

**CONTRACT FOR THE PROVISION OF MOBILE AND  
STRATEGIC CLINICAL SOLUTIONS AND ASSOCIATED GOODS**

**ORDER FORM – SOMERSET NHS FOUNDATION TRUST /  
RUTHERFORD DIAGNOSTICS WITH RUTHERFORD INFRASTRUCTURES**

<b>Overview of the Order</b>	<p>i. This Order is placed under the Framework Agreement and is subject to the Terms and Conditions for the Supply of Mobile and Strategic Clinical Solutions and Associated Goods.</p> <p>ii. The Authority requirement for the services is as set out in Output Based Specification at Schedule 7 to the Framework Agreement and the Suppliers agree to meet this requirement as set out in this Order.</p> <p>iii. In accordance with the Framework Agreement the Parties have agreed the specific terms for the Extra Key Provisions referred to in Clause 1.2 of Schedule 1 of the Terms and Conditions and these are appended to this Order at Appendix 1 as well as the terms set out in Appendix 2 and Appendix 3, together comprising the response to the Authority's Output Based Specification.</p> <p>iv. The Authority consents to the separation of delivery of certain of the elements of the Mobile and Strategic Clinical Solutions and Associated Goods between the Supplier entities under this Order with Rutherford Diagnostics Limited providing clinical imaging and reporting services  [REDACTED]  [REDACTED]  [REDACTED]  [REDACTED]  [REDACTED] The Authority also consents to the separate invoicing to the Authority in accordance with Clause 15.5 of Schedule 2 of the Terms and Conditions for the Supply of Mobile and Strategic Clinical Solutions and Associated Goods, as set out in Appendix 1.</p> <p>v. For the avoidance of doubt, the Contract Price in Appendix 1 and the Agreement Price in Appendix 2 have been set in accordance with the provisions of the Framework Agreement and there is no additional charge for facilities or resources as a result of the assignment referred to in recital iv. above.</p> <p>vi. The Authority has requested the interim mobile services to be provided by Rutherford Diagnostics in accordance with the terms of Appendix 3.</p>
<b>Authority:</b>	<b>Somerset NHS Foundation Trust</b> , Musgrove Park Hospital, Taunton, Somerset, TA1 5DA
<b>Supplier:</b>	<b>Rutherford Diagnostics Limited</b> (registered in England and Wales as Company Number 10844984) The Accelerator, Liverpool, L7 8XZ ( <b>RDL</b> )
<b>Assignment</b>	[REDACTED] [REDACTED] [REDACTED] [REDACTED]

<b>Summary of Service to be provided:</b>	<p>Services under the Framework Agreement to the Authority delivered in three parts through:</p> <ul style="list-style-type: none"> <li>(i) Appendix 1: Provision of clinical imaging and reporting for the diagnostic modalities of MRI, CT, ultrasound and X-Ray services from the Supplier (RDL) for the Authority at the Supplier Site as agreed with the Authority;</li> <li>(ii) Appendix 2: Provision of a standalone diagnostic facility [REDACTED] from which the clinical imaging, scanning and reporting services for the Authority can be delivered. The provision of the facility will include the maintenance of the imaging equipment and FM services; and</li> <li>(iii) Appendix 3: Provision of interim mobile imaging CT and MRI services by RDL.</li> </ul>
<b>Framework Agreement:</b>	The Framework Agreement for the Supply of Mobile and Strategic Clinical Solutions and Associated Goods with NHS Supply Chain and operated by "New CTSP" on behalf of Supply Chain Coordination Ltd Skipton House, 80 London Road London SE1 6LH United Kingdom, acting as agent of the NHS Business Services Authority whose principal office is at Stella House, Goldcrest Way, Newburn Riverside, Newcastle upon Tyne, NE15 8NY;
<b>Framework Reference:</b>	<b>2018/S 228-521038</b>
<b>Unique Reference Number (URN):</b>	<b>MSCS 0122 20 / NHS SC</b>
<b>Structure of the arrangements:</b>	<p>This Order then comprises of:</p> <p><b>Appendix 1: Clinical imaging and reporting by RDL</b></p> <p><b>Schedule 1 Extra Key Provisions for the Authority and the Supplier (agreed between the parties)</b></p> <ul style="list-style-type: none"> <li>Annex 1 – Minimum Quantity</li> <li>Annex 2 – Change Control</li> <li>Annex 3 – Step-In Rights</li> <li>Annex 4 – Resource Plan</li> <li>Annex 5 – Implementation Plan</li> <li>Annex 6 – Data Protection Protocol</li> <li>Annex 7 – Compensation on Termination</li> <li>Annex 8 – Schedule 9 - Finance</li> <li>Annex 9 – Service Level Agreement</li> <li>Annex 10 – Schedule 5 – Supplier Code of Conduct</li> <li>[REDACTED]</li> <li>Annex 12 – Part 1 – Schedule 7 - Output Based Specification</li> <li>Annex 12 – Part 2 – Schedule 8 – Suppliers Response</li> </ul> <p><b>Appendix 2: Provision of the facility [REDACTED]</b></p> <p><b>Facilities Management elements of the Contract for the provision of Mobile and Strategic Clinical Solutions and Associated Goods</b></p> <ul style="list-style-type: none"> <li>Annex 1 – Funder Direct Agreement</li> <li>Annex 2 – Change Control</li> <li>Annex 3 – Step In Rights</li> <li>Annex 4 – Compensation on Termination</li> <li>Annex 5 – Finance</li> <li>Annex 6 – Implementation Plan</li> <li>[REDACTED]</li> <li>Annex 8 – Output Based Specification and Response to Specification</li> <li>Annex 9 – Agreement Price</li> </ul>

	<b>Appendix 3: Provision of the interim mobile imaging CT and MRI services by RDL</b>
<b>Signature</b>	<p>The Authority and RDL will enter into the Contract for the clinical imaging and reporting elements as set out in Appendix 1 and the interim mobile solution as set out in Appendix 3.</p> <p>The Authority [REDACTED] will enter into the Agreement for the facilities management elements as set out in Appendix 2.</p>

**The Contract Managers for this Contract are:**

<b>Authority (Customer)</b>	<b>Supplier (Contractor)</b>
Director of Commercial Development, Strategy and Partnerships	Senior Contract Manager for the Contract
Somerset NHS Foundation Trust Musgrove Park Hospital, Taunton, Somerset, TA1 5DA	Rutherford Diagnostics Accelerator 1 Daulby Street Liverpool L7 8XZ

**Notices served under the Contract are to be delivered to:**

<b>Authority</b>	<b>Supplier</b>
Chief Executive Officer	Chief Diagnostic Officer
Somerset NHS Foundation Trust Musgrove Park Hospital, Taunton, Somerset, TA1 5DA	Rutherford Diagnostics Accelerator 1 Daulby Street Liverpool L7 8XZ

[REDACTED]

[REDACTED].

**IN WITNESS** of which this Order has been duly executed by the Parties acting by their duly authorised representatives.

For and on behalf of the Authority	For and on behalf of Rutherford Diagnostics Limited	For and on behalf of Rutherford Infrastructures Limited
<b>Authorised signatory:</b>  <b>Name: Peter Lewis</b>	<b>Authorised Signatory:</b>  <b>Name: Mike Moran</b>	<b>Authorised Signatory:</b>  <b>Name: Mike Moran</b>
<b>Title: Chief Executive</b>	<b>Title: Chief Executive Officer</b>	<b>Title: Chief Executive Officer</b>
<b>Date:</b>	<b>Date:</b>	<b>Date:</b>
<b>Authorised signatory:</b>  <b>Name: Pippa Moger</b>		
<b>Title: Director of Finance</b>		
<b>Date:</b>		

Rutherford Infrastructures Limited is a signatory to this Contract in order to recognise the arrangements set out in the Order Form [REDACTED]  
[REDACTED]

## Appendix 1: Clinical imaging and reporting

### CONTRACT FOR THE PROVISION OF MOBILE AND STRATEGIC CLINICAL SOLUTIONS AND ASSOCIATED GOODS

#### RUTHERFORD DIAGNOSTICS

<b>Summary of Service to be provided:</b>	Provision of clinical imaging, scanning and reporting for the diagnostic modalities of MRI, CT, ultrasound and X-Ray services from the Supplier for the Authority at the Supplier Site as agreed with the Authority.
<b>Start Date (of the Term):</b>	20 September 2021 for the Mobile and Strategic Clinical Solutions and Associated Goods or such earlier date as the Parties may agree.  [REDACTED] [REDACTED] [REDACTED] [REDACTED]
<b>End Date (of the Term):</b>	5 year initial term from the Actual Mobile and Clinical Solutions Commencement Date with a 5 year term extension [REDACTED] [REDACTED] [REDACTED] [REDACTED]  Where the ability of the Supplier to meet the Start Date has been delayed by any act or omission of the Authority (not caused or directly related to an act or omission by the Supplier) the Parties agree that where the Supplier is unable to reasonably accommodate the delay into its programme to retain the length of the term the End Date shall be extended by a reasonable period to ensure that the Supplier has the duration of the term as set out above (such period to be determined under the Dispute Resolution Process where it is not agreed by the Parties). Where the Supplier has not met the Start Date for any other reason there shall be no extension to the End Date.
<b>Long Stop Dates</b>	(1) [REDACTED] [REDACTED] [REDACTED]  (2) If the Supplier has not commenced the delivery of the Mobile and Strategic Clinical Solutions and Associated Goods in accordance with this Order Form, disregarding the Interim Mobile Solution, by 31 January 2022, then the Authority may terminate this Order in accordance with Clause 23.5.1 of Schedule 2 of the Terms and Conditions.  Where the ability of the Supplier to meet the Long Stop Date under either (1) or (2) above has been delayed by any act or omission of the Authority the Parties shall extend the relevant Long Stop Date by a reasonable period to reflect the delay (such period to be determined under the Dispute Resolution Process where it is not agreed by the Parties).  Where the Supplier has not met the Long Stop Date for any other reason there shall be no extension to the End Date.

<b>Please confirm the number of operating days per week or month:</b>	Between 5 and 7 days per week depending on overall demand levels										
<b>Please confirm which days of the week this service will operate:</b>	The service will operate from Monday to Friday although will also operate on Saturdays and Sundays where demand requires										
<b>Please confirm the daily operating hours:</b>	The service will operate from 9am to 5pm as a base position although this will be extended to 8am to 8pm when required										
<b>Please confirm the total number of operating days during the period of the contract term:</b>	Based on operating days per year ranging from 253 to 362, over a 10-year contract term (assuming the 5+5 contract is renewed after 5 years) this will range from 2,530 days to 3,620 days. (First 5 years 1,265 to 1,810 days)										
<b>Total Value of the contract (being part of the Contract Price as defined in the Framework Agreement) :</b>	<p>Total £ [REDACTED] over 10 years (Comprising of the first 5 years £ [REDACTED] with the remainder from the 5 years Contract extension [REDACTED] based upon the Minimum Quantity of scan activity) excluding x-ray services.</p> <table border="1"> <thead> <tr> <th>Service contract</th><th>Total 10 Year Contract Value £</th><th>Total 5 Year Contract Value £</th><th>Annual Contract Value £</th><th>Monthly Contract Value £</th></tr> </thead> <tbody> <tr> <td>Clinical Imaging and Reporting</td><td>[REDACTED]</td><td>[REDACTED]</td><td>[REDACTED]</td><td>[REDACTED]</td></tr> </tbody> </table> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	Service contract	Total 10 Year Contract Value £	Total 5 Year Contract Value £	Annual Contract Value £	Monthly Contract Value £	Clinical Imaging and Reporting	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Service contract	Total 10 Year Contract Value £	Total 5 Year Contract Value £	Annual Contract Value £	Monthly Contract Value £							
Clinical Imaging and Reporting	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]							
<b>Authority:</b>	<b>Somerset NHS Foundation Trust</b> , Musgrove Park Hospital, Taunton, Somerset, TA1 5DA										

<b>Supplier:</b>	<b>Rutherford Diagnostics Limited</b> (registered in England and Wales as Company Number 10844984) The Accelerator, Liverpool, L7 8XZ
<b>Supplier Site:</b>	The facility from which the Services are to be provided by the Supplier will include the ground floor and part of the first floor of the fire control centre at Blackbrook Business Park, Blackbrook Park Avenue, Taunton, Somerset TA1 2PX which the Supplier will secure rights of access to.
<b>Framework Agreement:</b>	The Framework Agreement for the Supply of Mobile and Strategic Clinical Solutions and Associated Goods with NHS Supply Chain and operated by "New CTSP" on behalf of Supply Chain Coordination Ltd Skipton House, 80 London Road London SE1 6LH United Kingdom, acting as agent of the NHS Business Services Authority whose principal office is at Stella House, Goldcrest Way, Newburn Riverside, Newcastle upon Tyne, NE15 8NY;

This Order shall take effect on the date on which it is signed with the Term commencing from the Actual Mobile and Strategic Clinical Solutions Commencement Date.

- i. For the avoidance of doubt all Orders placed under the Framework Agreement shall be subject to the Terms and Conditions for the Supply of Mobile and Strategic Clinical Solutions and Associated Goods. In accordance with the Framework Agreement the Parties have agreed the specific terms for the Extra Key Provisions referred to in Clause 1.2 of Schedule 1 of the Terms and Conditions and these are appended to this Order below.
- ii. The parties acknowledge and agree that in the event that there is a further wave of the declared Covid-19 pandemic the parties will look to develop a Covid-19 response plan which will address the impact of the event on the Contract (including the forecast activity, workforce plan and any other areas of the Contract which the Parties consider are impacted by the event) and leave each of the Parties as far as is reasonably possible in no better or worse position than they would have been prior to the Covid-19 event.
- iii. The parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate steps to mitigate the effects of any further wave of the declared Covid-19 pandemic and facilitate the continued performance of the Contract.

<b>For and on behalf of the Authority</b>	<b>For and on behalf of the Supplier</b>
<b>Authorised signatory:</b>	<b>Authorised Signatory:</b>
<b>Name: Peter Lewis</b>	<b>Name: Mike Moran</b>
<b>Title: Chief Executive</b>	<b>Title: Chief Executive Officer</b>
<b>Date:</b>	<b>Date:</b>
<b>Authorised signatory:</b>	
<b>Name: Pippa Moger</b>	
<b>Title: Director of Finance</b>	
<b>Date:</b>	



## EXTRA KEY PROVISIONS

### TERMS AND CONDITIONS FOR THE SUPPLY OF MOBILE AND STRATEGIC CLINICAL SOLUTIONS AND ASSOCIATED GOODS

#### Schedule 1 Extra Key Provisions for the Authority and the Supplier (agreed between the parties)

The Parties acknowledge that the Framework Agreement permits them to determine additional Extra Key Provisions for the Terms and Conditions as well as a revised OBS and Supplier's Response to Output Based Specification. The provisions below set out the intended changes to the delivery approach proposed by the Parties and further supplemental information to the terms of the Order.

