject to advance notice/availability and an	• Surgeries will need to allow staff time to complete training on the date(s) agreed. • Surgeries must take responsibility for cancelling any on site training

	additional cost as per Appendix A	with as much notice as possible (at least 24 hours) ● Surgeries must allow the trainer onsite on the agreed day of the sessions taking place
B.6 Installation of Cat5 cabling	● X-on will supply cabling subject to agreed charges. ● X-on will notify the customer in advance of the dates allocated for the work to be completed. ● Engineers on any allocated installation dates will work with the surgery as much as possible to minimise disruption throughout the allocated time slot ● Hardware/any extra cabling equipment required for the engineer to complete the work may be sent to site in advance of the agreed working dates	● Make arrangements for X-on Staff and Subcontractors to have access to the premises and relevant rooms in order to complete a site survey and installation work. ● The surgery has a legal responsibility to provide an Asbestos register or report for buildings pre year 2000 construction. Failure to provide a register leading to the requirement to remove asbestos where cabling is required may significantly delay installation while still incurring rental charges ● The surgery must make sure any third parties such as landlords etc are aware of the work taking place and agree for these works to be carried out.
B.7 Out of Hours Installation	● X-on will supply the surgery with available dates/times for out of hours cabling subject to agreed charges. ● Engineers on the allocated installation will work to communicate with the surgery contact.	● Make arrangements for X-on Staff and Subcontractors to have access to the premises. Providing a contact and direct details for the engineer to have available during the scheduled slot.

The following table details Risks and Dependencies in relation to each of the Implementation Services:

Implementation Service	Risks	Dependencies
A.1 Project Coordination	● Sickness and staff absences from both the surgery and X-on ● Delay or lack of response to dates and information provided may incur or loss of appointment slots	● All delivery milestones will require communication from both parties and all relevant personnel being aware of the migration
A.2 Configuration and Service Build	● Sickness and absence of staff from the surgery ● Delay or lack of response returning the required information to complete the service build ● Non attendance of the Configuration meeting will result in a delay setting up the call flow for testing and could possibly delay the go live	● Open communication will be vital with shorter turnaround times ● Information requested should be returned within 72 hours ● Surgery staff are made available for relevant meetings
A.3 Training	● Sickness and absence of staff from the surgery ● Delay or lack of response when booking training ● Non attendance of the booked training sessions ● Last minute cancellations may be subject to additional charges	● Open communication will be vital with shorter turnaround times ● Training sessions are booked within 3 working days of receiving the booking links ● Surgery staff are made available for relevant sessions ● Cancellations should give at least 1 working day's notice
A.4 Clinical Management System Integration and Phonebar Installation	● Admin rights will be required to download the relevant Integration software ● If surgery staff are unable to download the software and it has to be sent to an IT Team - this can cause delays depending on the SLA for IT. ● Once downloaded, the software will need to be set up on each	● Admin rights or a short SLA from the NHS IT Teams ● Surgery staff are made aware of the new software ● Surgery staff have the opportunity to try the system before going live.

	PC and laptop. This will allow Users to test and practice before the go live date.	
A.5 Site Survey and Hardware Installation	• Delay in accepting provided dates for site surveying or installation may result in dates being reallocated therefore incurring slippage in delivery. • Limited or no access to rooms/areas where phones are to be installed. During a site survey, should all information not be gathered due to access limitations, this may result in unforeseen issues arising on installation which may cause further delays. Access issues on installation may also cause delays resulting in go-live being postponed. • Rejection or loss of hardware delivered to site prior to installation. This may cause the installing engineer to lose time and/or loss of equipment may result in the installation being reappointed • Last minute cancellations may be subject to charges • Engineers/on site contacts sickness/or other emergency scenarios	• Dependent on the surgery accepting all dates provided in good time • Access/flexibility to accommodate engineers having access to rooms as and when required. Engineers will work with the surgery in turn to minimise as much disruption as possible. • Surgery accepting deliveries and storing in a safe place that is accessible/known by on site personnel. • Notification of any delays/unforeseen circumstances are communicated as soon as possible.
A.6 Testing and Go-live	• Should the surgery not actively test the call flow via the test number(s) it may result in unforeseen issues on go-live day • Some training must be actively undertaken to prepare users for the system prior to go-live day to avoid delays on the day and risk to inbound callers • Notice to losing supplier - notice must have been served to the losing supplier via the account holder/customer - failure to do so may result in the losing supplier cancelling any porting	• Successful testing on the call flow is subject to customer participation and feedback. • X-on is dependent on the customer enrolling and/or utilising training material and resources available to be prepared for go-live switch over. • Notice to the supplier is dependent on the customer submitting and agreeing to the terms with their old supplier.

	at anytime or not applying messages and/or diverts	
Optional		
B.1 Provision of new telephone numbers	• Correct preparation/advertising of new numbers to minimise risk to patients • Messages on old numbers not being applied/closed off on go-live day	• Successful advertising is dependent on the surgery updating relevant areas such as website etc • The surgery will need to arrange with the old supplier the time/process for adding messages onto the old numbers
B.2 Porting of existing telephone numbers	• Delay in signing LOA - may cause delays in porting checks and/or porting for go-live • Numbers not being provided and/or unknown numbers being requested to port resulting in other facilities being disconnected such as alarms, PDQ's etc • Delay in third parties responding/providing details when number checks are performed. This may risk details not being correct and porting rejections • There can be a risk where numbers are unable to be ported due to numbers being shared with other surgeries/businesses in shared buildings etc • Notice to losing supplier - notice must have been served to the losing supplier via the account holder/customer - failure to do so may result in the losing supplier cancelling any porting at anytime	• Dependency on the customer to provide all known numbers for the practice • Customer to understand what the numbers are/do or gather this information from the current supplier • X-on are dependent when performing checks that as many numbers are provided and the validation request is responded to by the old supplier to confirm details for porting • Notice to supplier is dependent on the customer submitting and agreeing to the terms with their old supplier.
B.3 Installation of dedicated connectivity	• Unable to access or turning away of the Openreach engineer will result in a reappointment slot being required. This may mean that	• Requires surgery to ensure all reception personnel are updated with the appointment slot to expect the engineer

