TERMS AND CONDITIONS

OF

FRAMEWORK AGREEMENT

FOR

THE MEDICAL LOCUMS
TO NHS BODIES IN SCOTLAND

NP500.12

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INDEX

1. DEFINITIONS .................................................................................................................. 1
2. DURATION AND SCOPE .................................................................................................. 11
3. CALL OFF FRAMEWORK AGREEMENT ........................................................................ 12
4. CHARGES ........................................................................................................................ 16
5. PLACEMENT FEES .......................................................................................................... 20
6. OBLIGATIONS OF THE FRAMEWORK PARTICIPANT .................................................... 23
7. THE POSITION OF AUTHORITY AND PARTICIPATING AUTHORITIES ....................... 26
8. AUDIT .................................................................................................................................. 26
9. CONTRACT MONITORING AND PERFORMANCE MEASUREMENT ............................... 29
10. VARIATIONS TO THE FRAMEWORK AGREEMENT ....................................................... 29
11. ASSIGNATION AND SUB-CONTRACTING ................................................................... 29
12. PRE-CONTRACTUAL STATEMENTS .............................................................................. 30
13. DISPUTE RESOLUTION PROCEDURE .......................................................................... 30
14. PROHIBITED ACT AND COLLUSION .......................................................................... 32
15. TERMINATION .............................................................................................................. 33
16. CONFIDENTIALITY ....................................................................................................... 34
17. FREEDOM OF INFORMATION ..................................................................................... 39
18. GENERAL ...................................................................................................................... 40
19. DIVERSITY .................................................................................................................... 42
20. RESTRICTIVE COVENANTS .......................................................................................... 43
21. EMPLOYMENT RELATIONSHIP AND TUPE ................................................................ 44
22. FORCE MAJEURE ......................................................................................................... 45
23. LIMITS OF LIABILITY .................................................................................................... 47
24. INSURANCE .................................................................................................................. 48
25. HEALTH AND SAFETY ............................................................................................... 49
26. GOVERNING LAW ........................................................................................................ 49

SCHEDULE: PART 1 .......................................................................................................... 50
   AGENCY SERVICES ........................................................................................................ 50
SCHEDULE PART 2 .......................................................................................................... 63
1. DEFINITIONS

1.1 In this Agreement the following words and phrases shall have the following meanings:

“Agency Services” means those obligations imposed upon the Framework Participant all as more particularly set out in Schedule Part 1;

“Agency Worker” means those types of registered medical practitioners listed in the Specification;

“Agency Worker Rates of Pay” means the Agency Worker rates of pay for each of the grades of Agency Worker set out in Schedule Part 1 (Specification) as tendered by the Framework Participant in the Tender;

“Agency Worker Services” means those services to be provided by an Agency Worker to a Framework Participant further to a Contract;

“Appraiser” has the meaning set out in Section 8 schedule Part 1 (Agency Services);

“Auditor” has the meaning set out in Clause 8.2;

“Authorised Officer” means each person designated as such by a Participating Authority from time to time as notified in Writing to the Framework Participant to act as representative of the Participating Authority for all purposes connected with Contracts, including any depute of such person notified to the Participating Authority;

“Authorised Timesheet” means a timesheet that has been signed and dated by the Agency Worker involved in the delivery of the Agency Worker Services and signed and dated, or otherwise approved, by an Authorised Officer of the Participating Authority, which accurately records the hours worked (excluding meal or rest breaks, as appropriate) by that Agency Worker;

“Authority” means the Common Services Agency, a statutory body constituted pursuant to the National Health Service (Scotland) Act 1978, as amended, acting through its division, National Procurement;

“Authority Manager” means the individual named by the Authority in the Invitation to Tender as the “Manager of the
“Booking Proposal” means a proposal for Agency Worker Services made by the Framework Participant further to an Order and, subject to the Terms;

“Commission” means the fee charged by each Framework Participant as set out in the Tender submitted by the Framework Participant;

“Confidential Information” means (a) all information relating to the identity, condition or medical history of any person or other personal information where disclosure is prohibited in terms of the DPA; (b) all information the disclosure of which would or would be likely to prejudice substantially the commercial interests of any person;

“Confidential Reference” means a Written reference regarding the performance by an Agency Worker in respect of Agency worker Services;

“Contract” has the meaning set out in Clause 3.6;

“Contract Quarter” means each three month period during the Framework Agreement period commencing on 1 April, 1 July, 1 October and 1 January provided that if the Framework Agreement does not commence and terminate on a quarter date the first and last Quarters may be less than three months;

“Contractor” means the Framework Participant who has entered into a Contract further to an Order submitted by a Participating Authority;

“CPD” means Continuing Professional Development, a continuing learning process that complements education and training;

“CPI” means the Consumer Prices Index for all items published from time to time by the Central Statistics Office of the Chancellor of the Exchequer or by the Office of National Statistics or, if the said Consumer Prices Index ceases to be published, such index or other means of assessment of inflation as is deemed equivalent and most appropriate by the Authority acting reasonably;

“Data” has the meaning set out in Clause 8.1;

“Day” means each calendar day,
“DPA” means the Data Protection Act 1998;

“Disclosure Scotland” means the executive agency of the Scottish Government that manages and delivers the PVG Scheme;

“Effective Date” means the date upon which the Framework Agreement shall come into effect, such date being set out in the Letter of Award;

“Exposure Prone Procedures” (“EPPs”) means those invasive procedures where there is a risk that injury to the Agency Worker may result in the exposure of the patient’s open tissues to the blood of the Agency Worker (bleed back) and a potential risk of transfer of a blood borne viral infection from an infected Agency Worker to the patient;