In accordance with Clause 1.2 of Schedule 1 to the Terms and Conditions the Parties have agreed the following Extra Key Provisions:

#### SECTION A: Principles of the collaborative approach to be adopted between the Authority and the Supplier

##### 1 Principles for collaborative working

- 1.1 The aim of this Clause 1 is to identify the high-level principles that underpin the delivery of the Parties' obligations under the Contract and to set out key factors for a successful relationship between the Parties. Whilst it is recognised that these principles are difficult to measure in isolation, the successful achievement of the OBS will depend on the parties' ability to effectively co-ordinate and combine their expertise, manpower and resources in order to deliver an integrated approach to the provision of the services set out under the Contract.
- 1.2 The principles referred to in Clause 1.1 are that the Parties will work together to meet the OBS, and that unless the provisions in the Order state otherwise the Parties will:
  - 1.2.1 always demonstrate that the best interests of the Authority's service users are at the heart of the activities of the services;
  - 1.2.2 apply "best for outcomes" decision making for improvement to the strategic services and development decisions by the Parties;
  - 1.2.3 adopt a clear commitment to trust, honesty, collaboration, innovation and mutual support;
  - 1.2.4 adopt transparency on all aspects of the Mobile and Strategic Clinical Solutions and Associated Goods from the Supplier and the Authority and (where requested by the Authority) the provider of the Facilities Management Services, including through open book reporting and accounting, subject always to appropriate treatment of commercially sensitive information and competition law compliance;
  - 1.2.5 promote public transparency through timely publication of data on outcomes and performance; and
  - 1.2.6 take responsibility to make decisions where possible and support each other in delivering their respective roles under these Terms and Conditions.

(together these are the "**Principles**").

#### ***Problem resolution***

- 1.3 Prior to and as part of any Dispute referred to the Dispute Resolution Procedure The Parties agree to adopt a systematic approach to problem resolution that recognises the Principles and mutual objectives contained in this Clause 1 and which:
- 1.3.1 seeks solutions without apportioning blame;
  - 1.3.2 is based on mutually beneficial outcomes;
  - 1.3.3 treats the Supplier and the Authority as equal parties in the dispute resolution process;
  - 1.3.4 contains a mutual acceptance that adversarial attitudes waste time and money; and
  - 1.3.5 relies on more and better discussion with less paperwork and more constructive correspondence.

***Continuous improvement***

- 1.4 The Parties will each commit themselves to the achievement of continuous, measurable and measured improvement by:
- 1.4.1 measuring and reviewing performance against the OBS; and
  - 1.4.2 identifying and following best practice.

**SECTION B: Delivery of the Output Based Specification**

**2 Obligations and roles of the Parties**

***Mutual obligations of the Parties***

- 2.1 The Parties will work together in good faith to establish an environment that fosters and encourages collaboration between the Parties, where permissible.
- 2.2 The Parties will promote and develop a co-operative and high performing culture, and way of working:
- 2.2.1 that promotes and drives co-operation, innovation and continuous improvement;
  - 2.2.2 where information is shared;
  - 2.2.3 where communication is honest and respectful; and
  - 2.2.4 which is founded upon ethical and responsible behaviour and decision making,
- without losing sight of corporate and individual accountability;
- 2.3 The Parties will work together to:
- 2.3.1 develop the initial position for collaborative working between them and use the review meetings (under Clause 14 of the Terms and Conditions) to consider:
    - 2.3.1.1 the OBS
    - 2.3.1.2 the scope of any Partnering Services (as defined in Section C

below) ; and

2.3.1.3 the likely level of Mobile and Strategic Clinical Solutions and Associated Goods under the Order and any changes required.

2.4 The Parties agree to work together to find ways to provide the OBS and to improve the outputs derived from the Mobile and Strategic Clinical Solutions and Associated Goods and, (where requested by the Authority) including the provider of the Facilities Management Services.

2.5 Each of the Parties will actively seek ways and strive to continually innovate the provision of the OBS to:

2.5.1 achieve the outputs required under the OBS; and

2.5.2 comply with the Principles,

and the Parties will change the OBS and vary the Order where necessary pursuant to the Change Control Process set out in Section E to these Extra Key Provisions (subject to these Terms and Conditions and any applicable Law) in order to achieve this.

***Authority obligations and role***

2.6 In accordance with Clause 13.3 of the Terms and Conditions the Authority will (as its Authority Obligations):

2.6.1 support the Supplier in establishing an environment that fosters and encourages collaboration between the Parties where permissible;

2.6.2 provide the Supplier with timely access to Authority staff as reasonably required in order for the Supplier to comply with its obligations under the OBS and to improve the Mobile and Strategic Clinical Solutions and Associated Goods and allow the Supplier to co-operate with other third party providers of related services where identified by the Authority;

2.6.3 consider decisions referred to it by the Contract Managers, in a timely manner;

2.6.4 implement any variations agreed via the Change Control Process for the implementation of a revised service model to promote the delivery of the OBS in accordance with the agreement of the Parties through the Contract Managers;

2.6.5 provide the Supplier with outline figures for anticipated demand for Mobile and Strategic Clinical Solutions and Associated Goods in order to help facilitate the Supplier's approach to its development of facilities and available capacity;

2.6.6 comply with their statutory duties; and

***Supplier obligations and role***

2.7 The Supplier is responsible for performing its obligations in accordance with the Contract.

2.8 The Supplier will:

2.8.1 comply with process and governance as set out under these Extra Key

Provisions in working with the Authority;

- 2.8.2 provide the Mobile and Strategic Clinical Solutions and Associated Goods and where requested by the Authority work with third party providers including the provider of the Facilities Management Services to ensure that the services are delivered in an integrated way through collaborative working with the Authority in accordance with the Principles;
  - 2.8.3 work with the Authority through the designated clinical governance workstream to develop and implement the clinical pathway for the Mobile and Strategic Clinical Solutions and Associated Goods in conjunction with and for approval by the Contract Managers. Where there is a proposal to vary the clinical pathway away from the existing description to deliver greater value and improved outputs, this should be presented to the Parties for review and approval in accordance with the Change Control Procedure at Annex 2;
  - 2.8.4 establish a joint training and learning structure to ensure that the Supplier's and the relevant Authority services (where applicable) are best able to deliver the Mobile and Strategic Clinical Solutions and Associated Goods and Partnering Services under the Contract;
  - 2.8.5 oversight of performance against the OBS and the Supplier's Response to Output Based Specification and coordinating performance to ensure that any agreed thresholds are met;
  - 2.8.6 oversight of the Partnering Services performance to ensure that the Authority's services are complying with the requirements set out in these Key Provisions;
  - 2.8.7 establishing an administrative structure to ensure coordination and data collection relating to the services between the Parties; and
  - 2.8.8 deliver training to the Authority on health and safety issues related to the delivery of the Services.
- 2.9 The Supplier will highlight to the Authority where it believes that service gaps in the OBS or training and workforce issues may limit its ability to help achieve the outputs. Where such issues are identified the Supplier will make recommendations, via the Contract Managers, in respect of the Mobile and Strategic Clinical Solutions and Associated Goods and/or the Partnering Services arrangements and any such changes that might be implemented and accommodated without additional cost to the Authority.
- 2.10 The Supplier may also make recommendations to the Authority where it would be beneficial to the delivery of the OBS and performance to incorporate additional services and/or new providers either within this Contract or otherwise. Any changes to the Contract must be agreed and documented in accordance with the Change Control Process.

***Joint strategic obligations***

- 2.11 The Parties must co-operate with each other and other third parties identified by the Authority as providing related services to ensure the effective inter-operability of any equipment and/or systems used in the provision of the Partnering Services (including, without limitation, diagnostic equipment, IT and telecommunications equipment and systems) and so as to enable or facilitate the better achievement of the OBS and punctually to comply with their obligations under the Contract.
- 2.12 The Parties must co-operate in delivering constant improvements in and integration

of the Mobile and Strategic Clinical Solutions and Associated Goods under the OBS and the Partnering Services (in particular (but without limitation) regarding quality, service user engagement, clinical outcomes, efficiency, patient outcomes, information provision).

- 2.13 Where there is any conflict between the duties upon any Party under this Clause 2 and the rest of the Terms and Conditions, the provisions of the Terms and Conditions will prevail unless this Clause places a higher duty upon that Party, in which case the provisions of this Clause 2 will prevail.

## **SECTION C: Delivery of Partnering Services from the Authority**

### **3 Partnering Services from the Authority**

In this Clause 3, unless the context otherwise requires, the following expressions shall have the following meanings:

#### **"Partnering Services"**

means the services to be delivered under this Clause 3 by the Authority to the Supplier and the performance by the Authority of its obligations;

#### **3.1 General Requirements**

##### **Required outcome**

The provision of the Partnering Services in a collaborative fashion in order to achieve the OBS.

The delivery of the OBS:

- through collaboration between the Authority and the Supplier, which, among other things, may contribute to the introduction of revised clinical pathways;
- through effective supply chain management;
- by exploiting the benefit of repeat work as an incentive for efficiency and high quality performance wherever appropriate;
- by developing a joint commitment to common goals;
- by accurately measuring and reporting performance; and
- by adopting open-book accounting techniques subject always to appropriate treatment of commercially sensitive information and competition law compliance.

##### **Scope**

Planning shall be carried out between the Authority and the Supplier to ensure that they are mutually supportive and undertake only those tasks for which they are best suited and to ensure that:

- the Authority receives value for money from the Supplier;
- risk allocation is, subject to the terms of the Order equitable and appropriately apportioned between the parties; and
- openness and accountability can be demonstrated.

The Partnering Services are as follows:

- Defined in Annex 4 to this Order Form for the provision of the integrated support services. If the Authority is not able to provide the services set out in Annex 4 then the Supplier and the Authority shall work together to seek to mitigate and resolve any resource implications for the Partnering Services and on the delivery of the Mobile and Strategic Clinical Solutions and Associated Goods.
- The Supplier will not be liable to the Authority for any breach under this Contract to the extent that it is caused by a failure of the Authority to comply with the Authority obligations under the workforce plan.
- Other partnering services required by the Supplier from the Authority may be requested on an ad-hoc basis and paid for by the Supplier at rates and prices quoted by the Authority and accepted by the Supplier in advance. These rates and prices shall be consistent with the rates and prices for integrated support services subject to whatever adjustments may be appropriate in each case.

On or before the Actual Mobile and Strategic Clinical Solutions Commencement Date the Parties will enter into a service level agreement in respect of the Partnering Services in the form set out in Annex 9 (Service Level Agreement) with such amendments as may be agreed between the Parties. The Service Level Agreement will set out the costs of each relevant Partnering Service.

### **3.2 Performance Measurement**

The Supplier and the Authority shall regularly monitor and report the standard of performance of each of the Partnering Services and demonstrate continuous improvement wherever practicable. This will be achieved by the use of appropriate KPIs which will be agreed in accordance with clause 6.1 of the Service Level Agreement set out in Annex 9.

## **SECTION D: Additional Extra Key Provisions**

### **4 Additional Extra Key Provisions**

- 4.1 The Parties agree to comply with the terms of the Implementation Plan set out as Annex 5 to this Contract.
- 4.2 The Authority shall have the step in rights set out at Annex 3 under this Contract (in accordance with Clause 1.13 of Schedule 2 of the Terms and Conditions).
- 4.3 The Authority may, in addition to the provisions of Clause 23 of Schedule 2 of the Terms and Conditions, terminate the Contract forthwith by issuing a Termination Notice to the Supplier if following the Authority stepping into the delivery of services under Annex 3 the Authority is unable to correct the issues which gave rise to the Step-in Notice and the Supplier is also not able to confirm that it can resolve the issues.
- 4.4 The Supplier acknowledges and agrees that notwithstanding there is no default or breach by the Supplier [REDACTED] have been met under this Agreement, the Authority may elect at any time to terminate this Contract by notice to the Supplier if the Authority terminates the arrangements for the FMA at the Supplier Site and such notice shall specify the grounds for the termination of the FMA and termination of this Agreement shall take place on the same date as the

FMA terminates or expires. The Authority requires that the Supplier will provide the Mobile and Strategic Clinical Solutions and Associated Goods from the Supplier Site with effect from the Actual Mobile and Strategic Clinical Solutions Commencement Date.

4.5 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

4.6 The Parties shall comply with the Data Protection Protocol set out at Appendix 1 to Schedule 3 to this Contract (as revised in Annex 6 below).

*Compensation on Termination*

4.7 The provisions relating to compensation on termination as set out in Annex 7 (Compensation on Termination) shall apply in respect of an early termination of the Contract . [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] For the avoidance of doubt the provisions in Annex 7 (Compensation on Termination) do not apply:

4.7.1 in the event of termination by the Authority under Clause 23.5.1 of Schedule 2 of the Terms and Conditions for the Supply of Mobile and Strategic Clinical Solutions and Associated Goods prior to the Actual Mobile and Strategic Clinical Solutions Commencement Date;

4.7.2 in the event of termination by the Authority under Clause 31 (Force Majeure) of Schedule 2 of the Terms and Conditions for the Supply of Mobile and Strategic Clinical Solutions and Associated Goods;

4.7.3 [REDACTED]  
[REDACTED] or

4.7.4 on an expiry of the 10 year Term after the Contract has been extended.

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

*Change of Control*

4.9 The Supplier may not exercise its rights in Clause 36.2.1 of Schedule 2 of the Terms and Conditions without obtaining the prior written consent of the Authority. The Authority shall be entitled to withhold consent where any proposed Change of Control would cause the Supplier to cease to be part of the Group which it forms part of as at the date of this Contract.

4.10 The Supplier shall not less than sixty (60) days in advance of any proposed Change of Control and in any event within seven (7) days following a Change of Control, notify the Authority in writing of that (proposed or actual) Change of Control. The Supplier shall supply to the Authority whatever further information relating to the (proposed or actual) Change of Control the Authority may, within 30 days after receiving notification of the (proposed or actual) Change of Control, reasonably request.

- 4.11 No Change of Control of the Supplier shall be permitted without the written consent of the Authority not to be unreasonably withheld.
- 4.12 A breach by the Supplier of Clause 4.11 shall be deemed a material breach which is not remediable in accordance with Clause 23.4.1(a) of Schedule 2.
- 4.13 “Control” means in relation to a body corporate, the power of a person to secure the affairs of the body corporate are conducted in accordance with the wishes of that person:
- 4.13.1 By means of the possession of voting power, in or in relation to that or any other body corporate; or
- 4.13.2 As a result of any powers conferred by the articles of association or any other document regulating that or any other body corporate;
- And a “Change of Control” occurs if a person who controls any body corporate ceases to do so or if another person acquires Control of it.

## **SECTION E: Change Control Process**

### **5 Change Control Process**

- 5.1 The Parties agree that the terms of the Change Control Process annexed to this Contract as Annex 2 shall apply. Where any changes proposed under the Change Control Process will have an impact on other services provided to the Authority such as the facilities management the Authority may require that the Parties including other third party providers who are operating with the Authority whose services may also reasonably be impacted by the proposed change along with the Supplier for the purpose of agreeing changes to both this Contract and the other arrangements concurrently to ensure the integration of the arrangements for the Authority.



## ANNEX 1 - MINIMUM QUANTITY

The table below shows the minimum quantities of Mobile and Strategic Clinical Solutions and Associated Goods under this Contract for each Year.