	installation and/or go-live will be delayed ● Risk of installation of the socket in the wrong area. May result in another appointment being required to move the socket to the correct location ● Openreach are instructed to always install a new socket. In rare cases an Openreach engineer may take over an existing socket and therefore the associated service	● X-on will depend on the on site contact to monitor any Openreach engineer that attends site to ensure the correct location and a new socket are installed
B.4 Installation of existing connectivity (inc HSCN)	● Testing and line utilisation is the responsibility of the surgery and relevant IT team, therefore any issues identified must be rectified prior to installation and/or go-live. Failure to do so may result in delays ● Risk to call quality and resolution speeds.	● Dependant on the surgery coordinating with the IT teams to have permission, testing and a working solution in place ● Subject to setup, X-on will have less access/control over the connectivity and therefore there is a high dependency on the IT team supporting the existing connectivity
B.5 On Site Training	● Sickness and absence of staff from the surgery or X-on Health Trainer allocated to deliver ● Only available for Normal Delivery options (3 and 4) due to advance notice required ● Delay or lack of response when booking training ● Non attendance of the booked training sessions ● Last minute cancellations may be subject to additional charges	● The surgery agrees to the additional charges ● The training required on site (Management or User) and the date(s) will need to be booked as far in advance as possible to allow allocation of a Trainer ● There is a suitable area to train in the surgery ● Access is granted to the trainer on the date booked ● Surgery staff are made available for relevant sessions ● Cancellations should give at least 1 working day's notice
B.6 Installation of Cat5 cabling	● Noise risk depending on what cabling is required and where resulting in drilling	● X-on are dependant on the surgery having the relevant documentation where by there is a risk of asbestos due to age of the building and being able to provide proof of this

	• Use of ladders and other equipment during the installation • Should no asbestos register be provided prior to installation, the engineer(s) may refuse to complete the work resulting in delays until this is rectified • Any changes to locations that have not been agreed on site survey may result in cabling not being able to be completed in the installation slot provided	• X-on are dependant on the surgery to notify any changes to requirements to ensure that everything has been catered for
B.7 Out of Hours Installation	• Out of hours time slots will be subject to availability both from X-on and site contact with access • Should no asbestos register be provided prior to installation, the engineer(s) may refuse to complete the work resulting in delays until this is rectified • Any changes to locations that have not been agreed on site survey may result in cabling not being able to be completed in the installation slot provided	• The surgery will be dependent on X-on providing relevant dates to cater for the out of hours need. Supplying time expectations etc • X-on are dependant on the surgery to notify any changes to requirements to ensure that everything has been catered for

Schedule 12

Performance Levels and KPI's

Performance Levels

KPI's and Service Credits

DEFINITIONS

In this schedule, the following definitions shall apply:

"Authority Data"	(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (i) supplied to the Supplier by or on behalf of the Authority; and/or (ii) which the Supplier is required to generate, process, store or transmit pursuant to this Contract; or (b) any Personal Data for which the Authority is the Controller
"Authority System"	the Authority's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Supplier in connection with this Contract which is owned by the Authority or licensed to it by a third party and which interfaces with the Supplier System or which is necessary for the Authority to receive the Services;
"Available"	has the meaning given in Paragraph 1.2 of Part II of Annex 1 of this Schedule 12;
"End User"	means any person authorised by the Authority to use the Services;
"Help Desk"	the single point of contact help desk set up and operated by the Supplier for the purposes of this Contract;
"IT Environment"	Not applicable / in scope;
"KPI Failure"	a failure to meet the Target Performance Level in respect of a KPI;
"KPI Service Threshold"	shall be as set out against the relevant KPI in Table 1 of Part A of Annex 1 of this Schedule 12;
"Measurement Period"	in relation to a KPI, the period over which the Supplier's performance is measured (for example, a Service Period if measured monthly or a 12 month period if measured annually);

“Non-Available”	means in relation to the IT Environment or the Services, that the IT Environment or the Services are not Available;
“Performance Monitoring Report”	has the meaning given in Paragraph 1.1(a) of Part B;
“Performance Review Meeting”	means the meetings between the Supplier and the Authority to manage and review the Supplier's performance under this Contract, as further described in Paragraph 1.5 of Part B;
“Permitted Maintenance”	means the provision of Maintenance Services in accordance with a timetable that has been agreed in advance with the Authority;
“Repeat KPI Failure”	has the meaning given in Paragraph 3.1 of Part A;
“Service Availability”	has the meaning given in Paragraph 2 of Part II of Annex 1;
“Service Downtime”	means any period of time during which any of the Services are not Available; and
“Service Period”	a calendar month, save that: (a) the first service period shall begin on the first Actual Services Commencement Date and shall expire at the end of the calendar month in which the Actual Service Commencement Date falls; and (b) the final service period shall commence on the first day of the calendar month in which the Term expires or terminates and shall end on the expiry or termination of the Term
“Service Point”	in relation to a KPI Failure, the points that are set out against the relevant KPI in the fifth column of the table in Annex 1 of this Schedule 12;
“Supplier System”	the information and communications technology system used by the Supplier in implementing and performing the Services including the Supplier’s software, the Supplier Equipment (being the hardware, computer and telecoms devices and equipment used by the Supplier or its Sub-contractors (but not hired, leased or loaned from the Authority) for the provision of the Services), configuration and management utilities, calibration and testing tools and related cabling (but excluding the Authority System);
“System Response Time”	has the meaning given in Paragraph 2.1 of Part II of Annex 1.
“Target Performance Level”	the minimum level of performance for a KPI which is required by the Authority, as set out against the relevant KPI in this Schedule;

PART A: KPIs and Service Credits

1 KPIs

1.1 Annex 1 sets out the KPIs which the Parties have agreed shall be used to measure the performance of the Services by the Supplier.

1.2 The Supplier shall monitor its performance against each KPI and shall send the Authority a report detailing the level of service actually achieved in accordance with Part B.

1.3 Service Points, and therefore Service Credits, shall accrue for any KPI Failure and shall be calculated in accordance with Paragraphs 2, 3 and 5.

2 SERVICE POINTS

2.1 If the level of performance of the Supplier during a Service Period achieves the Target Performance Level in respect of a KPI, no Service Points shall accrue to the Supplier in respect of that KPI.

2.2 If the level of performance of the Supplier during a Service Period is below the Target Performance Level in respect of a KPI, Service Points shall accrue to the Supplier in respect of that KPI as set out in Paragraph 2.3

2.3 The number of Service Points that shall accrue to the Supplier in respect of a KPI Failure shall be the applicable number as set out in Annex 1 depending on whether the KPI Failure is a Minor KPI Failure, a Serious KPI Failure or a Severe KPI Failure, unless the KPI Failure is a Repeat KPI Failure when the provisions of Paragraph 3.2 shall apply.