“Force Majeure” means one or more of the following to the extent that it is not attributable to the Framework Participant or the Framework Participant’s staff: war, civil war (whether declared or undeclared), riot or armed conflict; radioactive, chemical or biological contamination; pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speed; acts of terrorism; explosion; fire; flood; extraordinarily severe weather conditions which are both unforeseen and for which precautions are not customarily taken by prudent business organisations so as to avoid or mitigate the impact thereof; industrial action which affects the provision of the Services, but which is not confined to the workforce of the Framework Participant or is site specific; pestilence; the actions of governmental authorities to the extent that such actions are implemented either pursuant to emergency powers or otherwise outside the usual course of governmental business; or Act of God, or other event which is beyond the reasonable control of the party in question and could not have been avoided or mitigated by the exercise of all reasonable care by that party and further provided that such event materially affects the ability of the party seeking to rely upon it to perform its obligations under the Framework Agreement or a Contract;

“Framework Agreement” means the framework agreement constituted between the Authority as agent for Participating Authorities and each Framework Participant on the basis of the Letter of Award, the Terms, the Invitation to Tender, the Tender and any clarifications thereto expressly referred to in the
Letter of Award;

“Framework Agreement Period” means the period during which the Framework Agreement shall subsist being such period as is detailed in the Invitation to Tender issued by the Authority subject to any extension pursuant to Clause 2.3 or earlier termination pursuant to Clause 12;

“Framework Participant” means each service provider which returns a signed duplicate copy of the Letter of Award to the Authority;

“GMC” means the General Medical Council, whose principal office is currently at Regent’s Place, 350 Euston Road, London NW1 3JN;

“Good Industry Practice” means the exercise of that degree of skill, diligence and foresight which would reasonably and ordinarily be expected from a skilled and experienced service provider engaged in the provision of the Agency Worker Services similar to the Agency Worker Services under the same or similar circumstances as those applicable hereunder and which are in accordance with any codes of practice published by relevant government authorities and trade associations;

“IELTS” means the International English Language Testing System, as administered by the British Council or IDP Education Australia, which measures the ability of an individual to communicate in English across all four language skills – listening, reading, writing and speaking – where English is the language of communication;

“Intellectual Property Rights” means any and all patents, registered and unregistered trade marks, trade and business names, domain names, registered designs, unregistered design rights and other rights in designs utility models, applications for and the right to make applications for any of such rights, know-how, Confidential Information, including rights in any get-up or trade dress, copyrights (including rights in computer software and in websites) and rights in databases, subsisting anywhere in the world, and “IPR” shall be construed accordingly;

“Insolvent” means:-

(a) if the Framework Participant is an individual, that individual, or where the Framework Participant is a partnership, any partner(s) in that firm, becomes bankrupt or shall have a
receiving order, administration order or interim order made against him, or shall make any composition or scheme of arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors, or shall purport to do or appears unable to pay or to have no reasonable prospect of being able to pay, a debt within the meaning of Section 268 of the Insolvency Act 1986 or he shall become apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985 as amended by the Bankruptcy (Scotland) Act 1993 and the Bankruptcy and Diligence (Scotland) Act 2007, or any application shall be made under the Bankruptcy or Insolvency Act for the time being in place for sequestration of his estate, or a trust deed shall be granted by him for the benefit of his creditors;

(b) if the Framework Participant is a company, the passing by the Framework Participant of a resolution for its winding-up or the making by a court of competent jurisdiction of an order for the winding-up of the Framework Participant or the dissolution of the Framework Participant, or if a receiver, manager or administrator is appointed, or documents are filed with the court for the appointment of a receiver, manager or administrator or notice of intention to appoint a receiver, manager or administrator is given by the Framework Participant or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or circumstances arise which entitle the court or a creditor to appoint a receiver, manager or administrator or which entitle the court to make a winding-up order, or the Framework Participant is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or if the Framework Participant makes an arrangement with its creditors generally or makes an application to a court of competent jurisdiction for protection from its creditors generally; and

(c) any event under the law of any other jurisdiction other than Scotland which is analogous to any of the above;

“Invoicing Procedure” means the procedure for calculating and invoicing the Charges payable in respect of a Contract
detailed in Schedule Part 5;

“Invitation to Tender” means the invitation to tender relating to the Services issued by the Authority to inter alia the Framework Participants;

“Legal Requirements” means any legislation and/or common law insofar as applicable to the Services or any part thereof including without limitation:-

(a) any subordinate legislation; and
(b) any legislative act of the European Union or the Commission of the European Community which without further enactment has legal effect within the United Kingdom; including the Conduct of Employment Agencies and Employment Business Regulations 2003 and the Code of Practice for the International Recruitment of healthcare workers, Scottish Government 2006;

“Letter of Award” means the letter issued by the Authority to each successful economic operator who submitted a Tender accepting that economic operator’s Tender for the Agency Worker Services, the signed duplicate copy of which has been returned to the Authority;

“Locations” means the locations at which the Agency Worker Services are to be provided as set out in the Order;

“Minimum Opening Hours” Framework Participants are required to operate a 24/7 service for locum bookings. As a minimum this should be provided by a staffed office 9-5 Monday to Friday.

“National Procurement” means National Procurement, a division of the Authority whose regional offices are at National Procurement, Canderside, 2 Swinhill Avenue, Larkhall ML9 2QX;

“New Contractor” means any entity which is awarded a contract by a Participating Authority to provide services similar or identical to the Services in place of the Framework Participant (including that Participating Authority in the event of the provision of the Services being undertaken in-house);

“NHS CFS” means any or all of:

(a) the NHS Scotland Counter Fraud Services,
whose principal office is currently at Earlston House, Almondvale Business Park, Almondvale Way, Livingston EH54 6GA;

(b) the NHS Scotland Counter Fraud Security and Management Service, whose principal office is currently at Weston House, 246 High Holborn, London WC1V 7EX;

(c) any body replacing or providing similar or equivalent services to the above; and

(d) any statutory successor to any of the above;