Modality	Code	Description	Activity	Imaging Services	
			Activity Number of scans		Total Cost for the activity
CT	RD20A	Computerised Tomography Scan of One Area, without Contrast, 19 years and over			
CT	RD20B	Computerised Tomography Scan of One Area, without Contrast, between 6 and 18 years			
CT	RD21A	Computerised Tomography Scan of One Area, with Post-Contrast Only, 19 years and over			
CT	RD21B	Computerised Tomography Scan of One Area, with Post-Contrast Only, between 6 and 18 years			
CT	RD22Z	Computerised Tomography Scan of One Area, with Pre- and Post-Contrast			
CT	RD23Z	Computerised Tomography Scan of Two Areas, without Contrast			
CT	RD24Z	Computerised Tomography Scan of Two Areas, with Contrast			
CT	RD25Z	Computerised Tomography Scan of Three Areas, without Contrast			
CT	RD26Z	Computerised Tomography Scan of Three Areas, with Contrast			
CT	RD27Z	Computerised Tomography Scan of more than Three Areas			
CT	RD28Z	Complex Computerised Tomography Scan (CTC)			
Totals for CT					
MRI	RD01A	Magnetic Resonance Imaging Scan of One Area, without Contrast, 19 years and over			
MRI	RD01B	Magnetic Resonance Imaging Scan of One Area, without Contrast, between 6 and 18 years			
MRI	RD02A	Magnetic Resonance Imaging Scan of One Area, with Post-Contrast Only, 19 years and over			
MRI	RD02B	Magnetic Resonance Imaging Scan of One Area, with Post-Contrast Only, between 6 and 18 years			
MRI	RD03Z	Magnetic Resonance Imaging Scan of One Area, with Pre- and Post-Contrast			
MRI	RD04Z	Magnetic Resonance Imaging Scan of Two or Three Areas, without Contrast			
MRI	RD05Z	Magnetic Resonance Imaging Scan of Two or Three Areas, with Contrast			
MRI	RD06Z	Magnetic Resonance Imaging Scan of more than Three Areas - whole body			
MRI	RD07Z	Magnetic Resonance Imaging Scan Requiring Extensive Patient Repositioning			
MRI	RD08Z	Cardiac Magnetic Resonance Imaging Scan without Contrast			
MRI	RD09Z	Cardiac Magnetic Resonance Imaging Scan with Post-Contrast Only			
MRI	RD10Z	Cardiac Magnetic Resonance Imaging Scan with Pre- and Post-Contrast			
Total MR					
Ultrasound	RD40Z	Ultrasound Scan with duration of less than 20 minutes, without Contrast			
Ultrasound	RD41Z	Ultrasound Scan with duration of less than 20 minutes, with Contrast			
Ultrasound	RD42Z	Ultrasound Scan with duration of 20 minutes and over, without Contrast			
Ultrasound	RD43Z	Ultrasound Scan with duration of 20 minutes and over, with Contrast			
Ultrasound	RD47Z	Vascular Ultrasound Scan			
Total Ultrasound					
Grand Total					

## ANNEX 2 - CHANGE CONTROL

### 1. GENERAL PRINCIPLES

- 1.1 Where the Authority or the Supplier sees a need to change the Contract, the Authority may at any time request, and the Supplier may at any time recommend, such change (a **"Change"**) only in accordance with the Change Control Procedure set out in paragraph 2 of this Annex 2.

The Authority may also request, that the Parties include other third parties whose services are impacted upon by the proposed change under the process set out in this Annex 2.

- 1.2 The following terms shall have the meaning ascribed to them in this Annex 2:

<b>"Change"</b>	any change to this Contract including to any of the Services (and/or where appropriate to other services to the Authority ).
<b>"Change Control Note"</b>	the written record of a Change agreed or to be agreed by the parties pursuant to the Change Control Procedure in paragraph 2.

- 1.3 Until such time as a Change is made in accordance with the Change Control Procedure, the Authority and the Supplier (and any third party provider under contract with the Authority) shall, unless otherwise agreed in writing, continue to perform this Contract (and where applicable to a third party provider their contractual obligations) in compliance with its terms before such Change.
- 1.4 Any discussions which may take place between the Authority and the Supplier or the third party provider requested by the Authority in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of any party.
- 1.5 Any work undertaken by the Supplier and the Staff or the third party provider requested by the Authority which has not been authorised in advance by a Change, and which has not been otherwise agreed in accordance with the provisions of this Annex 2, shall be undertaken entirely at the expense and liability of the Supplier or the relevant third party provider requested by the Authority as applicable.

### 2. CHANGE CONTROL PROCEDURE

- 2.1 Discussion between Authority and the Supplier and/or a third party provider requested to join in the process by the Authority concerning a Change shall result in any one of the following actions:
- (a) no further action being taken; or
  - (b) a request to change this Contract and/or the third party contract by the Authority; or
  - (c) a recommendation to change this Contract and/or a third party contract by the Supplier and/or the third party.
- 2.2 Where a written request for an amendment is received from the Authority, the Supplier (and/or where applicable the third party provider requested by the Authority) shall, unless otherwise agreed, submit two copies of a Change Control Note signed by the Supplier (and/or where applicable the third party provider requested by the Authority) to the Authority within three (3) weeks of the date of the request.
- 2.3 A recommendation to amend this Contract and/or the third party provider's contract with the Authority shall be submitted directly to the Authority in the form of two copies of a Change Control Note signed by the Supplier (and/or where applicable the third party provider requested by the Authority) at the time of such recommendation. The Authority shall give its response to the Change Control Note within three (3) weeks.

- 2.4 Each Change Control Note shall contain:
- (a) the title of the Change;
  - (b) the originator and date of the request or recommendation for the Change;
  - (c) the reason for the Change;
  - (d) full details of the Change, including any specifications;
  - (e) the price, if any, of the Change;
  - (f) a timetable for implementation, together with any proposals for acceptance of the Change;
  - (g) a schedule of payments if appropriate;
  - (h) details of the impact of the Change (if any) on third party contractual arrangements;
  - (i) details of the likely impact, if any, of the Change on other aspects of the agreements including:
    - (A) the timetable for the provision of the Change;
    - (B) the personnel to be provided;
    - (C) the cost and related charges;
    - (D) any impact on the Partnering Services;
    - (E) any impact on the Forecast (as defined in Clause 5.12 of Schedule 9 (Annex 8));
    - (F) the documentation to be provided;
    - (G) the training to be provided;
    - (H) working arrangements;
    - (I) other contractual issues;
    - (J) the date of expiry of validity of the Change Control Note; and
    - (K) provision for signature of the Change Control Note by the Authority and the Supplier.
- 2.5 For each Change Control Note submitted the Authority shall, within the period of the validity of the Change Control Note:
- (a) allocate a sequential number to the Change Control Note; and
  - (b) evaluate the Change Control Note and, as appropriate:
    - (A) request further information;
    - (B) accept the Change Control Note by arranging for two (2) copies of the Change Control Note to be signed by or on behalf of Authority and return one of the copies to the Supplier (and/or where applicable the third party provider requested by the Authority); or
    - (C) notify the Supplier (and/or where applicable the third party provider requested by the Authority) of the rejection of the Change Control Note.
- 2.6 A Change Control Note signed by Authority and by the Supplier shall constitute an amendment to this Contract.

## ANNEX 3 – STEP IN RIGHTS

### DEFINITIONS

**Affected Services:** has the meaning given in paragraph 1.1(a) of this Annex 3.

**Business Day:** has the meaning given in Schedule 4 of the Terms and Conditions.

**Contract Price:** the Contract Price as defined in Schedule 4 of the Terms and Conditions.

**Force Majeure:** has the meaning given in Clause 31 of Schedule 2 of the Terms and Conditions (Force majeure).

**KPIs:** the performance indicators as set out in paragraph 4 of Schedule 9 (Finance)

**Services:** the Mobile and Strategic Clinical Solutions and Associated Goods.

**Step-in Actions:** has the meaning given in paragraph 1.1(d) of this Annex 3.

**Step-in Event:** means that in respect of the Services:

- a) the Supplier is in breach of a KPI [REDACTED];
- b) a Force Majeure Event occurs that materially prevents or materially delays the performance of the Services by the Supplier for a consecutive period of 10 days;
- c) the Authority is required to take action by a regulatory body such that the exercise by the Authority of its rights under paragraph 1 (Step-in rights) is necessary; or
- d) a condition occurs that triggers the Authority's right to terminate this Contract and that the Authority has EITHER:
  - (i) allowed the Supplier to remedy the event itself; or
  - (ii) where d) applies, allowed the Supplier's funder the opportunity to appoint a third party to remedy the relevant issues;and they have not rectified them;

OR determined, acting reasonably and given the nature of the issues that it needs to rectify the issues itself.

**Step-in Notice:** has the meaning given in paragraph 1.1 of this Annex 3.

**Step-in Party:** has the meaning given in paragraph 1.1(a) of this Annex 3.

**Step-in Period:** has the meaning given in paragraph 1.1(e) of this Annex 3.

**Step-out Plan:** has the meaning given in paragraph 1.4 of this Annex 3.

### 1. Step-in rights

1.1 Without prejudice to the Authority's other rights and remedies under this agreement and at law, if a Step-in Event occurs, the Authority shall have the right to issue a written step-in notice, which shall include the following information (**Step-in Notice**):

- (a) that the Authority (**Step-in Party**) intends to perform or manage the performance of part or all of the Services (**Affected Services**);
- (b) the details of the Step-in Event that has triggered the exercise of the Step-in Notice;
- (c) details of the Affected Services;
- (d) the actions that the Authority intends to take in order to rectify the Affected Services (**Step-in Actions**);
- (e) the estimated dates on which the Step-in Actions will commence and end (**Step-in Period**);
- (f) in the Authority's reasonable opinion, the extent that the Authority anticipates the

Step-in Actions will have on the Supplier's obligation to provide the remaining Services that are not the Affected Services; and

- (g) any other information that the Authority is reasonably able to provide in relation to how it intends to perform the Step-in Actions.

The Authority shall only be permitted to exercise its Step-in Notice in respect of the Services as set out in the OBS.

Control of [REDACTED] services to other NHS bodies as well as the administration, billing and credit control elements of the Services shall be retained by the Supplier and the Step-in Notice shall set out how the Authority intends to manage any impact on these other services (including other NHS provision [REDACTED]) during any Step-in Period.

The Authority will indemnify and keep indemnified the Supplier against any losses to other services for third parties other than the Authority provided from the Supplier Site (outside of those Affected Services covered under the Step-In Notice), to the extent that any such loss is due to the actions or omissions of the Authority or of its employees in taking the Step-in Actions during the Step-in Period, save to the extent that the same is caused by or directly arises from any negligence or a breach by the Supplier.

- 1.2 On receipt of the Step-in Notice, the Supplier shall, subject to paragraph 1.3 provide, enable or procure access for the Authority to:
- (a) To the extent not already provided to the Authority under third party arrangements, the premises and facilities currently providing the Services where the Authority so requests;
  - (b) any equipment and software that are used in the administration, management and provision of the Affected Services;
  - (c) the Supplier Staff that are involved with the Affected Services; and
  - (d) any know-how or knowledge relating to the Affected Services,

for the sole purpose of enabling the Authority to perform the Step-in Actions during the Step-in Period only.

- 1.3 The Authority shall ensure that the Authority's personnel and representatives that have the access as provided for under paragraph 1.2:
- (a) comply with all relevant health and safety requirements for any of the Supplier's Site such requirements as notified by the Supplier;
  - (b) only use the facilities, equipment or software on the Supplier's instructions and exercise reasonable care when using those items so as not to cause damage; and
  - (c) do not disrupt or interfere with the Supplier's obligations to deliver the Services that are not the Affected Services.
- 1.4 Within ten Business Days of receipt of the Step-in Notice, the Supplier shall submit to the Authority a written plan setting out the measures the Supplier intends to take after the Step-in Period in order to restore the Affected Services to satisfy the requirements of the agreement (**Step-out Plan**).
- 1.5 The Authority will remain liable to pay the Charges under this Order Form relating to the Affected Services for the Step-in Period with the Charges reduced in accordance with paragraph 1.10 below in respect of the Affected Services.
- 1.6 During the Step-in Period, the Supplier shall:
- (a) be relieved of its obligations to provide the Affected Services and (save as provided in paragraph 1.10) pay for any Authority staff providing Partnering Services as part of the Affected Services and shall not be liable for any liability arising out of the Affected

Services not meeting the Contract KPIs;

- (b) continue to provide the Services that are not the Affected Services, and shall inform the Authority if the Affected Services will impact on its ability to deliver those other Services;
  - (c) fully cooperate and provide all reasonable assistance to the Authority for the sole purpose of enabling the Authority to perform the Step-in Actions; and
  - (d) use reasonable endeavours to ensure that the relevant Supplier Personnel promptly follow the reasonable and lawful instructions of the Authority in pursuance of the Step-in Actions.
- 1.7 The Authority shall keep a written record of the Step-in Actions that it has taken and keep the Supplier informed weekly of the progress of the Step-in Actions.
- 1.8 The Authority shall use all reasonable endeavours to ensure that the Step-in Actions are completed during the Step-in Period.
- 1.9 If the Authority is satisfied that the circumstances leading to the Step-in Event are no longer present and the Supplier has demonstrated in the Step-out Plan that it can resume responsibility for the Affected Services, the Authority will issue a written notice to the Supplier that:
  - (a) requires the Supplier to resume performance of the Affected Services;
  - (b) specifies the date on which the Supplier shall resume such performance; and
  - (c) sets out the Step-in Actions that the Authority actually took during the Step-in Period.
- 1.10 The Supplier shall be liable to the Authority for all direct costs and expenses that are reasonable and necessarily incurred by the Authority in taking the Step-in Actions, and the Authority shall use all reasonable endeavours to mitigate any such costs and expenses.

## ANNEX 4 - RESOURCE PLAN

A resource plan to deliver the integrated services has been developed and agreed with the Authority. The Supplier will work closely with the Authority to deliver and manage the resource plan. Both Parties agree that the resource plan will be kept under review and that any changes will be discussed and agreed in a timely manner in accordance with the Change Control Process.

In addition, the Implementation Plan indicates the dates by which recruitment of any resource will commence to enable each Party to identify and manage its resource commitments accordingly.

The following shows the anticipated resource numbers to deliver the integrated services for a Monday to Friday operational model.

<b>Base Case Summary Resource Plan</b>			
Role	Propose Banding	Mon – Fri 9-5pm	
		Authority Employees	Supplier employees
Senior Radiographer/ Superintendent/ Team Leader			
Radiographer			
Assistant Practitioner			
Sonographer			
Healthcare Assistant/ Imaging Dept Assistant			
Admin Staff			
Dedicated Receptionist			
Total			

- All resource numbers are represented as whole time equivalents (WTEs), and reflect the resource numbers excluding any uplift for training, sickness and annual leave;
- If the centre is only operational Mon – Fri 9am to 5pm the resource plan assumes a standard 37.5 hour contract as 1.00 WTE;

### Part 1 : Key milestone dates:

	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED] [REDACTED] [REDACTED]		[REDACTED] [REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]
	[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED]

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## PROGRAMME PLAN

The following Programme Plan reflects the specific obligations which the Supplier is undertaking to facilitate the delivery of the Mobile and Strategic Clinical Solutions and Associated Goods to the Authority as well as other related elements which are provided by third parties for the Authority.