3 REPEAT KPI FAILURES AND RELATED KPI FAILURES

Repeat KPI Failures

3.1 If a KPI Failure occurs in respect of the same KPI in any two consecutive Measurement Periods, the second and any subsequent such KPI Failure shall be a "Repeat KPI Failure".

3.2 The number of Service Points that shall accrue to the Supplier in respect of a KPI Failure that is a Repeat KPI Failure shall be calculated as follows:

SP = P x 2

where:

SP = the number of Service Points that shall accrue for the Repeat KPI Failure; and

P = the applicable number of Service Points for that KPI Failure as set out in Annex 1 depending on whether the Repeat KPI Failure is a Minor KPI Failure, a Serious KPI Failure, a Severe KPI Failure or a failure to meet the KPI Service Threshold.

Worked example based on the following Service Points regime for Service Availability:

Service Availability Severity Levels	Service Points
Target Performance Level: 99.9%	0

Service Availability Severity Levels	Service Points
Minor KPI Failure: 99.5% - 99.89%	1
Serious KPI Failure: 90.0% - 99.49%	2
Severe KPI Failure: 98.0% - 98.9%	3
KPI Service Threshold: below 98%	4

<u>Example 1:</u>

If the Supplier achieves Service Availability of 98.5% in a given Measurement Period, it will incur a Serious KPI Failure for Service Availability in that Measurement Period and accordingly accrue 2 Service Points. If, in the next Measurement Period, it achieves Service Availability of 96.5%, it will incur a Severe KPI Failure and accordingly accrue 3 Service Points, but as the failure is a Repeat Failure, this amount is doubled and so the Supplier will incur 6 Service Points for the failure (i.e. SP = 3 x 2). If in the next Measurement Period it achieves Service Availability of 96.5%, the Supplier will again incur 6 Service Points.

<u>Example 2:</u>

If the Supplier achieves Service Availability of 96.5% in a given Measurement Period, it will incur a Severe KPI Failure for Service Availability in that Measurement Period and accordingly accrue 3 Service Points. If, in the next Measurement Period, it achieves Service Availability of 98.5%, it will incur a Serious KPI Failure and accordingly accrue 2 Service Points, but as the failure is a Repeat Failure, this amount is doubled and so the Supplier will incur 4 Service Points for the failure (i.e. SP = 2 x 2). If in the next Measurement Period it achieves Service Availability of 96.5%, the Supplier will incur 6 Service Points.

Related KPI Failures

3.3 If any specific KPIs refer to both Service Availability and System Response Times, the System Response Times achieved by the Supplier for any period of time during a Service Period during which the relevant Service or element of a Service is determined to be Non-Available shall not be taken into account in calculating the average System Response Times over the course of that Service Period. Accordingly, the Supplier shall not incur any Service Points for failure to meet System Response Times in circumstances where such failure is a result of, and the Supplier has already incurred Service Points for, the Service being Non-Available.

4 PERMITTED MAINTENANCE

4.1 The Supplier shall be allowed to book a maximum of 4 hours Service Downtime for Permitted Maintenance in any one Service Period which shall take place between the hours and on the day specified in any maintenance schedule agreed under this Contract unless otherwise agreed in writing with the Authority.

5 SERVICE CREDITS

5.1 Schedule 6 (Commercial) sets out the mechanism by which Service Points shall be converted into Service Credits.

5.2 The Authority shall use the Performance Monitoring Reports provided pursuant to Part B, among other things, to verify the calculation and accuracy of the Service Credits (if any) applicable to each Service Period.

PART B: Performance Monitoring

1 PERFORMANCE MONITORING AND PERFORMANCE REVIEW

1.1 Within 10 Working Days of the end of each Service Period, the Supplier shall provide the Management Report detailed in Schedule 5

1.2 The Performance Monitoring Report shall be in such format as agreed between the Parties from time to time and contain, as a minimum, the following information:

Information in respect of the Service Period just ended

(i) for each KPI, the actual performance achieved over the Service Period, and that achieved over the previous 3 Measurement Periods;

(ii) a summary of all KPI Failures that occurred during the Service Period;

(iii) the severity level of each KPI Failure which occurred during the Service Period;

(iv) which KPI Failures remain outstanding and progress in resolving them;

(v) for any material KPI Failures occurring during the Service Period, the cause of the relevant KPI Failure and the action being taken to reduce the likelihood of recurrence;

(vi) the status of any outstanding Remedial Proposal processes, including:

(A) whether or not a Remedial Proposal has been agreed by the Authority; and

(B) where a Remedial Proposal has been agreed, a summary of the Supplier's progress in implementing that Remedial Proposal;

(vii) for any Repeat KPI Failures, actions taken to resolve the underlying cause and prevent recurrence;

(viii) the number of Service Points awarded in respect of each KPI Failure;

(ix) the Service Credits to be applied, indicating the KPI Failure(s) to which the Service Credits relate;

(x) the conduct and performance of any agreed periodic tests that have occurred;

(xi) relevant particulars of any aspects of the Supplier's performance which fail to meet the requirements of this Contract;

(xii) such other details as the Authority may reasonably require from time to time;

Information in respect of previous Service Periods

(xiii) a rolling total of the number of KPI Failures that have occurred over the past six Service Periods;

(xiv) the amount of Service Credits that have been incurred by the Supplier over the past six Service Periods;

(xv) the conduct and performance of any agreed periodic tests that have occurred in such Service Period;

1.3 The Performance Monitoring Report shall be reviewed and their contents agreed by the Parties at any Performance Review Meeting held in accordance with Paragraph 1.4.

1.4 The Authority may request a Performance Review Meeting in order to review a Performance Monitoring Report. The Performance Review Meetings shall (unless otherwise agreed):

(i) take place at such location and time (within normal business hours) as the Authority shall reasonably require (unless otherwise agreed in advance) provided that the Supplier has had a minimum of 5 business days to produce and circulate the Performance Review Report; and

(ii) be attended by the Supplier Representative and the Authority Representative.

1.5 The Authority shall be entitled to raise any additional questions and/or request any further information from the Supplier regarding any KPI Failure.