“Order” means each order (if any) submitted to the Framework Participant during the Framework Agreement Period by the Authority or any Participating Authority for the provision of the Agency Worker Services pursuant to the Framework Agreement specifying the grade of Agency Worker required, the duration for which Agency Worker Services are required, the relevant Agency Worker Rate of Pay and the Commission;

“Placement Details” means the placement details to be provided by the Framework Participant to a Participating Authority set out in Schedule Part 3;

“Participating Authority” means such of those statutory NHS bodies constituted pursuant to the 1978 Act identified in, the Invitation to Tender as entitled to Services and to purchase Agency Worker Services pursuant to the Framework Agreement, including each such body’s statutory successors, and “Participating Authorities” shall be construed accordingly;

“Pre-Transfer Liabilities” means (other than in respect of any claims in relation to pension entitlement under any pension scheme) (1) all claims, including but not limited to claims for redundancy payments, unlawful deduction of wages, unfair, wrongful or constructive dismissal compensation, compensation for sex, race or disability discrimination, claims for equal pay, compensation for less favourable treatment of part-time workers, and any claims whether in delict, contract or statute or otherwise, demands, actions, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment
made by way of settlement and costs and expenses reasonably incurred in connection with a claim or investigation (including without limitation any investigation by the Equal Opportunities Commission, the Disability Rights Commission, or the Commission for Racial Equality or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation), and any expenses and legal costs on an indemnity basis and (2) all losses, costs, claims, demands, actions, fines, penalties, awards, liabilities and expenses incurred (either before, on or after the Service Transfer Date) in connection with or as a result of:-

(a) any claim or demand by or in respect of the Affected Employees or any of them or any former employee of the Contractor, arising either under statute, contract or at common law from any act, fault or omission of the Contractor in relation to the period prior to the Service Transfer Date; and

(b) any claim or demand (either under statute or at common law) by any trade union or staff association or any other workers’ representatives within the meaning of TUPE arising from or connected with any breach by the Contractor of its obligations to that trade union, staff association or other workers’ representatives under TUPE to the extent that such claim or demand relates to the period before the Service Transfer Date, subject always to the Board and/or any New Contractor having complied with its obligations under Regulation 13 of the TUPE Regulations;

“Point of Contact” means the point of contact representing the Framework Participant identified as such in the Tender, or such alternative point of contact as notified to the Authority Manager (as representative of the Authority), from time to time, in Writing;

“Prohibited Act” shall have the meaning ascribed to it in Clause 14.1;

“PVG Scheme” means the scheme established by the Protection of Vulnerable Groups (Scotland) Act 2007;

“Quality Assurance System” means the quality assurance and Contract monitoring system to be employed by the
“Recruitment Requirements” means those obligations imposed upon the Framework Participant in respect of recruitment by the Framework Participant of Agency Workers for inclusion on the Framework Participant’s list of Agency Workers for the purpose of the Framework Agreement all as more particularly described in Schedule Part 2 (Recruitment Requirements);

“Schedule” means the schedule in five (5) parts annexed to the Terms;

“Scheme Record” means a record of a member of the PVG Scheme issued to that individual member and registered organisations on application to Disclosure Scotland;

“Scheme Record Update” means an update to a Scheme Record;

“Services” means Agency Worker Services and the Agency Services;

“SGHD” means the Scottish Government Health and Social care Directorates;

“Specification” means the specification of the Agency Worker Services set out in Schedule Part 1 subject to any specific provision in the Tender or Letter of Award;

“Sub-Contractor” means a Sub-Contractor of the Framework Participant identified in the Framework Participant’s Tender;

“Tender” means the tender submitted to the Authority by the Framework Participant in response to the Invitation to Tender;

“Terms” means these terms and conditions of Framework Agreement including the Schedule to which any Contract made pursuant to an Order is subject;

“the 1978 Act” means the National Health Service (Scotland) Act 1978, as amended;

“Writing” means any communication in writing including facsimile transmission, electronic means (excluding text messages) and “Written” shall be construed accordingly; and

“WTR” means the Working Time Regulations 1998.
In the Framework Agreement unless the context otherwise requires:-

1.2.1 the Clause headings are for reference only and shall not affect the construction or interpretation of the Framework Agreement and references to sub-clauses, clauses, the Schedule and Annexes are to sub-clauses, clauses, the Schedule and Annexes to the Framework Agreement;

1.2.2 the singular includes the plural and *vice versa*;

1.2.3 references to gender include references to all genders;

1.2.4 reference to a “person” includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organisation or other entity, in each case whether or not having a separate legal personality;

1.2.5 references to statutes, any statutory instrument, regulation or order shall be construed as a reference to such statute, statutory instrument, regulation or order as amended, consolidated, replaced or re-enacted from time to time;

1.2.6 the words “include” or “including” are to be construed as meaning without limitation;

1.2.7 the words used in the Framework Agreement shall bear their natural meaning. The parties have had equal opportunity to take legal advice and the contra proferentem rule shall not apply to the interpretation of the Framework Agreement;

1.2.8 the ejusdem generis principle is not to be applied when interpreting the Framework Agreement. General words are not to
be given a restrictive meaning when they are followed by
examples intended to be included within the general words;

1.3 For resolution of a conflict or inconsistency in the Framework Agreement, the
documents shall rank in the following descending order of importance:-

- Letter of Award;
- Tender;
- Invitation to Tender;
- The Terms.

2. DURATION AND SCOPE

2.1 The Framework Agreement shall commence on the Effective Date and shall
continue in force throughout the Framework Agreement Period unless earlier
terminated in accordance with the further provisions hereof.

2.2 On or prior to the Effective date the Framework Participant shall submit to the
Authority a report on progress against the Implementation Plan submitted as
part of its Tender.

2.3 The Authority may at its discretion extend the Framework Agreement Period
for the period(s) specified in the Invitation to Tender subject to giving the
Point of Contact no less than three (3) months notice in Writing such notice
being served by the Director of National Procurement.