NO	TASK	LEAD	START DATE	END DATE
1	Contract sign-off	Supplier		
■	Acquire FCC/Sign Lease	3 <sup>rd</sup> party		
■	Design			
	RIBA 1	3 <sup>rd</sup> party		
	RIBA 2	3 <sup>rd</sup> party		
	RIBA 3	3 <sup>rd</sup> party		



NO	TASK	LEAD		
	RIBA 4	3 <sup>rd</sup> party		
<b>4</b>	<b>Planning permission</b>			
	Application submission	3 <sup>rd</sup> party		
	Planning approval awarded	3 <sup>rd</sup> party		
<b>5</b>	<b>Pre-construction</b>			
	Stripout	3 <sup>rd</sup> party		
<b>6</b>	<b>Construction &amp; FM provision</b>			
	Contractor tendering	3 <sup>rd</sup> party		
	Mobilisation	3 <sup>rd</sup> party		
	Construction	3 <sup>rd</sup> party		
	Handover	3 <sup>rd</sup> party		
	Facility access rights letter	3 <sup>rd</sup> party		
	FM Provision agreement	3 <sup>rd</sup> party		
<b>7</b>	<b>Resourcing</b>			
	Recruitment of key staff	Supplier		
	Induction of key staff	Supplier		
	Training of key staff	Supplier		
	Recruitment of other staff	Supplier		
	Induction of other staff	Supplier		
	Training of other staff	Supplier		
	Induction, orientation and training of Authority staff	Supplier		
<b>8</b>	<b>CQC Licensing</b>			
	Identify licensing requirements	Supplier		
	Application and review	Supplier		
	CQC approval	Supplier		
<b>9</b>	<b>Governance</b>			
	Agree Clinical Governance Framework	Supplier		
	Implementation of Clinical Governance Framework	Supplier		
	Agree Information Governance Framework	Supplier		
	Implementation of Information Governance Framework	Supplier		
<b>10</b>	<b>ICT</b>			
	Identification of ICT requirements	3 <sup>rd</sup> party		
	Procurement	3 <sup>rd</sup> party		
	Installation & Commissioning	3 <sup>rd</sup> party		
<b>11</b>	<b>PACS &amp; Teleradiology</b>			
	Solution agreement	3 <sup>rd</sup> party		
	Procurement	3 <sup>rd</sup> party		
	Installation & integration	3 <sup>rd</sup> party		
	Testing	3 <sup>rd</sup> party		
	Training	3 <sup>rd</sup> party		

NO	TASK	LEAD	START DATE	END DATE
	Teleradiology solution agreement	3 <sup>rd</sup> party		
	Teleradiology solution testing	3 <sup>rd</sup> party		
	Training	3 <sup>rd</sup> party		
12	Equipment			
	Procurement	3 <sup>rd</sup> party		
	Installation	3 <sup>rd</sup> party		
	Commissioning	3 <sup>rd</sup> party		
	Staff Training	3 <sup>rd</sup> party		
Service live		Supplier		

1.1 The Parties have agreed the following derogations from the clauses at Schedule 3 of the Framework as being changes needed to reflect of the nature and circumstances of the arrangements provided for within the Contract between them:

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED]

## 1 INTERPRETATION

- 1.1 The definitions and interpretative provisions at Schedule 4 (Definitions and Interpretations) of the Contract shall also apply to this DS Agreement. Additionally, in this DS Agreement the following words shall have the following meanings unless the context requires otherwise:

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<b>Data Discloser</b>	the Party disclosing Personal Data to the other Party.
<b>Data Protection Laws</b>	means (i) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (ii) the GDPR, the LED and any applicable national implementing Law as amended from time to time; (iii) all applicable Law about the processing of personal data or privacy; and (iv) any guidance issued by the Information Commissioner's Office
<b>Data Receiver</b>	the Party receiving Personal Data from the other Party.
<b>Data Sharing Code</b>	the Information Commissioner's Data Sharing Code of Practice of May 2011, as updated or amended from time to time.
<b>Data Subject</b>	shall have the same meaning as set out in the Data Protection Laws;
<b>Information Commissioner's Office</b>	means the Information Commissioner's Office as referred to in section 114 of the Data Protection Act 2018
<b>Personal Data Breach</b>	shall have the same meaning as set out in the Data Protection Laws
<b>Protective Measures</b>	means the technical and organisational measures for protecting Personal Data as required by the Data Protection Laws which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it;
<b>Shared Personal Data</b>	the Personal Data and Special Category Personal Data to be shared between the parties under clause Schedule 1Part 1 4 of this DS Agreement.
<b>Special Category Personal Data</b>	shall have the same meaning as set out in the Data Protection Laws
<b>Subject Access Request</b>	means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Laws to access their Personal Data.

1.2 Any reference in this DS Agreement to an Article is to that article in the GDPR save that following the UK's exit from the European Union, references to articles of the GDPR shall be read as references to the those articles as they have been implemented into UK Law

1.3 Clause, schedule and paragraph headings shall not affect the interpretation of this DS Agreement.

1.4 The table forms part of this Agreement and shall have effect as if set out in full in the body of this DS Agreement. Any reference to this DS Agreement includes the table.

## 2 PURPOSE

2.1 This DS Agreement sets out the framework for the sharing of Personal Data when one Controller discloses personal data to another Controller(s). It defines the principles and procedures that the Parties shall adhere to and the responsibilities the Parties owe to each other.

2.2 The Parties consider this data sharing proportionate in order to achieve the purpose set out in Table 1.

- 2.3 The Parties agree to only Process Shared Personal Data, as described in clause Schedule 1Part 1 4.1 and clause Schedule 1Part 1 4.2 for the purposes set out in Table 1.
- 2.4 The Parties shall not Process Shared Personal Data in a way that is incompatible with the purposes described in Table 1 (the **Agreed Purpose**).
- 2.5 Each Party shall appoint a single point of contact (SPoC) who will work together to reach an agreement with regards to any issues arising from the data sharing and to actively improve the effectiveness of the data sharing. The points of contact for each of the parties are:

- The Supplier's SPoC – [REDACTED]

The Authority's SPoC – [REDACTED]

### 3 COMPLIANCE WITH NATIONAL DATA PROTECTION LAWS

- 3.1 Each Party has a valid registration with the Information Commissioner's Office, unless an exemption applies.
- 3.2 Before the Data Discloser shares any Shared Personal Data with the Data Receiver under this DS Agreement, the Data Discloser shall ensure that it has carried out a Data Protection Impact Assessment which thoroughly reviews the validity and justification of the proposed data sharing, including but not limited to the need for patients to be aware of how their Personal Data will be used, the proportionality of any Personal Data to be provided and the measures to be taken to keep such data secure. In the event that the Data Discloser does not consider that a Data Protection Impact Assessment is required in a particular instance, it shall keep a full written record of its reasons for taking this view.
- 3.3 The provisions of this DS Agreement shall not affect the generality of the requirements set out at clause 1.1 of Schedule 2.

### 4 SHARED PERSONAL DATA

- 4.1 The types of Personal Data to be shared between the Parties during the Term shall be limited to the Personal Data described in Table 1.
- 4.2 The types of Special Category Personal Data to be shared between the Parties during the Term shall be as set out in Table 1.
- 4.3 The Shared Personal Data must not be irrelevant or excessive with regard to the Agreed Purposes.

### 5 FAIR AND LAWFUL PROCESSING

- 5.1 Each Party shall ensure that it Processes the Shared Personal Data fairly and lawfully in accordance with clauses Schedule 1Part 1 5.2 to 5.4 during the Term.
- 5.2 Each Party shall ensure that it has a legal basis under the Data Protection Laws for the Processing of Shared Personal Data and where the legal basis relied on is consent, it is obtained under the control set out in Table 1.
- 5.3 The Data Discloser shall, in respect of Shared Personal Data, ensure that it provides clear and sufficient information to the Data Subjects, in accordance with the Data Protection Laws, of

the purposes for which it will Process their personal data, the legal basis for such purposes and such other information as is required by Article 13 of the GDPR including:

- 5.3.1 the fact that the Shared Personal Data will be transferred to the Data Receiver under this DS Agreement, together with sufficient information about such transfer and the purpose of such transfer to enable the Data Subject to understand the purpose and risks of such transfer;
  - 5.3.2 if Shared Personal Data will be transferred to a third party, that fact and sufficient information about such transfer and the purpose of such transfer to enable the Data Subject to understand the purpose and risks of such transfer; and
  - 5.3.3 if Shared Personal Data will be transferred outside the EEA pursuant to clause 9 of this DS Agreement, that fact and sufficient information about such transfer, the purpose of such transfer and the safeguards put in place by the controller to enable the Data Subject to understand the purpose and risks of such transfer.
- 5.4 The Data Receiver undertakes to inform the Data Subjects, in accordance with the Data Protection Laws, of the purposes for which it will process their personal data, the legal basis for such purposes and such other information as is required by Article 14 of the GDPR including:
- 5.4.1 if Shared Personal Data will be transferred to a third party in accordance with clause 9.2, that fact and sufficient information about such transfer and the purpose of such transfer to enable the Data Subject to understand the purpose and risks of such transfer; and
  - 5.4.2 if Shared Personal Data will be transferred outside the EEA pursuant to clause 9 of this Agreement, that fact and sufficient information about such transfer, the purpose of such transfer and the safeguards put in place by the controller to enable the data subject to understand the purpose and risks of such transfer.
- 5.5 The Parties shall ensure that Shared Personal Data shall be adequate, relevant and limited to what is necessary in relation to the Agreed Purpose.
- 5.6 Shared Personal Data shall only be used to the extent necessary to achieve the Agreed Purpose and shall only be used or accessed by staff or agents of the Data Receiver who need such use or access.

## **6 DATA QUALITY**

- 6.1 The Data Discloser shall ensure that before the Commencement Date, Shared Personal Data are accurate and that, if requested by the Data Receiver, it has appropriate internal procedures in place for the Data Receiver to sample Shared Personal Data prior to the Commencement Date; and it will update the same if required prior to transferring the Shared Personal Data.

## **7 DATA SUBJECTS' RIGHTS**

- 7.1 Data Subjects have the right to obtain certain information about the Processing of their Personal Data. The Parties each agree to provide such assistance as is reasonably required to enable each Party to comply with requests from Data Subjects to exercise their rights under the Data Protection Laws within the time limits imposed by the Data Protection Laws and to

respond to any queries or complaints from Data Subjects or the Information Commissioner's Office.

- 7.2 SPoCs are responsible for maintaining a record of individual requests for information, the decisions made and any information that was exchanged. Records must include copies of the request for information, details of the data accessed and shared and where relevant, notes of any meeting, correspondence or phone calls relating to the request. The points of contact for each Party are detailed in clause Schedule 1Part 1 2.5.

## **8 DATA RETENTION AND DELETION**

- 8.1 The Data Receiver shall not retain or Process Shared Personal Data for longer than is necessary to carry out the Agreed Purposes. The Data Receiver shall carry out regular reviews of the Shared Personal Data held or accessed under this Agreement and shall choose to delete or return to the Data Discloser any data which is no longer required to be processed for the Agreed Purpose.
- 8.2 Notwithstanding *clause Schedule 1Part 1 8.1*, parties shall continue to retain Shared Personal Data in accordance with any required or recommended retention periods applicable in their respective industry.
- 8.3 The Data Receiver shall ensure that any Shared Personal Data are destroyed in accordance with the data retention policies referred to at Table 1.

## **9 DATA SHARING WITH THIRD PARTIES AND RESTRICTED TRANSFERS**

- 9.1 For the purposes of this clause, transfers of personal data shall mean any sharing of personal data by the Data Receiver with a third party, and shall include, but is not limited to, the following:
- 9.1.1 Sub-contracting the Processing of Shared Personal Data.
  - 9.1.2 granting a third party controller access to the Shared Personal Data.
- 9.2 The Data Receiver agrees that it will not share or pass any Shared Personal Data provided by the Data Discloser under this Agreement to any third parties without the prior written approval of the Data Discloser.
- 9.3 Without prejudice to the provisions of clause 9.2, if the Data Receiver appoints a third-party Processor to Process the Shared Personal Data it shall comply with Article 28 and Article 30 of the GDPR and shall remain liable to the Data Discloser for the acts and/or omissions of the third-party Processor.
- 9.4 Without prejudice to the provisions of clause 9.2, the Data Receiver shall not disclose or transfer the Shared Personal Data to a third party located outside the EEA, which includes storing the Shared Personal Data on servers outside the EEA, unless the prior written consent of the Data Discloser has been obtained and it:
- 9.4.1 ensures the Data Subject has enforceable rights and effective legal remedies;
  - 9.4.2 complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Shared Personal Data that is transferred;
  - 9.4.3 complies with any reasonable instructions notified to it in advance by the Data

- Discloser with respect to the processing of the Shared Personal Data;
- 9.4.4 complies with the provisions of Article 26 of the GDPR (in the event the third party is a joint controller); and
  - 9.4.5 ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 of the GDPR; (iii) there are binding corporate rules in place pursuant to Article 47 of the GDPR or (iv) one of the derogations for specific situations in Article 49 of the GDPR applies to the transfer.
- 9.5 Without prejudice to the provisions of clause 9.2, if the Data Receiver transfers any of the Shared Personal Data to a country which is a member of the EEA (not including the United Kingdom) the Data Receiver shall ensure that it enters into a written contract with the transferee in relation to such transfer, pursuant to which the Data Receiver and the transferee agree how they will ensure that such Shared Personal Data can legitimately be transferred by the transferee back to the UK if, at the relevant time, the UK is treated as a third country under EU data protection law. For the avoidance of doubt, such legitimate methods may include the Data Receiver and the transferee entering into model clauses, the use of binding corporate rules or utilisation of an appropriate derogation under the GDPR.
- 10 SECURITY AND TRAINING**
- 10.1 The Data Discloser shall only provide the Shared Personal Data to the Data Receiver by using secure methods. These secure methods shall at least be compliant with appropriate information security standards.
- 10.2 Having regard to the state of technological development and the cost of implementing such measures, the Parties have in place throughout the Term Protective Measures and shall keep such Protective Measures under review and shall carry out such updates as they agree are appropriate throughout the Term, in order to:
- 10.2.1 prevent:
    - 10.2.1.1 unauthorised or unlawful Processing of the Shared Personal Data; and
    - 10.2.1.2 the accidental loss or destruction of, or damage to, the Shared Personal Data
  - 10.2.2 ensure a level of security appropriate to:
    - 10.2.2.1 the harm that might result from such unauthorised or unlawful Processing or accidental loss, destruction or damage; and
    - 10.2.2.2 the nature of the Shared Personal Data to be protected.
- 10.3 The Data Receiver shall ensure that it maintains in place suitable logs, audit trails and restrictive access provisions in place to protect the Shared Personal Data.
- 10.4 It is the responsibility of each Party to ensure that its staff members are appropriately trained to handle and Process the Shared Personal Data in accordance with the Protective Measures together with any other applicable Data Protection Laws.



- 10.5 The level, content and regularity of training referred to in clause 10.4 shall be proportionate to the staff members' role, responsibility and frequency with respect to their handling and Processing of the Shared Personal Data.

## **11 PERSONAL DATA BREACHES AND REPORTING PROCEDURES**

- 11.1 Having considered the Data Protection Laws, the parties have in place their own guidance that must be followed in the event of a Personal Data Breach.
- 11.2 The Parties shall each comply with its obligation to report a Personal Data Breach to the Information Commissioner's Office under Article 33 and (where applicable) Data Subjects under Article 34 of the GDPR and shall each inform the other Party of any Personal Data Breach irrespective of whether there is a requirement to notify the Information Commissioner's Office or Data Subject(s).
- 11.3 In the event that a Party is under an obligation to report a Personal Data Breach to the Information Commissioner's Office, that Party is under a strict obligation to notify any potential or actual losses of the Shared Personal Data to the other Party's SPoC as soon as possible and, in any event, within **24 hours** of identification of any potential or actual loss to enable the Parties to consider what action is required in order to resolve the issue.
- 11.4 The guidance referred to at clause Schedule 1Part 1 11.1 must also include guidance that must be followed in the event of any breaches of security which may compromise the security and/or confidentiality of the Shared Personal Data that may not amount to a Personal Data Breach.
- 11.5 The Parties agree to provide reasonable assistance as is necessary to each other to facilitate the handling of any Personal Data Breach in an expeditious and compliant manner.
- 11.6 In the event of the Data Receiver experiencing a Personal Data Breach in relation to Shared Personal Data, the Data Discloser shall be entitled to require the Data Receiver to commission a suitable third party audit to report on the reasons for the breach and to make recommendations in order to minimise the recurrence of such a Personal Data Breach. The cost of any such third party audit shall be borne by the Data Receiver.

## **12 WARRANTIES**

- 12.1 Each Party warrants and undertakes that it will:
- 12.1.1 Process the Shared Personal Data in compliance with the Data Protection Laws.
  - 12.1.2 Respond to Subject Access Requests in accordance with the Data Protection Laws.
  - 12.1.3 Where applicable, maintain registration with the Information Commissioner's Office to Process all Shared Personal Data for the Agreed Purpose.
  - 12.1.4 Take all appropriate steps to ensure compliance with clause Schedule 1Part 1 10 above.
- 12.2 The Data Discloser warrants and undertakes that it is entitled to provide the Shared Personal Data to the Data Receiver and it will ensure that the Shared Personal Data are accurate.
- 12.3 The Data Receiver warrants and undertakes that it will not disclose or transfer Shared

Personal Data outside the EEA unless it complies with the obligations set out in clause 9.4 above.