2 PERFORMANCE RECORDS

2.1 The Supplier shall keep appropriate documents and records (including Help Desk records, staff records, timesheets, training programmes, staff training records, goods received documentation, supplier accreditation records, complaints received etc) in relation to the Services being delivered. Without prejudice to the generality of the foregoing, the Supplier shall maintain accurate records of call histories for a minimum of 12 months and provide prompt access to such records to the Authority upon the Authority's request. The records and documents of the Supplier shall be available for inspection by the Authority and/or its nominee at any time and the Authority and/or its nominee may make copies of any such records and documents.

2.2 In addition to the requirement in Paragraph 2.1 to maintain appropriate documents and records, the Supplier shall provide to the Authority such supporting documentation as the Authority may reasonably require in order to verify the level of the performance of the Supplier both before and after the Actual Service Commencement Date and the calculations of the amount of Service Credits for any specified period.

2.3 The Supplier shall ensure that the Performance Monitoring Report and any variations or amendments thereto, any reports and summaries produced in accordance with this Schedule and any other document or record reasonably required by the Authority are available to the Authority online and are capable of being printed.

ANNEX D: KPIs

PART I: KPIs Tables

The KPIs that shall apply to the Services are set out in the table immediately below:

KPIs

SYSTEM AVAILABILITY : The system must be available 24/7, 365 days a year with an uptime of 99.99%. To be monitored and measured within the monthly system reporting.

No.	KPI Title	Definition	Frequency of Measurement	Severity Levels	Service Points
KPI1	Service Availability	See Paragraph 1 of Part II of this Annex	Quarterly	Target Performance Level: 99.9%	0
				Minor KPI Failure: 99.5% - 99.8%	1
				Serious KPI Failure: 99.0% - 99.49%	2
				Severe KPI Failure: 98.0% - 98.9%	3
				KPI Service Threshold: below 98%	4
KPI2	Help Desk Response Times	See Paragraph 43 of Part II of this Annex	Quarterly	Not applicable	0 1 2 3 4
KPI3	Incident management responses (Fix times)	See Paragraph 4 of Part II of this Annex	Quarterly	[To be agreed]	0
				[To be agreed]	1
				[To be agreed]	2
				[To be agreed]	3
				[To be agreed]	4

PART II: Definitions

1 AVAILABLE

1.1 The IT Environment and/or the Services shall be Available when:

(i) End Users are able to access and utilise all the functions of the Supplier System and/or the Services;

(ii) the Supplier System is able to process the Authority Data and to provide any required reports within the timescales set out in the Specification and Participation Documents (as measured on a 24 x 7 basis); and

(iii) all KPIs other than Service Availability are above the KPI Service Threshold.

2 SERVICE AVAILABILITY

2.1 Service Availability shall be measured as a percentage of the total time in a Service Period, in accordance with the following formula:

Service Availability % = $$\frac{(MP - SD)x100}{MP}$$

Where:

MP = total number of minutes, excluding Permitted Maintenance, within the relevant Service Period; and

SD = total number of minutes of Service Downtime, excluding Permitted Maintenance, in the relevant Service Period.

2.2 When calculating Service Availability in accordance with this Paragraph 2:

(i) Service Downtime arising due to Permitted Maintenance that is carried out by the Supplier in accordance with Schedule 9 (Maintenance Services) shall be subtracted from the total number of hours in the relevant Service Period; and

(ii) Service Points shall accrue if:

(A) any Service Downtime occurs as a result of ad hoc and unplanned maintenance provided by the Supplier where: (a) the Authority reasonably suspects that the IT Environment or the Services, or any part of the IT Environment or the Services, has or may have developed a fault, and notifies the Supplier of the same; or (b) the Supplier reasonably suspects that the IT Environment or the Services, or any part the IT Environment or the Services, has or may have developed a fault; or

(B) where maintenance undertaken by the Supplier exceeds 4 hours in any Service Period.

3 HELP DESK RESPONSE TIMES

3.1 Measurement of Help Desk response times will be based on the time taken for a Help Desk operative to answer a call. Calls receiving an automated response or placed into a queuing system shall be deemed not to have been answered.

3.2 The Supplier shall monitor the Help Desk response times and shall provide the results of such monitoring to the Authority in accordance with the provisions of Part B of this Schedule.

4 FIX TIMES

4.1 The "**Fix Time**" of a Service Incident is the period from the time that the Service Incident has been reported to the Supplier to the point of its Resolution and "**Resolution**" means in relation to a Service Incident either:

(i) the root cause of the Service Incident has been removed and the Services are being provided in accordance with the Specification and Participation Documents and Service Levels; or

(ii) the Authority has been provided with a workaround in relation to the Service Incident deemed acceptable by the Authority.

4.2 Fix Times for Severity 3 Service Incidents, Severity 4 Service Incidents and Severity 5 Service Incidents shall be measured in Operational Hours.

Worked example: if the Operational Hours for a fault are 0800-1800, then the clock stops measuring Fix Time at 1800 in the evening and restarts at 0800 the following day).

4.3 Fix times for Severity 1 Service Incidents and Severity 2 Service Incidents shall be measured 24x7.

4.4 The Supplier shall measure Fix Times as part of its service management responsibilities and report periodically to the Authority on Fix Times as part of the Performance Monitoring Report.

4.5 For the purposes of this Paragraph 5, the following expressions shall have the meanings set opposite them below:

"Operational Hours"	means in relation to any Service, the hours for which that Service is to be operational as set out in Schedule 5 ;	
"Service Incident"	means a reported occurrence of a failure to deliver any part of the Services in accordance with the Authority Requirements or the KPIs;	
"Severity 1 Service Incident"	means a Critical Problem as defined in Schedule 5 Help Desk Service Levels. **Non-exhaustive examples:** As stated in Schedule 5 Help Desk Service Levels	Target Fix Time: 1 hour KPI Target Performance Level plus 0 hours
"Severity 2 Service Incident"	means a Serious Problem as defined in Schedule 5 Help Desk Service Levels. **Non-exhaustive examples:** As stated in Schedule 5 Help Desk Service Levels	Target Fix Time: 4 hours KPI Target Performance Level plus 4 hours

“Severity 3 Service Incident”	means a Minor Problem as defined in Schedule 5 Help Desk Service Levels. **Non-exhaustive examples:** As stated in Schedule 5 Help Desk Service Levels	Target Fix Time: 8 hours KPI Target Performance Level plus 8 hours

Schedule 13

Subcontractors

Use of Subcontractors

The Authority grants permission for the Supplier to Sub-contract **any of its obligations/ specific obligations** under this Contract. This 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 the agreement.