2.4 Notwithstanding expiry of the Framework Agreement, the Framework
Participant shall complete each Contract which is concluded further to an
Order submitted by a Participating Authority where submitted prior to the date
of expiry. Any Order submitted by a Participating Authority after the date of
expiry or sooner termination of the Framework Agreement shall not constitute
an Order and shall not be processed by any Framework Participant.

3. CALL OFF FRAMEWORK AGREEMENT

3.1 Framework participants shall provide Agency Services during such times and on such days as detailed in the Framework Participant’s Tender (being for the avoidance of doubt not less than the Minimum Opening Hours). The Framework Participant shall ensure that a suitable member of its staff can be contacted by the Participating Authority at any time outside the standard hours of business identified in its Tender.

3.2 Agency Worker Services may be required 24 hours per day, on each day of the year.

3.3 Each Participating Authority may at its option call off the Framework Agreement by submission of an Order to a Framework Participant specifying the grade of Agency Worker by reference to the Specification, the area of specialism (including the requirement for relevant qualification and experience) the duration of the requirement, the Location, the relevant Agency Worker Rate of Pay, WTR amount, National Insurance amount, the Commission and VAT, with the total shown as cash sum in pounds sterling.

3.4 Framework Participants in receipt of an Order will respond to an order confirming whether or not a Booking Proposal will be made as quickly as reasonably practicable and in any event within the following maximum response times:

<table>
<thead>
<tr>
<th>Notice period from time of submission of Order to time of start of requirement</th>
<th>Response Time</th>
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<tbody>
<tr>
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<tr>
<td>Time Frame</td>
<td>Duration</td>
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<td>Less than one Day</td>
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<td>Four-Six Days</td>
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<td>Seven-Thirteen Days</td>
<td>Twenty four hours</td>
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<tr>
<td>Fourteen Days or more</td>
<td>Forth eight hours</td>
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3.5 Framework Participants in receipt of an Order may submit a Booking Proposal to the Participating Authority confirming the name and national insurance number of the Agency Worker, WTR amount, National Insurance amount, grade and such other details as the Participating Authority may reasonably require, including details of the qualifications and experience of the proposed Agency Worker.

3.6 A Participating Authority may require that it interviews or performs a health assessment on a proposed Agency Worker prior to that Agency Worker being deployed to provide the Agency Worker Services. Where a Participating Authority does make such a request, the Framework Participant will use all reasonable endeavours to ensure that the Participating Authority is able to interview or perform the health assessment on the Agency Worker prior to that proposed Agency Worker being deployed to provide the Agency Worker Services. The Participating Authority shall instruct the Agency Worker
of the circumstances and reasons for the interview and/or health assessment.

3.7 If accepted in full by the Participating Authority Authorised Officer, the Order, Booking Proposal and acceptance by the Participating Authority shall form a Contract between the Participating Authority and the Framework Participant, which Contract shall be subject to the Terms.

3.8 The Framework Participant agrees that it will not in its dealings with Participating Authorities seek to impose or rely on any other contractual terms that in any way vary or contradict the Terms.

3.9 For the avoidance of doubt, each Contract shall be between the Framework Participant and the Participating Authority and the Authority is not a party thereto.

3.10 Framework Participants shall not propose or commit an Agency Worker in the provision of Agency Worker Services until such time as it has obtained the agreement of that Agency Worker to deliver the Agency Worker Services.

3.11 The Participating Authority shall provide the Framework Participant with full details of:

3.11.1 the name of the nominated representative the Agency Worker should report to on the Participating Authority's premises;

3.11.2 the intended duties of the Agency Worker and any induction requirements;

3.11.3 any special skills the Participating Authority requires the Agency Worker to have, including any experience, competencies, qualifications, training or any authorisations from a professional
body which are required by law;

3.11.4 any risks to health and safety known to the Participating Authority and any steps that may have been taken to prevent or control such risks;

3.11.5 any health and safety information which the Participating Authority wishes the Framework Participant to pass on to the Agency Worker.

3.11.6 details of any specific security, fire and evacuation procedures pertaining to the area to be occupied by the Agency Worker;

3.11.7 details of any safe systems of work appropriate to the area or equipment to be used by the Agency Worker;

3.11.8 any requirement of the Participating Authority regarding uniform or dress code and identification badges.

3.12 The Framework Participant shall provide the Participating Authority with the Placement Details set out in Schedule Part 3 and in accordance with the timescales set out therein; and

3.13 The Framework Participant shall ascertain whether the Agency Worker to be involved in the provision of the Agency Worker Services will be required to undertake Exposure Prone Procedures. Where EPP is confirmed, the Framework Participant shall ensure that any Agency Worker proposed and deployed to the Participating Authority in the provision of the Agency Worker Services has the requisite immunity levels to undertake these types of engagements, in accordance with Schedule 1, Section 6.

3.14 Where the Framework Participant fails over any Contract Quarter:-
3.14.1 to respond to fifty or more requests for the provision of the Services within the response times set out in paragraph 1.5 above; or

3.14.2 to provide on two hundred or more occasions the information required herein in respect of each suitably qualified Agency Worker proposed in response to a request for the provision of the Services,

the Authority may serve notice on the Framework Participant notifying them of this and requiring the Framework Participant to attend a meeting within one month from the date of the notice at a location nominated by the Authority. The purpose of the meeting will be to agree remedial action for the Framework Participant to improve its performance. Such performance will be monitored following the meeting and in the event that during the period of three months after the meeting performance is not within the parameters set out in paragraphs (i) and (ii) above, the parties agree that the Authority may reasonably take the view that the Framework Participant is not capable of performing the Services and may terminate the Framework Agreement immediately upon Written notice to the Framework Participant.