12.4 The Data Receiver warrants and undertakes that it will not disclose or transfer Shared Personal Data to a country which is a member of the EEA (not including the United Kingdom) unless it complies with the obligations set out in clause 9.5 above.

12.5 Except as expressly stated in this DS Agreement or elsewhere in the Contract, all warranties, conditions and terms, whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by law

### 13 CHANGES TO THE APPLICABLE LAW

In case the applicable data protection and ancillary laws change in a way that the Agreement is no longer adequate for the purpose of governing lawful data sharing exercises, the Parties agree that the SPoCs will negotiate in good faith to review the Agreement in light of the new legislation.

Table 1 – Information Reference Table	
Description	Diagnostic Service
<b>Information Exchange</b> What is the purpose(s) of Data Sharing	To enable the Supplier to deliver, under a contract, a diagnostic service to the Authority for the benefit of the Trust's patients.
<b>What information will be shared</b> Include a full description of the types of special category personal data to be shared	NHS patients will be referred for diagnostic treatments by the Authority to the Supplier.  The Authority will provide to the Supplier the following Personal Data about patients who have been referred: <ul style="list-style-type: none"> <li>- Demographic and contact data</li> <li>- Health data, including a description of treatment required).</li> </ul>
<b>What is the legal basis for sharing information</b> (Choose Legal Basis from Article 6 & 9 GDPR depending on the category of data being shared)	Article 6(1)(e) – performance of a task carried out in the public interest. The services delivered by the Supplier are NHS services, delivered on behalf of the Authority. Article 9(2)(h) – healthcare
<b>How is information shared and what methods are used to keep the information secure?</b> Provide, in detail the specific agreed secure methods for sharing personal information	A referral form will be completed and scanned into the NHS Radiology Information System (RIS).  All access to patient information is role based and stringent processes are in place for management of unique user log ins and passwords for all access to patient data.    

<p><b>Reliance on consent</b></p> <p>If the legal basis for Processing is consent, explain how and when consent is obtained</p>	<p>Consent is not relied on as health records need to be maintained in line with healthcare regulations.</p>
<p><b>Retention and deletion</b></p>	<p>Both the Authority and the Trust have data retention policies in place in accordance with NHS Digital guidance. <a href="https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/codes-of-practice-for-handling-information-in-health-and-care/records-management-code-of-practice-for-health-and-social-care-2016">https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/codes-of-practice-for-handling-information-in-health-and-care/records-management-code-of-practice-for-health-and-social-care-2016</a></p>

Consent is not relied on as health records need to be maintained in line with healthcare regulations.

## Retention and deletion

Both the Authority and the Trust have data retention policies in place in accordance with NHS Digital guidance. <https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/codes-of-practice-for-handling-information-in-health-and-care/records-management-code-of-practice-for-health-and-social-care-2016>

- 1.2 The Supplier and the Authority confirm that the Supplier will be acting as a Controller only when delivering the Mobile and Strategic Clinical Solutions and Associated Goods.
- 1.3 The Parties have agreed the following derogations from the definitions at clause 1.1 of Schedule 4 of the Framework as being changes needed to reflect of the nature and circumstances of the arrangements provided for within the Contract between them:

- 1.3 The Parties have agreed the following derogations from the definitions at clause 1.1 of Schedule 4 of the Framework as being changes needed to reflect of the nature and circumstances of the arrangements provided for within the Contract between them:

	[REDACTED]
	[REDACTED]
	[REDACTED] [REDACTED]
	[REDACTED]
	[REDACTED] [REDACTED]
	[REDACTED]
	[REDACTED] [REDACTED]
	[REDACTED] [REDACTED] [REDACTED]
	[REDACTED] [REDACTED]

**TO BE INSERTED AS TABLE A IN APPENDIX 1 TO SCHEDULE 3 OF THE CONTRACT**

**Table A – Processing, Personal Data and Data Subjects**

<b><i>Description</i></b>	<b><i>Details</i></b>
Subject matter of the Processing	The provision of diagnostic imaging services to patients referred from the Authority
Duration of the Processing	In accordance with the contract duration – ongoing service
Nature and purposes of the processing	Patient referrals for diagnostic imaging will be sent from the Authority to the Supplier for the Supplier to deliver diagnostic services
Type of Personal Data	Personal demographic data and special category data (health information)
Categories of Data Subject	Patients
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	Patient records including patient images and reports will be retained in accordance with healthcare regulatory requirements and in accordance with the agreed data retention timeframes agreed between the Authority and the Supplier

## ANNEX 7 – COMPENSATION ON TERMINATION

The following terms shall have the meaning ascribed to them in this Annex 7:

<b>“Direct Losses”</b>	all damage, losses, liabilities, claims, actions, costs, expenses (including the cost of legal or professional services, legal costs being on an agent/client, client paying basis), proceedings, demands and charges whether arising under statute, contract or at common law but, to avoid doubt, excluding Indirect Losses.
<b>“Indirect Losses”</b>	any:  (a) loss of profit  (b) loss of use of products;  (c) loss of business;  (d) loss of anticipated savings;  (e) loss of business opportunity;  (f) consequential loss; or  (g) indirect loss of any nature  suffered or allegedly suffered by any party under this Contract.

### 1 COMPENSATION ON TERMINATION FOR AUTHORITY DEFAULT

1.1 If the Supplier terminates this Contract pursuant to Clause 23.4 of Schedule 2 of the Terms and Conditions (*Term and Termination*) or the Authority terminates this Contract pursuant to Clause 23.5.8 or 23.6 (where there has been no performance breach under this Contract giving rise to the termination process) of Schedule 2 of the Terms and Conditions, the Authority shall pay to the Supplier the “Default Termination Sum “as set out in paragraph 1.2 of this Annex 7.

1.2 The Default Termination Sum shall be an amount equal to the aggregate of:

[REDACTED]

1.3 The Supplier shall take all reasonable steps to mitigate the consequences of a termination of the Contract and any Direct Losses arising as a result.

## 2 COMPENSATION ON TERMINATION FOR SUPPLIER DEFAULT

2.1 If the Authority terminates this Contract pursuant to Clause 23.4 of Schedule 2 of the Terms and Conditions or Clause 23.5 (other than under Clause 23.5.1. 23.5.8 and also excluding termination pursuant to Clause 23.6 (where there has been no performance breach under this Contract giving rise to the termination process) and Clause 31 (Force Majeure) of Schedule 2 of the Terms and Conditions) the Supplier shall pay to the Authority the "Supplier Termination Sum" as set out in paragraph 2.2 of this Annex 7.

2.2 The Supplier Termination Sum shall be an amount equal to the aggregate of:

[REDACTED]

2.3 The Authority shall take all reasonable steps to mitigate the consequences of a termination of the Contract and any costs arising under paragraph 2.2 above as a result.

2.4 Any Supplier Termination Sum shall be payable in accordance with paragraph 4.1 of this Annex 7.

## 3 COMPENSATION ON TERMINATION FOR FORCE MAJUERE, PURSUANT TO CLAUSE 23.5.1 OF SCHEDULE 2 OF THE TERMS AND CONDITIONS AND/OR FOR EXPIRY AT THE END OF 5 YEARS (ON A FAILURE OF THE SUPPLIER TO MEET THE EXTENSION CONDITIONS)

3.1 If the Authority terminates this Contract pursuant to Clause 23.5.1 of Schedule 2 of the Terms and Conditions (Longstop Date) or Clause 31 of Schedule 2 of the Terms and Conditions (Force Majeure) [REDACTED]

[REDACTED]  
no compensation is payable by either party (save that this is without prejudice to any payments which may be outstanding pursuant to this Order as at the date of termination).

## 4 PAYMENT AND INTEREST

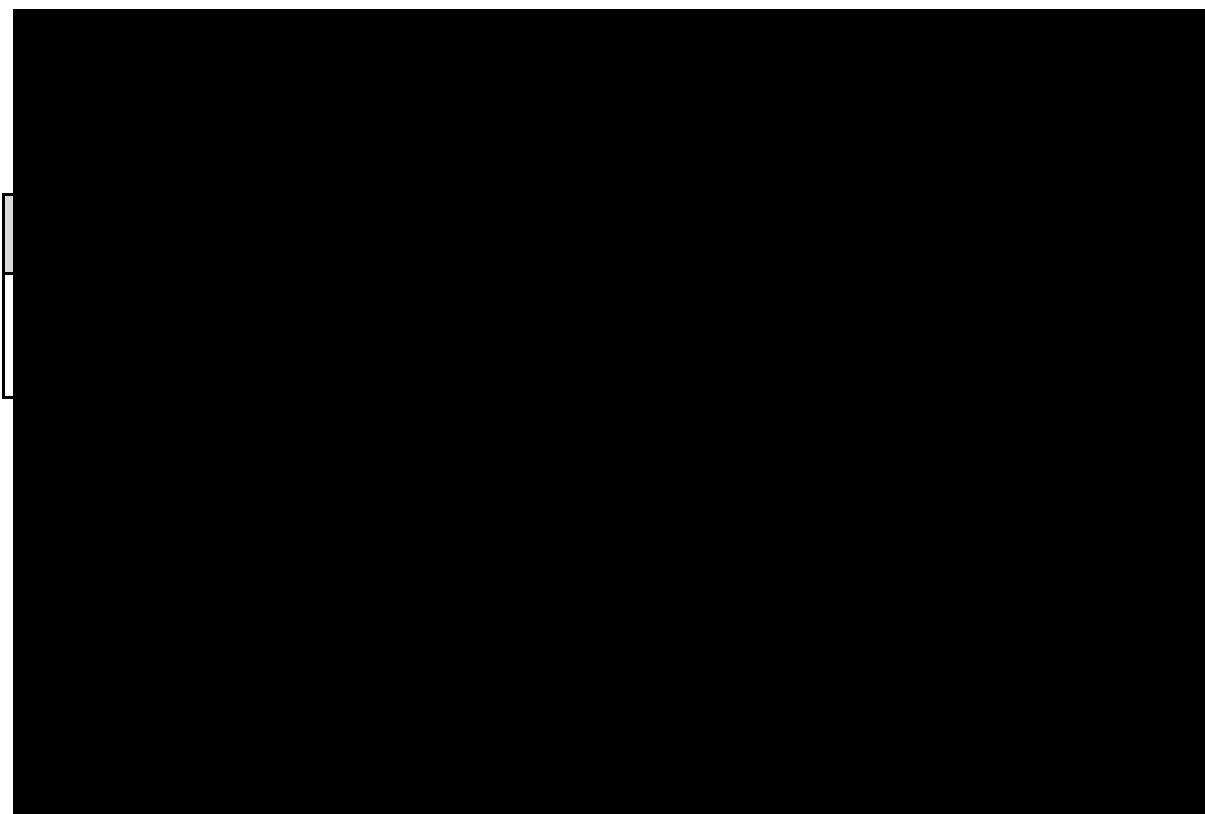
4.1 In respect of the termination payments to be made pursuant to this Annex 7, as soon as practicable after, and in any event within twenty (20) Business Days of, the termination date the party receiving the compensation shall give to the other party an invoice for the relevant termination sum and sufficient supporting evidence, reasonably satisfactory to the payee, justifying the amount of the relevant termination sum including a breakdown of each of the individual elements of such sum.

## 5 UNDISPUTED AMOUNTS

5.1 If the calculation of any termination amount is disputed then any undisputed element of that amount shall be paid in accordance with paragraph 4.1 of this Annex 7 and the disputed element shall be dealt with in accordance with Clause 30 of Schedule 2 of the Terms and Conditions (*Dispute Resolution*).

[REDACTED]

[REDACTED]



## ANNEX 8 :

### SCHEDULE 9

#### FINANCE SCHEDULE

#### PART 1: CALCULATION OF THE MONTHLY CONTRACT PRICE

### 1 DEFINITIONS

- 1.1 In this Schedule 9 defined terms will have the meaning given to them in Schedule 4 save as set out below:

<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Charges Adjustment</b>	has the meaning given to it in paragraph 3.8;
<b>Comparable Services</b>	services which are comparable to the Benchmarked Services taking into account the fact that Partnering Services are delivered by the Authority and the delivery of the Services as a whole solution for the Authority rather than separating it into individual service lines;
<b>Comparable Service Providers</b>	means reputable providers of Comparable Services;
<b>Month</b>	one calendar month;
<b>Monthly Report</b>	the report produced by the Supplier in accordance with paragraphs 2.3 and 2.4 of this Schedule 9;
<b>Partnering Services</b>	the services to be provided by the Authority to the Supplier to facilitate the delivery of the scans by the Supplier as set out in the Service Level Agreement between the Supplier and the Authority;
<b>Services</b>	the Mobile and Strategic Clinical Solutions and Associated Goods to be provided by the Supplier in accordance with the Order Form.

### 2 CONTRACT PRICE

- 2.1 The Contract Price for each Month shall be as set out in the table below based on the Minimum Quantity in Annex 1 excluding VAT subject to adjustment in accordance with paragraphs 2.21 to 2.27 of this Schedule 9 and/or in accordance with the Change Control Process in Annex 2.

Service contract	Total 10 Year Contract Value £	<b>[REDACTED]</b>	Annual Contract Value £	<b>[REDACTED]</b>
<b>This Contract</b> Clinical Imaging and Reporting				



- 2.2 The number and cost of scans actually carried out in any Month in accordance with this Contract will be calculated by the Supplier and detailed in the Monthly Report.

### Monthly Reporting

- 2.3 Each Month the Supplier will submit a report to the Authority in respect of the prior Month's activity setting out the information required by this paragraph 2.3 of Schedule 9. The Monthly Report will be submitted within the first five days of the Month.

Review meetings will commence prior to the Start Date to regularly review project progress. Whilst the Contract Managers can agree what will be covered in these meetings pre-Start Date, topics that should be included are:

Topic	Details
Resourcing Workstream	<ul style="list-style-type: none"> <li>Recruitment plans and updates</li> <li>Induction, orientation and training</li> </ul>
Governance Workstream	<ul style="list-style-type: none"> <li>Interface and development of the required policies, procedures and protocols</li> </ul>
Progress against the Implementation Plan	<ul style="list-style-type: none"> <li>Review of Key Milestones and other milestones to determine if these are on, ahead or behind schedule</li> </ul>

From the Start Date the review meetings must include:

Topic	Details
Performance against Contract KPIs and service indicators	<ul style="list-style-type: none"> <li>Suppliers Performance</li> <li>Authority Performance</li> <li>Performance under related agreements where requested by the Authority <i>(for information purposes and not for enforcement against Rutherford Diagnostics Limited or its successor, if any)</i></li> </ul>
Scanning Activity data	<ul style="list-style-type: none"> <li>Planned v's actual</li> <li>Forecasting activity</li> <li>Scan mix</li> </ul>
Resource Plan	<ul style="list-style-type: none"> <li>Review of requirements against plan and service level agreement</li> <li>Recruitment plans and updates</li> </ul>
Billing Arrangements	<ul style="list-style-type: none"> <li>Monthly invoices 1/12 of plan vs actual</li> <li>Quarterly and year end reconciliation</li> <li>Service level agreements</li> <li></li> </ul>

- 2.4 The form of the Monthly Report shall be agreed by the Parties and will include the following information (without limitation):

2.4.1 Activity data;

2.4.2 The scan mix of the scans delivered by the Supplier;

2.4.3 The cost for the scans actually delivered by the Supplier calculated using the price shown in column 5 of the table at Annex 1 (as such prices may be adjusted from time to time in accordance with this Contract);

2.4.4 Performance of the Supplier against Contract KPIs and Service Indicators set out in paragraph 4 of Schedule 9 (Finance); and

2.4.5 Information required to determine level of performance against the KPIs and cost of the Partnering Services

Charges for Partnering Services will be provided for and submitted under the terms of the SLA for the relevant Services.