Name	Gamma Telecom Ltd
Registered address	The Scalpel 18th Floor 52 Lime Street London United Kingdom
Trading status	
Company registration number	4287779
Head Office DUNS number (if applicable)	
Registered VAT number	tbc
Type of organisation	Limited liability
SME (Yes/No)	No
The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables	Provision of broadband connectivity, SIP trucks & channels
The approximate % of contractual obligations assigned to each sub-contractor	tbc

Schedule 14

Termination Sum

Termination of this Contract by the Authority prior to the date on which it would have expired is subject to an early termination charge which corresponds to that part of the Charges which make up the **rental charge** due for the number of whole months remaining of the Term (not taking into account any extension periods which have not yet commenced) from the date of termination until the end of the Term and **which the Supplier can evidence reflect costs which the Supplier has incurred and which, despite mitigation efforts, it cannot recover** ("**Termination Sum**").

Schedule 15

Change Control Process

Change Control Procedure

In this Schedule the following definitions shall apply:

"Authority Change Manager"	the person appointed to that position by the Authority from time to time and notified in writing to the Supplier or, if no person is notified, the GP Practice Manager;
"Change"	any change to this Contract;
"Change Request"	a written request for a Contract Change which shall be substantially in the form of Annex 1 to this Schedule 15;
"Change Authorisation Note"	means an authorisation note in the form set out in Annex 2 to this Schedule 15;
"Change Communication"	any Change Request, Impact Assessment, Change Authorisation Note or other communication sent or required to be sent pursuant to this Schedule;
Contract Change	any change to this Contract other than an Operational Change;
"Fast-track Change"	any Contract Change which the Parties agree to expedite in accordance with Paragraph 8 of this Schedule 15;
"Impact Assessment"	an assessment of a Change Request in accordance with Paragraph 5 of this Schedule 15;
"Impact Assessment Estimate"	has the meaning given in Paragraph 4.3 of this Schedule 15;
"Operational Change"	any change in the Supplier's operational procedures which in all respects, when implemented: (a) will not affect the Charges and will not result in any other costs to the Authority; (b) may change the way in which the Services are delivered but will not adversely affect the output of the Services or increase the risks in performing or receiving the Services; (c) will not adversely affect the interfaces or interoperability of the Services with any of the Authority's IT infrastructure; and (d) will not require a change to this Contract;
"Receiving Party"	the Party which receives a proposed Contract Change; and

"Supplier Change Manager"	the person appointed to that position by the Supplier from time to time and notified in writing to the Authority or, if no person is notified, the Supplier Representative.

1 GENERAL PRINCIPLES OF CHANGE CONTROL PROCEDURE

1.1 This Schedule sets out the procedure for dealing with Changes.

1.2 Operational Changes shall be processed in accordance with Paragraph 9 of this Schedule 15. If either Party is in doubt about whether a Change falls within the definition of an Operational Change, then it must be processed as a Contract Change.

1.3 The Parties shall deal with Contract Change as follows:

(a) either Party may request a Contract Change which they shall initiate by issuing a Change Request in accordance with Paragraph 4 of this Schedule 15;

(b) unless this Contract otherwise requires, the Supplier shall assess and document the potential impact of a proposed Contract Change in accordance with Paragraph 5 of this Schedule 15 before the Contract Change can be either approved or implemented;

(c) the Authority shall have the right to request amendments to a Change Request, approve it or reject it in the manner set out in Paragraph 6 of this Schedule 15;

(d) the Supplier shall have the right to reject a Change Request solely in the manner set out in Paragraph 7 of this Schedule 15;

(e) save as otherwise provided in this Contract, no proposed Contract Change shall be implemented by the Supplier until a Change Authorisation Note has been signed and issued by the Authority in accordance with Paragraph 6.2 of this Schedule 15; and

(f) if a proposed Contract Change is a Fast-track Change, it shall be processed in accordance with Paragraph 8 of this Schedule 15.

1.4 To the extent that any Contract Change requires testing and/or a programme for implementation, then the Parties shall follow the procedures set out in Schedule 18 (Testing), and, where appropriate, the Change Authorisation Note relating to such a Contract Change shall specify milestones and/or milestone date(s) in respect of such Contract Change for the purposes of such procedures.

1.5 Until a Change Authorisation Note has been signed and issued by the Authority in accordance with Paragraph 6.2 of this Schedule 15, then:

(a) unless the Authority expressly agrees (or requires) otherwise in writing, the Supplier shall continue to supply the Services in accordance with the existing terms of this Contract as if the proposed Contract Change did not apply; and

(b) any discussions, negotiations or other communications which may take place between the Authority and the Supplier in connection with any proposed Contract Change, including the submission of any Change

Communications, shall be without prejudice to each Party's other rights under this Contract.

1.6 The Supplier shall:

(a) within 10 Working Days of the Authority's signature and issue of a Change Authorisation Note, deliver to the Authority a copy of this Contract updated to reflect all Contract Changes agreed in the relevant Change Authorisation Note and annotated with a reference to the Change Authorisation Note pursuant to which the relevant Contract Changes were agreed; and

(b) thereafter provide to the Authority such further copies of the updated Contract as the Authority may from time to time request.

2 COSTS

2.1 Subject to Paragraph 3.3 of this Schedule 15, the costs of preparing each Change Request shall be borne by the Party making the Change Request.

2.2 The cost of any Contract Change shall be calculated and charged in accordance with the principles and day rates or day costs (as applicable) set out in Schedule 6 Commercial Schedule. The Supplier shall be entitled to increase the Charges only if it can demonstrate in the Impact Assessment that the proposed Contract Change requires additional resources and, in any event, any change to the Charges resulting from a Contract Change (whether the change will cause an increase or a decrease in the Charges) will be strictly proportionate to the increase or decrease in the level of resources required for the provision of the Services as amended by the Contract Change.

2.3 Both Parties' costs incurred in respect of any use of this Change Control Procedure as a result of any error or breach of this Contract by the Supplier shall be paid for by the Supplier.

3 CHANGE REQUEST

3.1 Either Party may issue a Change Request to the other Party at any time during the Term. A Change Request shall be substantially in the form of Annex 1 and state whether the Party issuing the Change Request considers the proposed Contract Change to be a Fast-track Change.

3.2 If the Supplier issues the Change Request, then it shall also provide an Impact Assessment to the Authority as soon as is reasonably practicable but in any event within 10 Working Days of the date of issuing the Change Request.