4. CHARGES

4.1 The Charges payable by a Participating Authority to a Framework Participant following completion of a Contract comprise the sum paid to the Agency Worker including WTR payments together with national insurance calculated in accordance with the Specification and the Invoicing Procedure together with the Commission set out in the Framework Participant’s Tender.

4.2 Commission shall be a fee payable in respect of an Agency Worker Contract
calculated and payable as set out in the Framework Participant’ Tender.

4.3 No payment is due in respect of meal or rest breaks taken by the Agency Worker unless otherwise agreed in advance with the Participating Authority where the Agency Worker Contract exceeds twelve (12) weeks.

4.4 The charges for the Agency Worker Services are exclusive of VAT, if any, and the invoice for the Services shall show the amount of VAT applicable to the charges separately.

4.5 Individual invoices for each Contract performed by the Framework Participant in accordance with the Terms detailing the information contained in the Booking Proposal including Agency Worker Rates of Pay (applicable to the time the work is commenced) and Commission as a cash sum in pounds sterling following verification by the Framework Participant of Authorised Timesheets together with VAT (if any) shall be submitted to the relevant Participating Authority for payment, such invoices to be settled within thirty (30) days by the relevant Participating Authority, save in the event of discrepancy or dispute as to the validity of an invoice where payment may be withheld until the invoice is approved by the relevant Participating Authority as valid.

4.6 Framework Participants shall pay Agency Workers supplied for the Contracts performed by them at the relevant Agency Worker Rate of Pay together with national insurance and WTR payments regardless of whether the relevant invoice has been settled. Framework Participants shall ensure the Agency Worker is paid any holiday pay due to him or her in accordance with WTR.

4.7 Framework Participants are fully responsible for all payments relative to the employment of Agency Workers placed by them providing Agency Worker
Services under Contracts and no sum other than that disclosed in the Order and the Booking Proposal and accepted in Writing by the Participating Authority shall be due or payable in respect of the Framework Agreement or a Contract.

4.8 The Authority shall notify the Framework Participant of any uplift that shall apply to Agency Worker Rates of Pay during the Framework Agreement Period calculated by reference to the percentage increase if any in pay to NHS employees at the same grades as the Agency Workers approved by the Scottish Government.

4.9 In relation to pay review, for the avoidance of doubt:-

4.9.1 if the Scottish Government in any year makes no recommendations for an increase in the annual salaries of the categories of Agency Workers provided under the Framework Agreement, then the hourly Agency Worker Rates of Pay applicable under the Framework Agreement will continue in force unaltered until the next annual review;

4.9.2 if the relevant pay review body recommends the backdating of any increase in any year, neither the Framework Participant nor Agency Worker shall be entitled to the benefit of any such backdated increase and the revised hourly Agency Worker Rates of Pay shall take effect only from the date of notification by the Authority to the Framework Participant of the official announcement by the relevant pay review body; and

4.9.3 if the relevant pay review body recommends any action other than the same percentage increase across all grades of Agency
Workers provided under the Framework Agreement, then the Authority shall determine how any such recommendation shall be applied to the Agency Worker Rates of Pay and shall explain to the Framework Participant together with its rationale for that decision.

4.10 At any time during the Framework Agreement Period the Framework Participant may notify the Authority or any Participating Authority of any statutory variation to ENIC, WTR or VAT payments payable in accordance with a Contract and ENIC, WTR or VAT varied in accordance with the statutory variation shall be varied accordingly for the purposes of this Framework Agreement.

4.11 Commission shall be fixed until the date falling two (2) years after the Effective Date (“Review Date”). On the Review Date and each year thereafter during the Framework Agreement Period, the Commission shall be increased by reference to the percentage increase (if any) in CPI over the twelve (12) month period expiring three months prior to the Review Date.

4.12 For the avoidance of doubt, Participating Authorities are independent legal entities and each Participating Authority is severally liable for all charges and obligations due by it in terms of a Contract.

4.13 Invoices shall be submitted in accordance with the Invoice Procedures set out in Schedule Part 5.

4.14 If any audit or inspection of the Data reveals that a Participating Authority has been overcharged for provision of Services, the Framework Participant shall within seven (7) days of receiving written notice of such overcharge from the Participating Authority reimburse the Participating Authority the amount of the
overcharge. If the total overcharge found in the period audited exceeds 4 per cent of the amount that should have been charged for the provision of the Services during that period, the costs incurred by the Participating Authority or any person authorised by the Participating Authority or the Authority in performing or procuring the inspection and audit shall be reimbursed by the Framework Participant.

4.15 Unless otherwise agreed in Writing in advance with the Participating Authority, the Participating Authority will have no liability to either the Contractor or any Agency Worker for travel expenses and/or other disbursements incurred and the Framework Participant shall ensure that all Agency Workers supplied in the provision of the Services are aware of this.

4.16 Unless otherwise agreed in Writing in advance with the Participating Authority, Agency Workers will not be eligible for accommodation provided either free of charge or on payment of a fee to the Participating Authority and the Contractor shall ensure that all Agency Workers supplied in the provision of the Services are aware of this.

5. PLACEMENT FEES
5.1 If any Agency Worker takes up employment with the Participating Authority, as an employee of that Participating Authority, whether in the role in which they were supplied to the Participating Authority by the Framework Participant as an Agency Worker or otherwise, the Framework Participant agrees and acknowledges that no introduction or placement or other fee or penalty of any kind whatsoever (“Placement Fee”) will be payable to the Framework Participant by the Participating Authority where either the Framework Participant does not comply with its obligations under paragraph 5.4 below or:

5.1.1 the Participating Authority provides the Framework Participant with four weeks’ Written prior notice of the commencement of such employment by the Agency Worker (“Extended Hire Period”); and

5.1.2 the Framework Participant is able to supply the services of that Agency Worker continuously throughout the Extended Hire Period, on terms that are no less favourable in terms of both price and availability of the Agency Worker than those on which such Agency Worker is supplied immediately prior to the Extended Hire Period.