- 2.5 The Authority shall be entitled to review the Monthly Report and have a period of not more than five (5) Business Days after receipt to raise a query with the Supplier on the Monthly Report in writing setting out the nature of the query in such reasonable detail as to allow the Supplier to understand the nature of the issue. Where the Authority raises a query with respect to the Monthly Report the Parties shall liaise with each other and agree a resolution to such query within thirty (30) days of the query being raised.
- 2.6 If the Parties are unable to agree a resolution to a query within thirty (30) days the Parties shall refer 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 its payment obligations under this Contract in relation to any queried or disputed Monthly Report items unless the process referred to in paragraphs 2.4 and 2.5 of this Schedule 9 has been followed and it has been determined that the queried or disputed item is properly chargeable by the Supplier and the Authority has then failed to pay such sum within a reasonable period following such determination and issue of an invoice.
- 2.7 Where the mix of the scans reported in the Monthly Report shows a divergence of more than 10% from the Authority's value or scan mix as set out in the table at Annex 1 in respect of the annual use of the Services then the Supplier may (if necessary) raise a query with the Authority and the Parties will meet within ten (10) days of such query being raised to discuss in good faith how the divergence from the value or scan mix as set out in Annex 1 can be corrected or whether the Resource Plan and other resources under the Contract will need to be adjusted to reflect the change as compared to the value or scan mix as set out in Annex 1. The Authority acknowledges that the Supplier will be incurring costs (including costs of Partnering Services from the Authority) on the basis of the value or scan mix as set out in Annex 1 so significant changes in the nature of the scan activity required by the Authority may give rise to a need for the Parties to implement a Change Notice in accordance with the Change Control Process in Annex 2 in respect of the revised scan mix.

**Contracted / Forecasted activity**

- 2.8 For the 12 month period from Actual Mobile and Strategic Clinical Solutions Commencement Date the forecast annual activity for the Services is as set out in Annex 1 (**Minimum Quantity**). In the event that the End Date is extended for the reasons set out in the Order, the Minimum Quantity shall be pro-rated for any part year. For the avoidance of doubt the numbers and prices that make up the Minimum Quantity shall not be adjusted during the Term unless agreed by the Parties in writing in accordance with the Change Control Procedure.
- 2.9 For each subsequent year the Authority shall provide the Supplier with an annual forecast of the quantities of each type of Services that it expects to commission from the Supplier for delivery during the ensuing twelve month period (each a **Year**) in writing (the **Forecast**) no later than 1 month prior to the start of the next Year. The Forecast shall include details of the intended mixture of activity which the Authority is predicting for the coming Year to enable the Parties to discuss how this may impact on the workforce plan and the requirement for any Partnering Services. The Forecast does not replace the Minimum Quantity. The Authority agrees that:
- 2.9.1 the value of the activity in the Forecast should not be less than the value of the Minimum Quantity (pro-rated if required); and
- 2.9.2 the mixture of activity making up the Forecast proposed by the Authority should be deliverable within the current workforce plan and Partnering Services unless otherwise agreed. If either Party considers that this is not the case then the Parties will meet to discuss in good faith any potential changes required to be made in accordance with Annex 2 (Change Control) in Order to enable the mixture of

Services under the new Forecast to be delivered without material changes to the costs, equipment or workforce.

- 2.10 In each Year (as defined in paragraph 2.9 above) the Authority shall place orders for Services with the Supplier for the Minimum Quantity in Annex 1. If the Authority believes that it will fail to meet the Minimum Quantity by a material amount (of in excess of 5%) for any Year it will notify the Supplier as soon as practicable and call a review meeting to discuss the reasons for the shortfall and the Parties will seek to agree any reasonable steps that they can take together to address this issue in Year including by the Supplier seeking to source additional service activity from other parties outside of the Authority to mitigate the loss.

The Authority will not be required to place orders for the Services in excess of the Minimum Quantity in any Year but if it does any such orders will be subject to (1) the rates and prices in Annex 1 (as such prices may be adjusted from time to time); and (2) the agreement of the Parties that there is sufficient scanning capacity available to meet the additional Authority request.

- 2.11 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

- 2.12 If the Authority fails to purchase the Minimum Quantity in any Year [REDACTED]  
[REDACTED]  
[REDACTED] the Supplier may claim the balance of the costs for the Services as if the Authority had ordered the Minimum Quantity of the relevant Services by notice in writing.

- 2.13 Payment of any shortfall claimed by the Supplier pursuant to paragraph 2.12 shall be made within 30 days of presentation of a valid VAT invoice.

- 2.14 Paragraphs 2.9 to 2.13 above will only apply to the Authority to the extent that it fails to order the Minimum Quantity of the Services in any Year and not in respect of any increased amount above the Minimum Quantity which may be set out in a Forecast.

- 2.15 In the event that the Authority has exercised its step-in rights under Annex 3 of this Contract, the provisions of paragraphs 2.8 to 2.13 above shall be suspended and the Minimum Quantity in Annex 1 for the relevant Year shall be pro-rated in respect of the period outside of the Step-in Period (as defined in Annex 3).

### **Invoicing**

- 2.16 Clause 15.4 of Schedule 2 (General Terms and Conditions) shall not apply.
- 2.17 The Supplier shall be entitled to issue an invoice in respect of the sums payable under this Contract as set out in paragraph 2.1.
- 2.18 At each quarter end following the Actual Mobile and Strategic Clinical Solutions Commencement Date the Parties will reconcile the charges invoiced against the charges due as shown under the Monthly Reports for the relevant period. If there has been an underpayment the Supplier shall issue an invoice in respect of the balancing payment due from the Authority.
- 2.19 In the event that the scans carried out in accordance with the OBS and the KPIs do not reach the value required by the Minimum Quantity the provisions of paragraph 2.10 to 2.15 of this Schedule 9 shall apply.
- 2.20 In the event that paragraph 2.5 and/or paragraph 2.6 of this Schedule 9 apply the Supplier shall be entitled to invoice any amounts which have been agreed or determined as being payable in the monthly invoice which next follows that agreement or determination.

## Indexation

- 2.21 The prices in Annex 1 to the Order Form are the prices for the Services (Annex 1) for the period until 31 December 2021 or until the anniversary of the Actual Mobile and Strategic Clinical Solutions Commencement Date, whichever is later and on each anniversary thereafter ("Review Date").
- 2.22 The rates and prices in Annex 1 for Services shall be reviewed by the Parties on each Review Date by reference to the NHS National Tariff Payment System rates (as published by NHS England and NHS Improvement) for 2019/20 with the associated annual tariff uplift on the relevant services but in the event of any tariff reductions the rates will be capped to not less than 2.5% below the levels in the NHS National Tariff Payment System rates for 2019-20. On completion of this review and in any event within two months of each Review Date, the Supplier shall provide the Authority with a report detailing any proposal for adjustment of these rates and prices and demonstrating that any such proposal represents value for money for approval by the Authority.
- 2.23 In the instance that the NHS National Tariff Payment System rates cease to be operated (or issued by) the NHS, the Services costs shall be reviewed by the Parties annually thereafter by reference to CPI. [REDACTED]

[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

#### Private Patient Activity

- 2.27 The Supplier understands that the Authority is currently in receipt of a baseline of approximately £[REDACTED] of revenue per annum with an assumed surplus excluding all costs including radiology reporting of circa [REDACTED]% (based on tariff prices) for diagnostic imaging services provided to private patients which are referred to the Authority. The Authority has committed to refer its imaging private patients to the Supplier [REDACTED]

[REDACTED]

- 2.28 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- 3.3 The criteria on which the Parties will conduct the Benchmarking Review exercise shall be that:
- 3.3.1 the Comparable Services are delivered in accordance with the Output Based Specification and any designated related services;
  - 3.3.2 the cost comparison also includes a value assessment of wider factors relating to risks inherent in a change of service (such as mobilisation costs) and the wider partnering services provided by the Authority to the Supplier and any related services required to deliver the Services from the Supplier Site;
  - 3.3.3 the Comparable Services are to be benchmarked all together and not separately;

3.3.4

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
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[REDACTED]  
[REDACTED]

#### 4. PERFORMANCE MANAGEMENT AND KPIS

The following table shows the KPIs and service measures relating to patients who are referred and treated in the Somerset Diagnostic Centre.

#### 4.1 – KPIs for the Supplier

[illegible]

<i>Area</i>	<i>Number</i>	<i>Description</i>	<i>Indicator</i>	<i>Target</i>	<i>Outcome Measure</i>	<i>Monitoring Period</i>	<i>Arrangements for responding to shortcomings and tracking delivery of planned actions</i>	<i>Type of Measure</i>



## 4.2 Service Indicators for the Supplier

Area	Number	Description	Indicator	Target	Outcome Measure	Monitoring Period	Arrangements for responding to shortcomings and tracking delivery of planned actions	Type of Measure



<i>Area</i>	<i>Number</i>	<i>Description</i>	<i>Indicator</i>	<i>Target</i>	<i>Outcome Measure</i>	<i>Monitoring Period</i>	<i>Arrangements for responding to shortcomings and tracking delivery of planned actions</i>	<i>Type of Measure</i>
					■■■■■ ■■■■■ ■■■■■ ■■■■■			

## Management of Contract KPIs and Service Indicators

- All Contract KPIs and Service Indicators will be monitored in accordance with their respective Monitoring Period as set out in the tables above.
- At each Monitoring Period the outcome measure for each Contract KPI and Service Indicator will be reported by the Supplier in the Monthly Report and managed by the Parties in accordance with the following framework at the monthly review meeting:

Outcome Measure	Response
Green/Compliance	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at monthly review meeting.</li> <li>• No further actions required.</li> </ul>
Amber	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at monthly review meeting.</li> <li>• Internal investigation undertaken and resolution/rectification undertaken.</li> </ul>
Red/Non Compliance	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at monthly review meeting.</li> <li>• Internal investigation undertaken and formal action plan submitted to the Authority.</li> </ul>

### 4.4 Management of Contract KPIs only

All Amber and Red outcome measures for Contract KPIs will (in addition to the review under paragraph 4.3 above) be subject to the following remedial process:

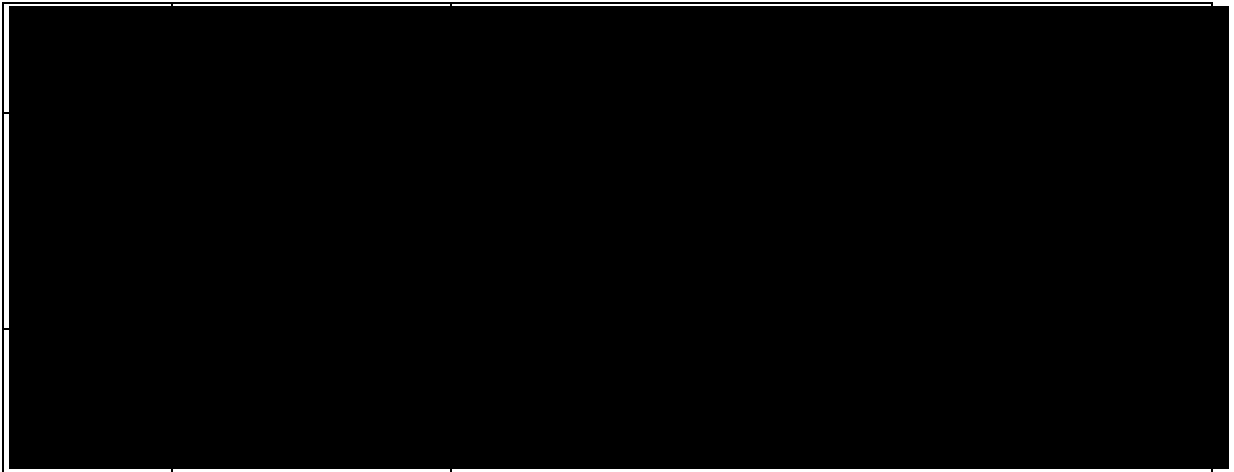
Table 1 - where the outcome measure for a Contract KPI records an Amber rating		
Stages	Reporting Month	Action required where the outcome measure is Amber
Stage 1	Month 1 of an Amber rating	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at the monthly review meeting and through the actions log tracker</li> <li>• Internal Investigation with action plan for resolution and rectification from the Supplier.</li> </ul>
Stage 2	Month 2 of a continued Amber rating	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at the monthly review meeting and through the actions log tracker.</li> <li>• Formal escalation through Management Levels for Dispute Resolution level 2.</li> </ul>
Stage 3	Month 3 of a continued Amber rating = <b>Failure of first reporting period and Stage 2 of Red Rating</b>	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at the monthly review meeting and through the actions log tracker.</li> <li>• 1<sup>st</sup> formal report to the Authority with agreed action plan.</li> <li>• Formal escalation through Management Levels for Dispute Resolution level 3.</li> <li>• Transfer to Stage 2 of Table 2 below</li> </ul>

Table 2 - where the outcome measure for a KPI is a Red rating		
Stages	Reporting Month	Action required where the outcome measure is Red
Stage 1	Month 1 of a Red rating	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at the monthly review meeting and through the actions log</li> </ul>

Table 2 - where the outcome measure for a KPI is a Red rating		
		tracker ■ [REDACTED] [REDACTED] ■ [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	■ [REDACTED] [REDACTED] [REDACTED] ■ [REDACTED] [REDACTED]
[REDACTED]	[REDACTED]	■ [REDACTED] [REDACTED] [REDACTED] ■ [REDACTED] [REDACTED] ■ [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	■ [REDACTED] [REDACTED] [REDACTED] ■ [REDACTED] [REDACTED]
[REDACTED]	[REDACTED]	■ [REDACTED] [REDACTED]

[REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

[REDACTED]		
[REDACTED]		
		[REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED]	■ [REDACTED] [REDACTED] [REDACTED] ■ [REDACTED] [REDACTED] ■ [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED]	■ [REDACTED] [REDACTED] [REDACTED] ■ [REDACTED]



[Redacted line of text]

- [Redacted list item]

[Redacted paragraph of text]

## ANNEX 9: SERVICE LEVEL AGREEMENT

Service Level Agreement between the Authority and the Supplier for the Partnering Services will be agreed between the Parties as required for the Partnering Services under the Contract based upon the template attached to this Annex 9.

**THIS AGREEMENT** is made the ..... day of ..... 2020

### BETWEEN:

- (1) **SOMERSET NHS FOUNDATION TRUST**, Musgrove Park Hospital, Taunton, Somerset TA1 5DA (the "**Supplier**")
- (2) **RUTHERFORD DIAGNOSTICS LIMITED** (Registered in England and Wales as Company number 10844984), The Accelerator, Liverpool L7 8XZ (the "**Purchaser**")

each a "**Party**" and together the "**Parties**".

### BACKGROUND:

- (A) The Purchaser has agreed to provide reported diagnostic scans to the Supplier through a standalone diagnostic centre delivering MRI, CT, ultrasound and X-Ray services as documented in the Main Contract.
- (B) The Purchaser wishes to obtain and the Supplier wishes to provide the Services on the terms set out in this Agreement.