3.3 If the Authority issues the Change Request, then the Supplier shall provide as soon as reasonably practical and in any event within ten (10) Working Days of the date of receiving the Change Request an estimate ("**Impact Assessment Estimate**") of the cost of preparing an Impact Assessment and the timetable for preparing it. The timetable shall provide for the completed Impact Assessment to be received by the Authority within ten (10) Working Days of acceptance of the Impact Assessment Estimate or within any longer time period agreed by the Authority.

3.4 If the Authority accepts an Impact Assessment Estimate then following receipt of notice of such acceptance the Supplier shall provide the completed Impact Assessment to the Authority as soon as is reasonably practicable and in any event within the period agreed in the Impact Assessment Estimate. If the Supplier requires any clarification in relation to the Change Request before it can deliver the Impact Assessment, then it shall promptly make a request for clarification to the Authority and provided that sufficient information is received by the Authority to fully understand:

(a) the nature of the request for clarification; and

(b) the reasonable justification for the request;

the time period to complete the Impact Assessment shall be extended by the time taken by the Authority to provide that clarification. The Authority shall respond to the request for clarification as soon as is reasonably practicable.

4 IMPACT ASSESSMENT

4.1 Each Impact Assessment shall be completed in good faith and shall include:

(a) details of the proposed Contract Change including the reason for the Contract Change; and

(b) details of the impact of the proposed Contract Change on the Services, the Optional Services (if any) and the Supplier's ability to meet its other obligations under this Contract;

(c) any variation to the terms of this Contract that will be required as a result of that impact, including changes to:

(i) the Specification and Participation Documents, the KPIs and/or the Target Performance Levels;

(ii) the format of Authority Data (as defined in Schedule 12), as set out in the Specification and Participation Documents;

(iii) any milestones, the Implementation Plan and any other timetable previously agreed by the Parties;

(iv) other services provided by third party contractors to the Authority, including any changes required by the proposed Contract Change to the Authority's IT infrastructure;

(d) details of the cost of implementing the proposed Contract Change;

(e) details of the ongoing costs required by the proposed Contract Change when implemented, including any increase or decrease in the Charges, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;

(f) a timetable for the implementation, together with any proposals for the testing of the Contract Change;

(g) details of how the proposed Contract Change will ensure compliance with any applicable Change in Law; and

(h) such other information as the Authority may reasonably request in (or in response to) the Change Request.

4.2 If the Contract Change involves the processing or transfer of any Personal Data outside the European Economic Area, the preparation of the Impact Assessment shall also be subject to paragraph 2 of Schedule 3 (*Information and Data Provisions*).

4.3 Subject to the provisions of Paragraph 5.4, the Authority shall review the Impact Assessment and respond to the Supplier in accordance with Paragraph 6 within 15 Working Days of receiving the Impact Assessment, it.

4.4 If the Authority is the Receiving Party and the Authority reasonably considers that it requires further information regarding the proposed Contract Change so that it may properly evaluate the Change Request and the Impact Assessment, then within 5 Working Days of receiving the Impact Assessment, it shall notify the Supplier of this fact and detail the further information that it requires. The Supplier shall then re-issue the relevant Impact Assessment to the Authority within 10 Working Days of receiving such notification. At the Authority's discretion, the Parties may repeat the process described in this Paragraph 5.4 until the Authority is satisfied that it has sufficient information to properly evaluate the Change Request and Impact Assessment.

4.5 The calculation of costs for the purposes of Paragraphs 5.1(d) and (e) shall:

(a) include estimated volumes of each type of resource to be employed and the applicable rate card;

(b) include full disclosure of any assumptions underlying such Impact Assessment;

(c) include evidence of the cost of any assets required for the Change; and

(d) include details of any new Sub-contracts necessary to accomplish the Change.

5 AUTHORITY'S RIGHT OF APPROVAL

5.1 Within 30 Working Days of receiving the Impact Assessment from the Supplier or within 20 Working Days of receiving the further information that it may request pursuant to Paragraph 5.4, the Authority shall evaluate the Change Request and the Impact Assessment and shall do one of the following:

(a) approve the proposed Contract Change, in which case the Parties shall follow the procedure set out in Paragraph 6.2;

(b) in its absolute discretion reject the Contract Change, in which case it shall notify the Supplier of the rejection. The Authority shall not reject any proposed Contract Change to the extent that the Contract Change is necessary for the Supplier or the Services to comply with any Changes in Law. If the Authority does reject a Contract Change, then it shall explain its reasons in writing to the Supplier as soon as is reasonably practicable following such rejection; or

(c) in the event that it reasonably believes that a Change Request or Impact Assessment contains errors or omissions, require the Supplier to modify the relevant document accordingly, in which event the Supplier shall make such modifications within 5 Working Days of such request. Subject to Paragraph 5.4, on receiving the modified Change Request and/or Impact Assessment, the Authority shall approve or reject the proposed Contract Change within 20 Working Days.

5.2 If the Authority approves the proposed Contract Change pursuant to Paragraph 6.1 and it has not been rejected by the Supplier in accordance with Paragraph 7, then it shall inform the Supplier and the Supplier shall prepare two copies of a Change Authorisation Note which it shall sign and deliver to the Authority for its signature. Following receipt by the Authority of the Change Authorisation Note, it shall sign both copies and return one copy to the Supplier. On the Authority's signature the Change Authorisation Note shall constitute (or, where the Authority has agreed to or required the implementation of a Change prior to signature of a Change Authorisation Note, shall constitute confirmation of) a binding variation to this Contract.

5.3 If the Authority does not sign the Change Authorisation Note within 20 Working Days, then the Supplier shall have the right to notify the Authority and if the Authority does not sign the Change Authorisation Note within 15 Working Days of such notification, then the Supplier may refer the matter for resolution under the Dispute Resolution Procedure.

6 SUPPLIER'S RIGHT OF APPROVAL

6.1 Following an Impact Assessment, if:

(a) the Supplier reasonably believes that any proposed Contract Change which is requested by the Authority would:

(i) materially and adversely affect the risks to the health and safety of any person; and/or

(ii) require the Services to be performed in a way that infringes any Law; and/or

(b) the Supplier demonstrates to the Authority's reasonable satisfaction that the proposed Contract Change is technically impossible to implement and the Specification and Participation Documents do not state that the Supplier has the technical capacity and flexibility required to implement the proposed Contract Change,

then the Supplier shall be entitled to reject the proposed Contract Change and shall notify the Authority of its reasons for doing so within 5 Working Days after the date on which it is obliged to deliver the Impact Assessment pursuant to Paragraph 4.3.