5.2 If an Agency Worker takes up employment with the Participating Authority, as an employee of that Participating Authority, whether in the role they were supplied to the Participating Authority or otherwise and the Participating Authority either fails to provide the Extended Hire Period notice referred to under paragraph 5.1.1 above, or fails to accept the services of the Agency Worker continuously throughout the Extended Hire Period (in accordance with paragraph 5.1.2 above) where these have been offered by the
Framework Participant in accordance with paragraph 5.1.2 above, then the Framework Participant may, subject to paragraph 5.35.1 below, charge a Placement Fee for the Agency Worker agreed between the parties acting reasonably, but always having regard to the following:-

5.2.1 the duration of provision of the Agency Worker Services. Where Agency Worker Services have been provided for a period of or in excess of ten (10) continuous weeks, by an Agency Worker who then takes up employment with the Participating Authority as an employee, no Placement Fee will be payable;

5.2.2 the recruitment costs to the Participating Authority of engaging a member of staff of the type and grade of the Agency Worker.
5.3 Regardless of whether the Participating Authority gives any notice under paragraph 5.1 above, no Placement Fee of any kind will be payable to the Framework Participant unless the Agency Worker takes up employment with the Participating Authority within the period ending 14 weeks after the start of an engagement, or ending 8 weeks after the end of an engagement, whichever is later. For this purpose, separate engagements with a Participating Authority will be treated as part of a continuous engagement for that particular Participating Authority unless the Agency Worker does not work for that Participating Authority for a continuous period of 6 weeks or more. In such cases a new 14 week period will start to run at the beginning of the first engagement after the end of the 6 week period.

5.4 Where the Framework Participant becomes aware that the Participating Authority is to employ an Agency Worker and under the provision of this Clause 5 (Placement Fees), a Placement Fee would become payable, the Framework Participant shall immediately notify the Participating Authority:

5.4.1 that the Participating Authority would become liable for a Placement Fee;

5.4.2 the amount of the Placement Fee which it considers to be reasonable; and

5.4.3 the means by which the Participating Authority can avoid payment of that Placement Fee in accordance with the provisions of this Clause 5 (Placement Fees).

6. OBLIGATIONS OF THE FRAMEWORK PARTICIPANT

6.1 The Framework Participant undertakes to perform the Agency Services in accordance with all Legal Requirements, the Terms and Good Industry
Practice to the reasonable satisfaction of the Authority and Participating Authorities.

6.2 Without prejudice to the foregoing generality, the Framework Participant shall comply at all times with the Conduct of Employment Agencies and Employment Business Regulations 2003, the Code of Practice for the International Recruitment of healthcare workers, Scottish Government 2006, Partnership Information network Guidelines- Safer Pre and Post Employment Checks: Policy for NHS Scotland, the Code of Practice in the Appointment and Employment of locum doctors, PCS (DD) 1998/1 as amended or updated from time to time.

6.3 All Contracts entered into pursuant to the Framework Agreement shall be performed in accordance with the Terms.

6.4 The Framework Participant shall use reasonable endeavours to ensure that all grades of Agency Workers work in accordance with the Working Time Regulations and its limits on maximum working hours and that Agency Workers in training grade placements adhere to the maximum working hours set out in HDL (2000) 17 and any subsequent guidelines. Participating Authorities will provide the Framework Participant with correct information as to the status of any relevant locum vacancy in order to assist the Framework Participant in complying with the Working Time Directive.
6.5 The Framework Participant shall make each Agency Worker aware of the limits of the indemnity available under the Participating Authority’s Clinical Negligence Scheme and shall advise the Agency Worker as to the availability of personal professional indemnity insurance.

6.6 In the case of the Agency Worker being removed from the GMC’s List of Registered Medical Practitioners, the Framework Participant shall immediately withdraw the Agency Worker from the engagement with a Participating Authority and shall no longer offer for deployment or deploy the Agency Worker to provide the Agency Worker Services.

6.7 In the case of the Agency Worker being suspended from the GMC’s List of Registered Medical Practitioners, or failing to maintain ongoing registration with the GMC, the Framework Participant will inform immediately any Participating Authority to which such Agency Worker is providing Agency Worker Services and shall immediately withdraw the Agency Worker from the engagement with such Participating Authority and shall not offer for deployment or deploy the Agency Worker to provide the Agency Worker Services until such time as the matter has been fully and satisfactorily resolved.

6.8 The Framework Participant shall make every effort to obtain assessment reports following each placement and, where necessary, follow up with the Participating Authority and each Participating Authority shall endeavour to provide assessment reports upon request of the Framework Participant.

6.9 The Framework Participant agrees that it will not in its dealings with Participating Authorities seek to impose or rely on any other contractual terms that in any way vary or contradict the Terms.
7. THE POSITION OF AUTHORITY AND PARTICIPATING AUTHORITIES

7.1 The Authority has established the Framework Agreement as agent for and on behalf of each Participating Authority. Each Contract concluded pursuant to Clause 3 above will be between the Framework Participant and the Participating Authority concerned and the Authority shall not be a party thereto nor shall the Authority have any liability arising out of the acts or omissions of any Participating Authority in connection with any such Contract.

7.2 The Framework Participant acknowledges that Participating Authorities are under no obligation to place any, or any particular level or volume of Orders with the Framework Participant under or pursuant to the Framework Agreement. The Framework Participant accepts that the Authority shall have no liability to it in respect of or arising out of the volume of Orders (if any) received by the Framework Participant during the continuance of the Framework Agreement.

8. AUDIT

8.1 The Framework Participant shall, and shall procure that any Sub-Contractor shall, maintain accurate accounts, data and records of all payments, receipts, personal data and related financial data relevant to the provision of the Services (collectively referred to as "Data") including the record keeping requirements detailed in Schedule Part 1.