**NOW IT IS HEREBY AGREED** as follows:

#### 1. DEFINITIONS AND INTERPRETATION

- 1.1. In this Agreement unless the context otherwise requires the following words and expressions shall have the following meanings:

" <b>2006 Act</b> "	means the National Health Service Act 2006;
" <b>Agreement</b> "	this Agreement between the Parties including the Schedules;
" <b>Applicable Laws</b> "	means any laws or, regulations and/or industry codes in force from time to time which apply to the Services;
" <b>Business Day</b> "	a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;
" <b>Bribery Laws</b> "	means the Bribery Act 2010 and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010 and all other applicable United Kingdom laws, legislation, statutory instruments and regulations in relation to bribery or corruption;
" <b>Change of Control</b> "	has the meaning given in the Main Contract;
" <b>Charges</b> "	the sums payable for the Services, as set out in Schedule 2;

<b>"Codes of Practice"</b>	means the Codes of Practice on Access to Government Information, on the Discharge of Public Authorities' Functions or on the Management of Records;
<b>"Commencement Date"</b>	the date of this Agreement;
<b>"Framework Agreement"</b>	the Framework Agreement for the Supply of Mobile and Strategic Clinical Solutions and Associated Goods with NHS Supply Chain and operated by "New CTSP" on behalf of Supply Chain Coordination Ltd Skipton House, 80 London Road London SE1 6LH United Kingdom, acting as agent of the NHS Business Services Authority whose principal office is at Stella House, Goldcrest Way, Newburn Riverside, Newcastle upon Tyne, NE15 8NY;
<b>"Good Industry Practice"</b>	has the meaning given in the Main Contract
<b>"Insolvency Event"</b>	<p>means:</p> <p>in relation to the Purchaser, the occurrence of any of the following events:</p> <ul style="list-style-type: none"> <li>(a) a petition being presented or an order being made or a meeting being convened to consider the passing of a resolution or any other action being taken for or with a view to the winding-up of the Purchaser;</li> <li>(b) an order being made for the administration of the Purchaser;</li> <li>(c) the Purchaser entering into liquidation whether compulsorily or voluntarily (except for the purposes of reconstruction of a solvent company);</li> <li>(d) the Purchaser stopping or threatening to stop payments to its creditors generally;</li> <li>(e) the Purchaser ceasing or threatening to cease trading;</li> <li>(f) the Purchaser being deemed for the purposes of Section 123 of the Insolvency Act 1986 to be unable to pay its debts or admitting in writing its inability to pay its debts as they become due or otherwise becoming or being declared by any competent authority to be or declaring itself to be insolvent;</li> <li>(g) the Purchaser convening a meeting of its creditors with a view to proposing or making any assignment, arrangement or composition with or for the benefit of its creditors or any class or group thereof; or</li> <li>(h) an administrative receiver or a receiver being appointed of all or any part of the undertaking, property or assets of the Purchaser;</li> </ul>
<b>"Intellectual Property Rights"</b>	patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and



	rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
<b>"Main Contract"</b>	means the contract entered into by the Parties for the "Provision of Mobile and Strategic Clinical Solutions and Associated Goods" dated the same date as this Agreement and made under the Framework Agreement;
<b>"Monitor"</b>	means the corporate body known as Monitor provided by section 61 of the Health and Social Care Act 2012, which as of 1 April 2017 is part of NHS Improvement;
<b>"Monitor Licence"</b>	a licence granted by Monitor under section 87 of the Health and Social Care Act 2012;
<b>"New Service Provider"</b>	means any subsequent provider of all or part of the Services to the Purchaser;
<b>"Services"</b>	the integrated support services as set out in Schedule 1;
<b>"Services Start Date"</b>	means the Start Date as defined in the Main Contract subject to the provisions of the Main Contract;
<b>"Term"</b>	as set out in Clause 2; and
<b>"TUPE"</b>	Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended).

1.2. In this Agreement:

- 1.2.1. the Schedules are incorporated into and form part of this Agreement;
- 1.2.2. any reference to this Agreement or to any other document will include its Schedules, appendices and annexes (if any) and any permitted variation or amendment to this Agreement or such other document;
- 1.2.3. any reference to a Clause or Schedule is, except where expressly stated to the contrary, reference to the relevant Clause of or Schedule to this Agreement;
- 1.2.4. the table of contents, background section and any Clause, Schedule or other headings and the use of bold type in this Agreement are included for ease of reference only and will not affect the construction or interpretation of any provision of this Agreement;
- 1.2.5. any reference to any statute, statutory instrument, order, regulation or other similar instrument (including any EU order, regulation or instrument) will be construed as including references to any statutory modification, consideration or re-enactment of that provision (whether before, on or after the date of this Agreement) for the time being in force, including all instruments, orders or regulations then in force and made under or deriving validity from that legislation;
- 1.2.6. the words 'include', 'including', 'in particular' or any similar expression will be construed as illustrative and will not limit the sense of the words preceding those terms;
- 1.2.7. the use of the singular includes the plural and vice versa and words denoting any

gender will include a reference to each other gender;

- 1.2.8. a reference to a 'Party' includes that Party's personal representatives, successors and permitted assigns; and
- 1.2.9. a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.

## 2. **SUPPLY OF SERVICES**

- 2.1. This Agreement shall take effect on the Commencement Date.
- 2.2. With effect from the Services Start Date, until the End Date as defined under the Main Contract (the "**Term**") including any extension in the event that the Main Contract is also extended past its 5 year initial term the Supplier agrees to supply, and the Purchaser agrees to purchase, the Services on the terms set out in this Agreement.

## 3. **PURCHASER OBLIGATIONS**

- 3.1. The Purchaser shall comply with its obligations in Schedule 1.
- 3.2. The Purchaser shall not hold itself out as the Supplier or act or in any way represent that it is acting on behalf of the Supplier, acting as agent of the Supplier or has the right or authority to negotiate, conclude or execute any contract or legal document with any third Party in the name of the Supplier.
- 3.3. The Purchaser shall permit the Supplier to provide the Services and to have such access as the Supplier may reasonably require to its premises and facilities for the purpose of providing the Services.

## 4. **SUPPLIER OBLIGATIONS**

- 4.1. The Supplier will provide the Services:
  - 4.1.1. in accordance with the Services Specification in Schedule 1 and all provisions of this Agreement;
  - 4.1.2. using reasonable skill and care;
  - 4.1.3. in accordance with all Applicable Laws and Good Industry Practice to the extent applicable to the Services;
  - 4.1.4. in accordance with the policies, rules, procedures and the quality standards of the Supplier as amended from time to time.
- 4.2. Save as otherwise expressly agreed between the Parties, the Supplier shall provide at its own expense all staff, equipment, tools, appliances, materials or items required for the provision of the Services.
- 4.3. The Parties will co-operate with each other and will take all reasonable action as is

necessary for the efficient transmission of information and instructions and to enable the Parties to derive the full benefit of this Agreement.

- 4.4. The Supplier shall ensure that the Services comply with all Applicable Legislation.
- 4.5. The Supplier will provide sufficient Staff that, are suitably qualified and trained, to ensure that the Services are provided to the standards of care specified in this Agreement and as may be required by any Applicable Legislation.
- 4.6. The Supplier will provide the Purchaser with such information regarding operational and staffing matters as the Purchaser may reasonably require from time to time.

## 5. CHARGES AND PAYMENT

- 5.1. In consideration of the Supplier providing the Services under this Agreement, the Purchaser shall pay the Charges to the Supplier in accordance with this Clause 5.
- 5.2. The Charges shall be exclusive of value added tax which shall be payable by the Purchaser, where applicable, in addition to the Charges.
- 5.3. The Supplier will invoice the Purchaser in arrears by no later than the tenth (10<sup>th</sup>) working day of each Month for the Services provided in the preceding Month.
- 5.4. The Purchaser shall pay any uncontested invoiced amounts due to the Supplier within 30 days of the date of the relevant invoice into such bank account as the Supplier may nominate to the Purchaser from time to time in cleared funds.
- 5.5. If the Purchaser disputes any invoice or other request for payment, the Purchaser shall immediately notify the Supplier in writing. The Parties shall use all reasonable endeavours to resolve the dispute promptly. The Supplier shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. If the Parties have not resolved the dispute within 30 days of the Purchaser giving notice to the Supplier, the dispute shall be resolved in accordance with the Dispute Resolution Procedure. Where only part of an invoice is disputed, the undisputed amount shall be paid on the due date.
- 5.6. If a Party fails to pay any undisputed sum properly due to the other Party under this Agreement, the Party due such sum shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.
- 5.7. The Charges shall be reviewed by the Parties each year on each Review Date (as defined in the Main Contract)
  - 5.7.1. [REDACTED]
  - 5.7.2. [REDACTED]



## 6. PERFORMANCE MANAGEMENT

- 6.1. The Parties shall regularly monitor and report the standard of performance of the Services and demonstrate continuous improvement wherever practicable. This will be achieved by the use of appropriate Contract KPIs (as set out in Schedule 3 to this Agreement) and provision of a monthly report from the Supplier to the Purchaser.
- 6.2. The Parties will schedule and attend review meetings being held under the Main Contract which will include consideration of the monthly report and any other issues related to the Services.
- 6.3. Actions arising out of the review meetings will be minuted and all agreed actions complied with, rectified and/or implemented (as the case may be) by the Supplier in accordance with any corrective action plan agreed at the relevant review meeting or as otherwise required by the Purchaser acting reasonably.
- 6.4. The Supplier shall be entitled to provide evidence to demonstrate that a failure has occurred because of some action or lack of action by a party other than the Supplier and may ask the Purchaser for mitigation in respect of a failure that might otherwise be attributed to the Supplier. The Purchaser shall act reasonably in considering any request for mitigation submitted pursuant to this Clause 6.4 but any mitigation awarded will be at its sole discretion.
- 6.5. In addition to its other obligations, the Supplier shall remedy any failure to achieve a minimum standard in respect of a Contract KPI (as set out in Schedule 3) as soon as possible (and in any event within ten (10) Business Days) and the Supplier shall commence and carry out such remedy without awaiting production of and/or approval of a corrective action plan.
- 6.6. Where the Supplier is demonstrably and materially failing to deliver the Services the Purchaser can require the Supplier to prepare and implement a corrective action plan.

## 7. STEP-IN

7.1 Where there has been a breach by the Supplier of any of its obligations under this Contract and if the Purchaser reasonably believes that it needs to take action in connection with the Services as a result of such breach because:

- a) a serious risk exists to the health or safety of persons or property or to the environment; or
- b) there is a material risk of an adverse report from the Care Quality Commission, or any other inspection or monitoring body,

then the Purchaser shall be entitled to take action in accordance with the remaining provisions of this Clause 7.

7.2 If Clause 7.1 applies and the Purchaser wishes to take action, the Purchaser shall notify the Supplier in writing of the following:

- a) the action it wishes to take;
- b) a detailed explanation as to the reason for such action;
- c) the date it wishes to commence such action;
- d) the time period which it believes will be necessary for such action; and
- e) to the extent practicable, the effect on the Supplier and its obligation to provide the Services during the period such action is being taken.

7.3 Subject to Clauses 7.4 and 7.6, following service of such notice, the Purchaser shall take such action as notified under paragraph 7.2 and any consequential additional action as it reasonably believes is necessary (together, the "**Required Action**") and the Supplier shall give all reasonable assistance to the Purchaser while it is taking such Required Action.

7.4 Where the Purchaser wishes to take Required Action, the Supplier shall be given the opportunity to remedy the relevant breach prior to the Purchaser taking the Required Action, such breach to be remedied in a time period reasonably satisfactory to the Purchaser.

7.5 Where the Supplier is unable to remedy the breach to the reasonable satisfaction of the Purchaser or where it fails to do so in accordance with any agreed time period for rectification, the Purchaser shall be entitled to take the Required Action, provided that, for so long as and to the extent that the Required Action is taken and this prevents the Supplier from providing any part of the Services:

7.5.1 the Supplier shall be relieved of its obligations to provide such part of the Services; and

7.5.2 in respect of the period in which the Purchaser is taking the Required Action, the Charges due from the Purchaser to the Supplier shall equal the amount the Supplier would receive if it were satisfying all its obligations and providing the Services affected by the Required Action in full over that period, less an

amount equal to all of the Purchaser's costs of operation in taking the Required Action.

- 7.6 During any period of step in pursuant to this Clause 7, the Purchaser shall act in accordance with Good Industry Practice.

## 8 **CONFIDENTIALITY**

- 8.1 Each Party shall comply with the Confidentiality provisions set out in Clause 1 of Schedule 3 of the Main Contract as if set out in this Agreement between the Parties.

## 9 **FREEDOM OF INFORMATION**

- 9.1 Each Party shall comply with the Freedom of Information provisions set out in Clause 3 of Schedule 3 of the Main Contract as if set out in this Agreement between the Parties.

## 10 **DATA PROTECTION**

- 10.1 Each Party shall comply with the Data Protection provisions set out in Clause 2 of Schedule 3 and Appendix 1 to Schedule 3 of the Main Contract as if set out in this Agreement between the Parties.

## 11 **PROHIBITED ACTS**

- 11.1 The Supplier will comply with the provisions of Clause 37 (*Prohibited Acts*) of the Terms and Conditions of the Framework Agreement as if set out in this Agreement between the Parties.

## 12 **INSURANCE**

- 12.1 The Supplier shall maintain its membership of the NHS policy scheme administered by the NHS Litigation Authority (now known as NHS Resolution) pursuant to the 2006 Act and shall put in place and/or maintain in force at its own cost with a reputable insurer or indemnity provider, other insurance or indemnity arrangements if required in areas where NHS Resolution indemnity cover is not available having regard to the nature of the Services.
- 12.2 The Supplier shall provide such evidence that the Purchaser reasonably requires to confirm that such membership and cover referred to in clause 12.1 is being maintained.

## 13 **LIMITATION OF LIABILITY**

- 13.1 Nothing in this Agreement shall limit or exclude either Party's liability for:

13.1.1 death or personal injury caused by its negligence;

13.1.2 fraud or fraudulent misrepresentation; or

13.1.3 any other liability to the extent the same cannot be excluded by or limited by law.

- 13.2 Subject to Clause 13.1:

13.2.1 There shall be no right to claim losses, damages and/or other costs and expenses under or in connection with this Agreement whether arising in contract (to include, without limitation, under any relevant indemnity), tort, negligence, breach of statutory duty or otherwise to the extent that any

losses, damages and/or other costs and expenses claimed are in respect of loss of production, loss of business opportunity or are in respect of indirect loss of any nature suffered or alleged; and

13.2.2 Each Party's total liability to the other Party in respect of all other losses arising under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the annual value of the Charges.

13.3 The Supplier shall not be entitled to any remedy under this Agreement to the extent that the equivalent loss has been incurred or the equivalent breach has been waived under the terms of the Main Contract.

13.4 No loss shall be included or deducted more than once for the same event under the Main Contract and this Agreement for the purposes of calculating liability under the Main Contract and this Agreement.

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

13.6 Except as set out in this Agreement, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.

#### 14 **FORCE MAJEURE**

14.1 The Parties will comply with the provisions of Clause 31 (*Force Majeure*) of the Terms and Conditions of the Framework Agreement as if set out in this Agreement between the Parties.

14.2 The Parties acknowledge and agree that in the event that there is a further wave of the declared Covid-19 pandemic the parties will look to develop a Covid-19 response plan which will address the impact of the event on the Agreement (including any areas of the Agreement which the Parties consider are impacted by the event) and leave each of the Parties as far as is reasonably possible in no better or worse position than they would have been prior to the Covid-19 event.

14.3 The Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate steps to mitigate the effects of any further wave of the declared Covid-19 pandemic and facilitate the continued performance of the Agreement.

#### 15 **TERMINATION**

15.1 Either Party may at any time terminate this Contract, in whole or in part, by serving three months' written notice to the other.