7 FAST-TRACK CHANGES

7.1 The Parties acknowledge that to ensure operational efficiency there may be circumstances where it is desirable to expedite the processes set out above.

7.2 If the total number of Contract Changes in relation to which this Fast-track Change procedure has been applied does not exceed 4 in any 12 month period then the Parties shall confirm to each other in writing that they shall use the process set out in Paragraphs 4, 6 and 7 but with reduced timescales, such that any period of 15 Working Days is reduced to 5 Working Days, any period of 10 Working Days is reduced to 2 Working Days and any period of 5 Working Days is reduced to 1 Working Day.

7.3 The Parties may agree in writing to revise the parameters set out in Paragraph 8.2 from time to time or that the Fast-track Change procedure shall be used in relation to a particular Contract Change notwithstanding that the total number of Contract Changes to which such procedure is applied will then exceed 4 in a 12 month period.

8 OPERATIONAL CHANGE PROCEDURE

8.1 Any Operational Changes identified by the Supplier to improve operational efficiency of the Services may be implemented by the Supplier without following the Change Control Procedure for proposed Contract Changes provided they do not:

(a) have an impact on the business of the Authority;

(b) require a change to this Contract;

(c) have a direct impact on use of the Services; or

(d) involve the Authority in paying any additional Charges or other costs.

8.2 The Authority may request an Operational Change by submitting a written request for Operational Change ("**RFOC**") to the Supplier Contract Manager.

8.3 The RFOC shall include the following details:

(a) the proposed Operational Change; and

(b) the time-scale for completion of the Operational Change.

8.4 The Supplier shall inform the Authority of any impact on the Services that may arise from the proposed Operational Change.

8.5 The Supplier shall complete the Operational Change by the timescale specified for completion of the Operational Change in the RFOC, and shall promptly notify the Authority when the Operational Change is completed.

9 COMMUNICATIONS

9.1 For any Change Communication to be valid under this Schedule, it must be sent to either the Authority Contract Manager or the Supplier Contract Manager, as applicable.

ANNEX E: CHANGE REQUEST FORM

<table>
<tr><td>CR NO.:</td><td colspan="2">TITLE:</td><td colspan="2">TYPE OF CHANGE:</td></tr>
<tr><td colspan="3">CONTRACT:</td><td colspan="2">REQUIRED BY DATE:</td></tr>
<tr><td colspan="2">ACTION:</td><td colspan="2">NAME:</td><td>DATE:</td></tr>
<tr><td colspan="5">RAISED BY:</td></tr>
<tr><td colspan="5">AREA(S) IMPACTED (OPTIONAL FIELD):</td></tr>
<tr><td colspan="5">ASSIGNED FOR IMPACT ASSESSMENT BY:</td></tr>
<tr><td colspan="5">ASSIGNED FOR IMPACT ASSESSMENT TO:</td></tr>
<tr><td colspan="5">SUPPLIER REFERENCE NO.:</td></tr>
<tr><td colspan="5">FULL DESCRIPTION OF REQUESTED CONTRACT CHANGE (INCLUDING PROPOSED CHANGES TO THE WORDING OF THE CONTRACT):</td></tr>
<tr><td colspan="5">DETAILS OF ANY PROPOSED ALTERNATIVE SCENARIOS:</td></tr>
<tr><td colspan="5">REASONS FOR AND BENEFITS AND DISADVANTAGES OF REQUESTED CONTRACT CHANGE:</td></tr>
<tr><td colspan="5">SIGNATURE OF REQUESTING CHANGE OWNER:</td></tr>
<tr><td colspan="5">DATE OF REQUEST:</td></tr>
</table>

ANNEX F: CHANGE AUTHORISATION NOTE

<table>
<tr><td>CR NO.:</td><td>TITLE:</td><td colspan="2">DATE RAISED:</td></tr>
<tr><td>CONTRACT:</td><td>TYPE OF CHANGE:</td><td colspan="2">REQUIRED BY DATE:</td></tr>
<tr><td colspan="4">[MILESTONE DATE: [if any]]</td></tr>
<tr><td colspan="4">DETAILED DESCRIPTION OF CONTRACT CHANGE FOR WHICH IMPACT ASSESSMENT IS BEING PREPARED AND WORDING OF RELATED CHANGES TO THE CONTRACT:</td></tr>
<tr><td colspan="4">PROPOSED ADJUSTMENT TO THE CHARGES RESULTING FROM THE CONTRACT CHANGE:</td></tr>
<tr><td colspan="4">DETAILS OF PROPOSED ONE-OFF ADDITIONAL CHARGES AND MEANS FOR DETERMINING THESE (E.G. FIXED PRICE BASIS):</td></tr>
<tr><td colspan="2">SIGNED ON BEHALF OF THE AUTHORITY:</td><td colspan="2">SIGNED ON BEHALF OF THE SUPPLIER:</td></tr>
<tr><td colspan="2">Signature:______________________</td><td colspan="2">Signature:______________________</td></tr>
<tr><td colspan="2">Name:_________________________</td><td colspan="2">Name:_________________________</td></tr>
<tr><td colspan="2">Position:_______________________</td><td colspan="2">Position:_______________________</td></tr>
<tr><td colspan="2">Date:_________________________</td><td colspan="2">Date:__________________________</td></tr>
</table>

Schedule 16

Standards

The following quality assurance standards shall apply to the provision of the Services:, as appropriate, to the manufacture, supply and/or installation of the Goods and/or the provision of the Services. These standards are as detailed in the specification and requirements at Schedule 5.