8.2 The Framework Participant shall, and shall procure that any Sub-Contractor shall co-operate with any investigation relating to security, a complaint by or against a patient or visitor made by or against an Agency Worker, any
incident or accident during placement of an Agency Worker, investigation into compliance with Working Time Regulations or other Legal Requirements or other investigation concerning the Services and shall allow each Participating Authority or any person authorised by the Participating Authority and/or the Authority ("Auditor") to have access to and to conduct an audit of (i) the Data; (ii) all records retained by the Framework Participant and/or the Sub-Contractor in relation to the provision of the Services to each Framework Participant including details of the Services provided and charges levied to each Framework Participant together with Agency Worker supplied and hours and shifts worked; (iii) performance of the Agency Worker Services at any time to ensure the Framework Participant’s and/or Sub-Contractor’s compliance with the Framework Agreement.

8.3 The Framework Participant shall, and shall procure that any Sub-Contractor shall, assist the Auditor in the conduct of any audit referred to in Clause 8.2 above. The Framework Participant shall and shall procure that any Sub-Contractor shall:

8.3.1 allow access for the Auditor to the Framework Participant's premises where such Data is kept;

8.3.2 produce such documentation and information or explanations as the Auditor may reasonably require in order to conduct the audit. The Framework Participant shall comply with that request promptly (and in any event within fourteen (14) days of having received notice from the Participating Authority or any person authorised by the Participating Authority and/or the Authority of such a request) specifying the information, explanation and documentation required;
8.3.3 provide access to the personnel files of Agency Workers and in connection with this, shall, and shall procure that any Sub-Contractor shall, obtain the permission of all Agency Workers for the Auditor to view the said personnel files in accordance with the requirements of the DPA; and

8.3.4 ensure that its staff co-operate with the Participating Authority or any person authorised by the Participating Authority and/or the Authority) to enable that audit to take place.

8.3.5 instruct all Agency Workers to co-operate with the Authority or any Participating Authority regarding any investigation into the security of premises, data, Confidential Information, computer systems, or other and provide a copy of the computer access and security requirements set out in annex 4 attached hereto.

8.4 If any audit carried out pursuant to the Terms reveals that the Services have not been performed in accordance with the Terms, the Authority may at its option require the Framework Participant to submit a remediation plan addressing the issues identified in the audit within such time as the Authority may specify or immediately notify the Framework Participant that its appointment to the Framework Agreement is being withdrawn.

8.5 The Authority and each Participating Authority reserves the right for the Auditor to make available any information obtained during the audit to NMC, the UK Border Agency, HM Revenue and Customs, the NHS CFS, the Police, Social Services Departments, public health bodies, other NHS regional or local framework agreement managers for the supply of these types of staff, or any other regulatory or investigatory body where it would be in the patient or public interest or where a breach of any law has occurred.
Any commercially sensitive information and personal data (as such term is defined in the DPA) shall be deleted prior to transmission, unless it is specific information that will be needed by such a body to investigate the matter. For the avoidance of doubt, Auditor shall not in any way act as agent for the NMC, the UK Border Agency, HM Revenue and Customs, the NHS CFS, the Police or any other regulatory or investigatory body.

9. CONTRACT MONITORING AND PERFORMANCE MEASUREMENT

The Framework Participant shall comply with the Quality Assurance and Contract monitoring requirements set out in Schedule Part 4.

10. VARIATIONS TO THE FRAMEWORK AGREEMENT

10.1 Any variation of the Framework Agreement and/or the Terms shall only be effective if agreed between the Authority on behalf of the Participating Authorities and the Framework Participant in Writing executed by duly authorised representatives of such signatories and once such variations are agreed between the said parties, the Authority, as agent for the Participating Authorities, hereby agrees that such variations shall automatically apply to any Contracts entered into between the Framework Participant and any Participating Authorities to the extent only that Services have not yet been provided pursuant to such Contract.

11. ASSIGNATION AND SUB-CONTRACTING

The Framework Agreement is personal to the Framework Participant. The Framework Participant shall not assign, novate, sub-contract or otherwise dispose of the Framework Agreement or any part of it or the benefit or advantage of the Framework Agreement or any part of it without the prior
Written consent of the Authority, provided that such consent shall not be unreasonably withheld to proposed subcontracting.

12. **PRE-CONTRACTUAL STATEMENTS**

12.1 (Save in the case of fraud) no statements made by or on behalf of the Authority at any time before, during or after the competition leading to conclusion of the Framework Agreement shall add to or vary the Framework Agreement or be of any force or effect unless any such pre-contractual statements are expressly set out in the Framework Agreement. The Framework Participant waives any right it may have to make any claim whatsoever in connection with any non-fraudulent, pre-contractual statements made by or on behalf of the Authority. This waiver shall be unconditional and irrevocable, but it is expressly agreed that it shall not exclude any liability of the Authority for pre-contractual statements made fraudulently.

12.2 Without prejudice to the generality of Clause 12.1, the Framework Participant acknowledges that it has not been induced to enter into the Framework Agreement by any indication as to the volume or content of Orders that might be placed by Participating Authorities.

13. **DISPUTE RESOLUTION PROCEDURE**

13.1 During any dispute, including a dispute as to the validity of the Framework Agreement and any Contracts entered into under the Framework Agreement, it is mutually agreed that the Framework Participant shall continue its performance of the provisions of the Framework Agreement and any such Contracts (unless the Authority requests in Writing that the Framework Participant does not do so).
13.2 If any dispute arises out of the Framework Agreement (other than in relation to any matter in which the Authority has a discretion which is exercised in accordance with the terms of the Framework Agreement and which shall be final and conclusive) the parties will use all of their respective reasonable endeavours to resolve it by negotiation. If negotiations fail to resolve such dispute either party may refer the matter to an arbiter chosen by mutual agreement, or, failing agreement appointed on the application of either party by the President of the Law Society of Scotland. The Authority as agent of Participating Authorities and the Framework Participant will co-operate with any person appointed as arbiter providing him with such information and other assistance as he shall require and will pay his costs, as he shall determine or in the absence of such determination such costs will be shared equally. Neither party will commence legal proceedings against the other until thirty (30) Days after such arbitration of the dispute in question has failed to resolve the dispute.