15.2 Termination of this Contract shall be triggered automatically in the event that the Main Contract is terminated and shall take place on the same date as the Main Contract terminates.

- 15.3 Either Party may without prejudice to its other rights and remedies, terminate this Agreement with immediate effect by the service of written notice on the other in the following circumstances:
- 15.3.1 If that Party is in breach of any material obligation under this Agreement provided that if the breach is capable of remedy, the Party may only terminate this Agreement under this clause 15 if the other Party has failed to remedy such breach within the time agreed in any corrective action plan and such corrective action plan shall be prepared within 14 days of receipt of notice (**Remediation Notice**);
- 15.3.2 if either Party
- 15.3.2.1 ceases or threatens to cease to carry on its business or substantially the whole of its business in the United Kingdom;
- 15.3.2.2 suffers an Insolvency Event.
- 15.3.2.3 a Party is an NHS Foundation Trust and:
- (a) *an order is made pursuant to section 65LA of the 2006 Act to dissolve the other Party; or*
- (b) *Monitor exercises any one or more of the powers in sections 65D of the 2006 Act; or*
- (c) *the other Party's Monitor Licence is revoked, varied, restricted such that the other Party is no longer able to provide (whether temporarily or permanently) any or all of the Services.*
- 15.4 The Supplier may terminate this Agreement at any time by giving not less than four (4) weeks' notice in writing to the Purchaser if the Purchaser undergoes a Change of Control that the Supplier has not consented to in accordance with the terms of the Main Contract.
- 15.5 The right of a Party to terminate the Agreement pursuant to clause 15.4 shall not apply to the extent that the relevant procedure is entered into for the purpose of amalgamation, reconstruction or merger (where applicable) where the amalgamated, reconstructed or merged Party agrees to adhere to this Agreement.
- 15.6 Termination or expiry of this Agreement for any reason shall be without prejudice to any right or remedy of either Party which may have accrued prior to such termination.
- 15.7 For the avoidance of doubt, upon expiry or termination of this Agreement, the Supplier shall continue to be entitled to receive, and the Purchaser shall continue to pay, the Charges in respect of any Services provided up to and including the date of termination or expiry of this Agreement.
- 15.8 The expiry or earlier termination of this Agreement shall not affect any obligations which



expressly or by implication are intended to come into or continue in force on or after such expiry or earlier termination.

## 16 DISPUTE RESOLUTION

- 16.1 If a dispute arises between the Parties in relation to any matter arising out of or in connection with this Agreement which cannot be resolved by their authorised officers within ten (10) Business Days of the dispute arising, the Parties shall arrange for the dispute to be dealt with in accordance with the Dispute Resolution Process at clause 30 of schedule 2 of the Main Contract as if those provisions were set out in full in this Agreement.

## 17 TUPE

- 17.1 Any information or transfers of staff between the Parties for the end of the Agreement (howsoever occurring) will be dealt with in accordance with Clause 25 (*Staff information and the application of TUPE at the end of the Contract*) of Schedule 2 of the Main Contract as if set out in this Agreement between the Parties.

## 18 INTELLECTUAL PROPERTY

- 18.1 Except as expressly set out in this Agreement, the Parties shall not acquire any title, right, or interest in the other Party's Background IPRs.
- 18.2 Subject to clause 18.1, all Intellectual Property Rights developed in relation to the Project shall be owned by the Purchaser unless otherwise agreed by the Parties in writing.

## 19 NOTICES

- 19.1 Any notice to be given under the Agreement shall either be delivered personally or sent by first class recorded delivery post. The address for service of each Party shall be its address as set out above or such other address as either Party may previously have notified to the other Party in writing. A notice shall be deemed to have been served:
- 19.1.1 if personally delivered, at the time of delivery;
- 19.1.2 If posted, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities,

and, in proving such service it shall be sufficient to prove that personal delivery was made, or that the envelope containing such notice was properly addressed and delivered into the custody of the postal authority as prepaid first class recorded delivery (as appropriate).

## 20 DEALINGS

- 20.1 Neither Party shall be entitled to assign, subcontract, novate or otherwise dispose of any or all of its rights and obligations under this Agreement without the prior written consent of the other Party (not to be unreasonably withheld or delayed) unless such assignment, sub-contracting, novation or transfer is to a statutory successor in which case no consent shall be required.
- 20.2 At its own expense, the Purchaser shall promptly execute and deliver such documents and perform such acts as the Supplier may reasonably require for the purpose of giving full effect to clause 20.1.

## 21 GENERAL PROVISIONS

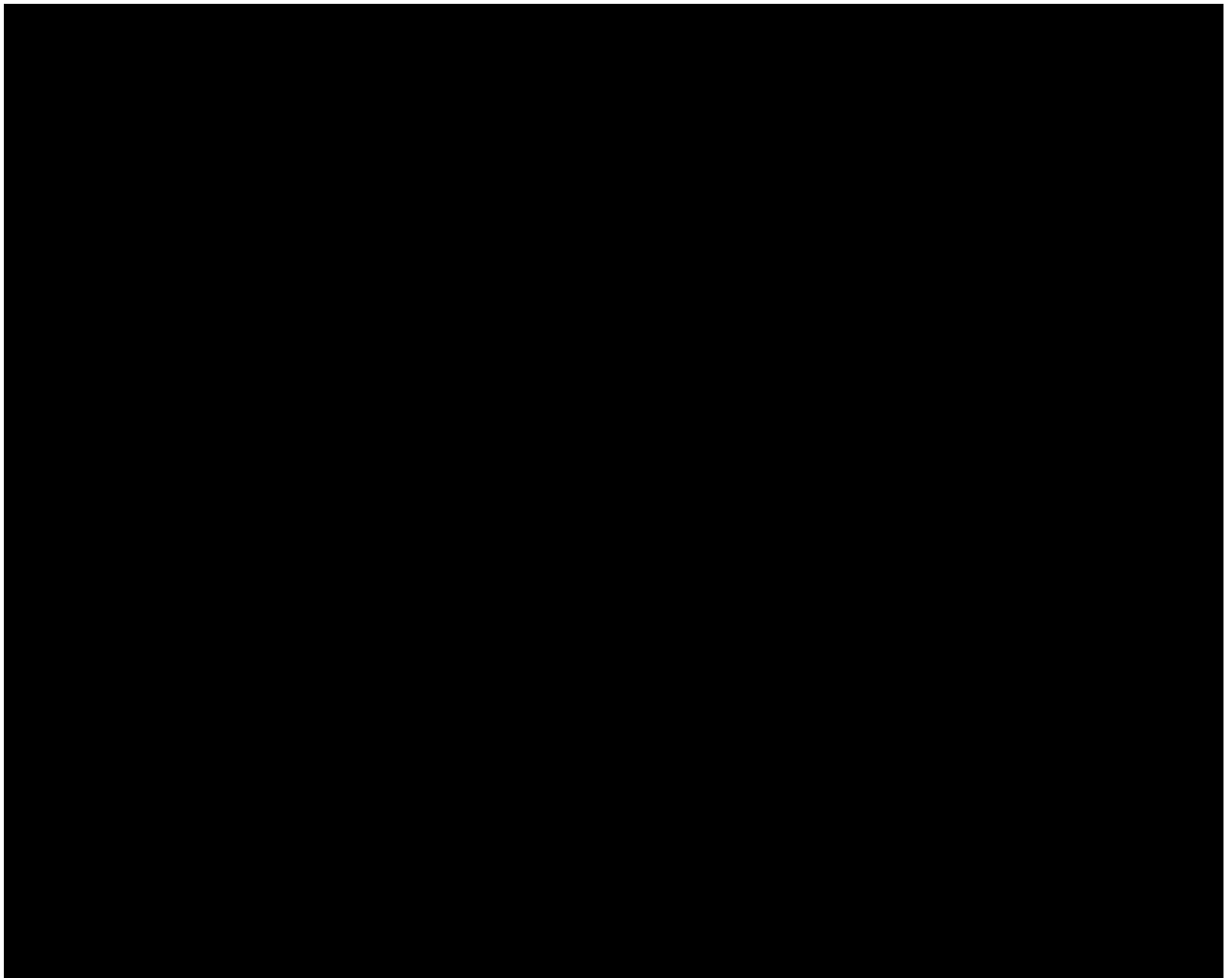
- 21.1 Nothing in this Agreement shall be construed as establishing or implying a partnership or joint venture between the Parties or shall be deemed to constitute either Party as the agent of the other or allow either Party to hold itself out as acting on behalf of the other.
- 21.2 This Agreement supersedes all previous understandings and negotiations in respect of the Parties' obligations as provided in this Agreement. Each of the Parties acknowledges and agrees that, in entering into this Agreement, it has not relied on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether a Party to this Agreement or not) other than as expressly set out in this Agreement.
- 21.3 All representations (save in respect of fraudulent misrepresentation), warranties, conditions and other terms whether implied by statute or otherwise which are not expressly included in this Agreement and which might otherwise relate to the Services are hereby excluded to the extent permitted by law.
- 21.4 The delay or failure by a Party to insist upon the strict performance of any provision, term or condition of this Agreement or to exercise any right or remedy consequent upon the breach thereof shall not constitute a waiver of any such breach or any subsequent breach of such provision, term or condition.
- 21.5 If any provision of this Agreement is agreed or held to be invalid or unenforceable, such provision shall not have the effect of invalidating or rendering unenforceable the remainder of this Agreement and the Parties agree that they shall immediately commence in good faith negotiations to vary the terms of this Agreement in order to remedy such invalidity or unenforceability.
- 21.6 This Parties' respective rights and obligations under this Agreement shall continue for the benefit of, and shall be binding on their respective successor and assigns.
- 21.7 A person who is not a Party to this Agreement shall have no right pursuant to the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. A person who is not a Party to this Agreement shall not be entitled to object to, or be required to consent to, any variation to this Agreement.
- 21.8 No variation to this Agreement shall be effective unless made in writing and signed by both Parties.
- 21.9 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one contract.

## 22 GOVERNING LAW AND JURISDICTION

- 22.1 This Agreement and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England.
- 22.2 The Parties irrevocably agree that the Courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, this Agreement, its subject matter or formation (including non-contractual disputes or claims).

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**SCHEDULE 2**  
**Services Charges**

The Services incur the following charges:

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### SCHEDULE 3

#### KPIs

#### KPIs for the Supplier

<i>Area</i>	<i>Number</i>	<i>Description</i>	<i>Indicator</i>	<i>Target</i>	<i>Outcome Measure</i>	<i>Monitoring Period</i>	<i>Arrangements for responding to delivery of planned actions</i>	<i>Type of Measure</i>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



- All Contract KPIs and Service Indicators will be monitored in accordance with their respective Monitoring Period as set out in the tables above.
- At each Monitoring Period the outcome measure for each Contract KPI and Service Indicator will be reported by the Supplier in the Monthly Report and managed by the Parties in accordance with the following framework at the monthly review meeting:

Outcome Measure	Response
Green/Compliance	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at monthly review meeting.</li> <li>• No further actions required.</li> </ul>
Amber	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at monthly review meeting.</li> <li>• Internal investigation undertaken and resolution/rectification undertaken.</li> </ul>
Red/Non Compliance	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at monthly review meeting.</li> <li>• Internal investigation undertaken and formal action plan submitted to the Supplier.</li> </ul>

#### 4.4 Management of Contract KPIs only

All Amber and Red outcome measures for Contract KPIs will (in addition to the review under paragraph 4.3 above) be subject to the following remedial process:

Table 1 - where the outcome measure for a Contract KPI records an Amber rating		
Stages	Reporting Month	Action required where the outcome measure is Amber
Stage 1	Month 1 of an Amber rating	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at the monthly review meeting and through the actions log tracker</li> <li>• Internal Investigation with action plan for resolution and rectification from the Supplier.</li> </ul>
Stage 2	Month 2 of a continued Amber rating	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at the monthly review meeting and through the actions log tracker.</li> <li>• Formal escalation through Management Levels for Dispute Resolution level 2.</li> </ul>
Stage 3	Month 3 of a continued Amber rating = <b>Failure of first</b>	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at the monthly review meeting and through the actions log tracker.</li> </ul>

	<b>reporting period and Stage 2 of Red Rating</b>	<ul style="list-style-type: none"> <li>• 1<sup>st</sup> formal report to the Purchaser with agreed action plan.</li> <li>• Formal escalation through Management Levels for Dispute Resolution level 3.</li> <li>• Transfer to Stage 2 of Table 2 below</li> </ul>
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Table 2 - where the outcome measure for a KPI is a Red rating		
Stages	Reporting Month	Action required where the outcome measure is Red
Stage 1	Month 1 of a Red rating	<ul style="list-style-type: none"> <li>• Reported in the Monthly Report and monitored at the monthly review meeting and through the actions log tracker</li> <li>• [REDACTED]</li> <li>■ [REDACTED]</li> </ul>
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This Agreement has been entered into on the date stated at the beginning of it.

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## **ANNEX 10:**

### **Schedule 5 – Supplier Code of Conduct**

In accordance with the Procurement Policy (CORP-GOV-14) this code of conduct describes the Company's expectations of supplier conduct. Rutherford Health plc and its wholly owned subsidiaries including the Supplier (RH), strive to work with suppliers or supplier's sub-contractors (the supplier) who treat their workers with dignity and respect, adhere to applicable laws and regulations, and manufacture/ supply their products or provide services or works in an environmentally sustainable manner.

It is RH's policy to request that suppliers respect the principles of its' Supplier Code of Conduct and adopt practices which comply with it. RH expects its' suppliers to undertake commitment to the following requirements.

#### **Employment Practices**

The supplier must:

- Comply with all employment laws applicable to its business.
- Not use child labour which prevents children from complying with compulsory schooling or training, being harmful to their health or development.
- Make no use of forced or compulsory labour.
- Comply with national law and regulations regarding working hours, wages, benefits and written employment conditions.
- Not discriminate unlawfully in its employment decisions based on: age, disability, race (including colour, nationality, ethnic group), religion or belief, sex, sexual orientation, trans gender, pregnancy or maternity, marriage or civil partnership, trade union membership or political affiliation.
- Not treat its workers in an inhumane or harsh way including harassment, bullying, physical or verbal abuse or other forms of intimidation.
- Notify its employees of the applicable supplier code of conduct.

#### **Environmental**

- All waste materials and production by-products should be disposed of properly in an environmentally responsible manner.
- All local laws and regulations must be complied with and operations conducted in a manner that conserves resources.
- Suppliers are expected to share RH's commitment to a clean and safe environment.
- Suppliers are encouraged to undertake initiatives that reduce the impact on the environment, particularly through use of environmentally friendly technologies. Suppliers shall agree to respect local and international environmental regulations and standards. Suppliers shall be able to prove the effective implementation of an environmental management system, possibly ISO 14001, EMAS certified or commitment to implement.

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## Health and Safety

- Employers must provide a safe and healthy work environment.
- Fire prevention equipment must be accessible, and employers are responsible for conducting fire prevention and evacuation training.
- Accommodation provided to employees must be clean and provide adequate space with sanitary facilities and water supply.
- Restrooms should be clean and available for all employees.
- The supplier must have a plan for emergencies.

## Ethics and Integrity

- The supplier must not offer or give, any gift or consideration of any kind as an inducement or reward for doing or refraining from doing or for having done or refrained from doing, any act in relation to the obtaining of any contract with RH, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any such other.
- The supplier must comply with all anti-bribery and anti-corruption laws applicable to RH business, including the Bribery Act 2010 and the Prevention of Corruption Act 1889 to 1916.

RH reserves the right to request details of how suppliers comply with this Supplier Code of Conduct and expects them to apply the principles of the Code with their supply chains.

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**ANNEX 12**

**PART 1**

**SCHEDULE 7 – OUTPUT BASED SPECIFICATION**

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