Standard	Requirement
Clinical Safety	The Supplier must have a Clinical Safety Officer (CSO) in place.
	The Supplier shall be required to be compliant with DCB0129: Clinical Risk Management: its Application in the Manufacture of Health IT Systems
Cloud, Hosting & Infrastructure Standards	The Supplier will be able to demonstrate appropriate compliance with the following good practice: Step 1: Understand the data - All data managed by Health or Care Organisations should be treated as OFFICIAL or OFFICIAL-SENSITIVE data, in line with the Government Security Classification Policy. The Authority has further elaborated the very broad classifications. The Health and Social Care Cloud Risk Model is more granular than the Government Security Classification Policy. Step 2: Assess the risk - The Authority's Health and Social Care data risk framework and associated data risk model are both used to establish the risk level of the data. Typically Personally Identifiable Data (PID) would be Level 5. Please refer the link NHS and social care data: off-shoring and the use of public cloud services for latest versions of Cloud risk framework and Health and social care data risk model. Step 3: Implement the appropriate controls - Health or Care Organisations, such as a GPs, retain the data controller responsibilities and they are therefore ultimately responsible for ensuring that proportionate controls are put in place to mitigate all risks. The data controllers may rightly request to see these controls (proposed by the Supplier) before considering any migration to cloud. Step 4: Monitoring the implementation - All cloud providers take on data processor responsibilities, with Heath or Care Organisations (e.g. GP practices or Care Homes) retaining the data controller responsibilities, and they must ensure the selected cloud provider remains fit for purpose. Clearly where compliance is being undertaken by the Authority, the data controllers will likely be relying on the Authority's ongoing involvement e.g. NHS Security team are working annually with cloud providers to validate their industry standards compliance, including areas such as penetration testing.
	A valid ISO 27001:2013 Certificate
	A valid Cyber Essentials Certificate

Information Governance	The Supplier will be able to demonstrate appropriate compliance General Data Protection Regulation and against the following key sections of the Information Governance Standard
	GP-IG-2.1-3A: Authentication - Access using NHS authentication Any access to Personal Data or sensitive Personal Data within Solutions to be subject to NHS authentication (as per Authentication and authorisation section of Interoperability Standard). **GP-IG-2.1-3B: Authentication - General standards** Any access to Personal Data or sensitive Personal Data within Solutions will be subject to authentication at least to standards described in GP-IG-2.2-1. **GP-IG-2.2-1: Local authentication model** The Solution can provide a local authentication model to provide an alternative method of authentication for users who are unable to use NHS authentication. **GP-IG-2.2-5**: **User access and password Audit Trail** Successful login, unsuccessful login attempts, logouts and password changes will be recorded in the Solution Audit Trail. Data to be included in such an Audit Trail entry: Successful login, logout: ● User id ● Date and time (to the second) Unsuccessful login: ● Number of attempts ● Date and time ● Access point (if available) ● User id (if available) Password changes: ● User id ● User whose password was changed ● Date and time Such Audit Trail entries to also include end-user device (or Solution) identification information. **GP-IG-3-2: Role-based access control** The Solution will have role-based access control to authorise users' access to the Solution functions and data.

For NHS authentication requirements see Authentication and authorisation section of Interoperability Standard

GP-IG-3-7: Updates to Job Role to Baseline Activities

The Solution will have a process for incorporating updates to the nationally-defined mapping from Job Role to Baseline Activities as published by NHS Digital.

GP-IG-3-8: Local role-based access control

Where the Solution supports users who do not use NHS authentication, the Solution shall implement local role-based access controls which support the allocation of access rights. These are in line with the nationally-defined Job Roles and Activities taken from the latest National RBAC Database**.**

Local RBAC mechanisms will need to:

1 Allow users to have different access rights for each of their roles

2 Restrict users' use of the Solution to specific functions, assigned only by the Solution manager(s);

3 Not allow any user access to their allocated functions until they have authenticated

Access controls to include the ability to segregate access to the following functions:

1 Viewing the Audit Trail

2 Accessing inactive staff details

3 Accessing the records of Patients/Service Users that are not normally accessible to Solution users (for example, in the case of Catalogue Solutions, to the records of patients that are not currently registered at the practice).

GP-IG-12-1: Audit trails

Solutions to provide Audit Trails, sufficient to support the following purposes:

PART 1 - To enable and support investigations, e.g. into Solution misuse

PART 2 - Identifying changes to Patient/Service User related, clinical and administrative data, identifying what changes were made, by who and when

PART 3 - To monitor whether access controls are operating as intended

PART 4 - In support of the Care Record Guarantee, to enable fulfilment of requests from Patients/Service Users as to who has accessed or modified their Sensitive Personal Data or Personal Data; when that access or modification occurred and the nature of the information output (that is, displayed or printed).

PART 5 - Identifying details of any configuration (e.g. a spine service being switched on), Solution updates, data backups and other Solution

	maintenance activities or reference data changes (e.g. an update to the clinical coding scheme data, drug databases) applied to the Solution. Application level Audit Trails to be subject to the same level of controls as the electronic Patient/Service User record. **GP-IG-12-2B: Include all information about exchanges with external Solutions and organisations in Audit Trails** The Solution shall ensure that Audit Trails are kept which record information about all information exchanges with external Solutions and organisations, including but not limited to: ● All attempts to use an SSO Token ID to access to an application – including both successful and failed attempts. "use of a token" is interpreted to mean a call to the SSOTokenManagement API to validate a token. ● All message interactions – sent and received ● All interactions with the Spine SDS ● All data access or presentation from separate organisations or Solutions Such Audit Trails shall provide a security record for use in analysing breaches of security and policy that might be used as evidence for use in disputes.
Interoperability Standard	Reference the Interoperability Standard for Primary Care (here) please confirm compliance or intended compliance (state which) in respect of requirements labelled: ● Interoperability Non-Functional Requirements (range ISNFR 01-08) ● Minimum non-functional requirements for Authority Specified Interfaces (ASNFR01-02)

Schedule 17

Exit Requirements

The Supplier will upon request provide a downloaded copy of all stored conversation recordings by a secure online data transfer method free of charge under the requirements of Data Protection Legislation.

The Supplier will respond to Letters of Authority from a new provider of services on a prompt and timely basis to support the porting of numbers. Post termination of this Agreement any call costs in relation to call diverts will be charged as Transaction Charges monthly in arrears in accordance with the Supplier's then current rate card.

The Supplier will provide a full list of numbers when a porting request is received from any new supplier and upon request.

The Supplier will provide all other information required as requested and will work with the practice and the new supplier to ensure a smooth transition. To include but not limited to information on network connectivity and other specific configurations.

The supplier will undertake to support and assist to ensure a smooth transaction to any new supplier as required.

Rolling monthly extensions are permitted to prevent discontinuity of service provision subject to monthly billing.

Schedule 18

Testing

The Supplier conducts on-going testing and verification of the Implementation Services (as defined in Schedule 11) as an integral part of the Implementation Plan and will notify the Authority of any issues as they arise that may impact the Actual Services Commencement Date.

The Authority will be asked to confirm its acceptance in writing that the Services have “gone live” as the final stage of the Implementation Services. This confirmation will confirm the agreed Actual Services Commencement Date and represent completion of the Implementation Services.