13.3 If any dispute arises out of a Contract the parties to that Contract will use all of their respective reasonable endeavours to resolve it by negotiation. If negotiations fail to resolve such dispute either party may refer the matter to an arbiter chosen by mutual agreement, or, failing agreement appointed on the application of either party by the President of the Law Society of Scotland. The Participating Authority and the Framework Participant to the Contract will co-operate with any person appointed as arbiter providing him with such information and other assistance as her shall require and will pay his costs, as he shall determine or in the absence of such determination such costs will be shared equally. Neither Party will commence legal proceeding against the other until thirty (30) Days after such arbitration of the dispute in question has failed to resolve the dispute.
14. PROHIBITED ACT AND COLLUSION

14.1 The term “Prohibited Act” means:-

14.1.1 offering, giving or agreeing to give the Authority, any Participating Authority or any other public body or any person employed by or on behalf of the Authority, any Participating Authority or any other public body any gift or consideration of any kind as an inducement or reward:

(a) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of the Framework Agreement or any other agreement with the Authority, any Participating Authority or any other public body; or

(b) for showing or not showing favour or disfavour to any person in relation to the Framework Agreement or any other agreement with the Authority, any Participating Authority or any other public body;

14.1.2 entering into the Framework Agreement or any other agreement with the Authority, any Participating Authority or any other public body in connection with which commission has been paid or has been agreed to be paid by the Framework Participant or on its behalf, or to its knowledge, unless before the relevant agreement is entered into particulars of any such commission and of the terms and conditions of any such agreement for the payment of such commission have been disclosed in Writing to the Authority;
14.1.3 committing any offence:

(a) under the Prevention of Corruption Acts 1906-1916, and the Public Bodies Corrupt Practices Act 1889, as amended;

(b) under any Law creating offences in respect of fraudulent acts; or

(c) at common law, in respect of fraudulent acts in relation to the Framework Agreement or any other agreement with the Authority, any Participating Authority or any other public body; or

14.1.4 defrauding or attempting to defraud or conspiring to defraud the Authority, any Participating Authority or any other public body.

14.2 The Framework Participant warrants that in entering into the Framework Agreement it has not committed any Prohibited Act.

14.3 The Framework Participant will not collude with any other Framework Participant, agency or organisation (other than its Sub-Contractor) or discuss the terms and conditions of the Framework Agreement or the commission with any such other Framework Participant, agency or organisation, provided that nothing in this Clause 14 shall prevent the Framework Participant from seeking professional legal advice in relation to the Terms.


15. TERMINATION
The Authority may, without penalty to the Authority, terminate the Framework Agreement with a Framework Participant upon Written notice to the Framework Participant in the event that (i) the Framework Participant becomes Insolvent or otherwise ceases to be capable of performing the Agency Worker Services; (ii) the Framework Participant commits a Prohibited Act; or (iii) the Framework Participant commits a material breach of its obligations in respect of the Services and the breach is incapable of remedy or the Framework Participant has failed to remedy the breach within such time as the Participating Authority acting reasonably may specify.

15.1 To be effective, notice served by the Authority in terms of Clause 15.1 must be served by the Director of National Procurement.

15.2 Any termination of the Framework Agreement will not prejudice the rights, obligations and duties of each party to a Contract prior to such termination.

15.3 The Framework Participant shall assist the Authority in ensuring a smooth, timely, risk reduced transition of the activities under the Framework Agreement to a New Contractor at the end of the Framework Agreement Period.

15.4 Clauses 15, 16 and 20 shall survive termination of the Framework Agreement and any Contract awarded thereunder.

16. CONFIDENTIALITY

16.1 Subject to Clauses 16.1 and 16.8, in respect of all Confidential Information provided by, or on behalf of, the Authority or by or on behalf of any Participating Authority to the Framework Participant the Framework Participant undertakes to the Authority and Participating Authorities that it will:
16.1.1 keep that Confidential Information completely and strictly confidential and keep in safe custody all documentation and media recording of the same;

16.1.2 save as expressly permitted in the Terms, not disclose, copy, reproduce, publish or distribute the whole or any part of that Confidential Information to any person unless authorised in Writing by a duly authorised representative of the Authority or the Participating Authority;

16.1.3 use that Confidential Information only for the performance of the Framework Agreement and will not use that Confidential Information for its own benefit or for the benefit of anyone other than the Authority and/or the Participating Authority; and

16.1.4 maintain that Confidential Information as the property of the Authority or Participating Authority that provided the information.

16.2 Subject always to Clauses 16.3 and 16.8, the Authority and each Participating Authority shall keep any Confidential Information provided to it by, or on behalf of, the Framework Participant confidential and shall use such Confidential Information only in connection with the performance of the Framework Agreement.

16.3 The obligation to maintain the confidentiality of, and the prohibitions and restrictions on use of, the Confidential Information shall not apply to information:

16.3.1 which the party disclosing such information confirms in Writing is not required to be treated as Confidential Information;
16.3.2 which is or comes into the public domain otherwise than through any disclosure prohibited by the Terms;

16.3.3 which is received from a third party who lawfully acquired or developed it and who is under no obligation of confidence in relation to its disclosure; or

16.3.4 disclosed pursuant to Clause 16.8 (SGHD disclosure and disclosure to other Government departments and agencies)

16.4 For the purpose of this Clause 16, no Confidential Information shall be deemed to be in the public domain merely because such information is embraced by more general information or in the case of a complex body of information, because one or more elements of it are separately available in the public domain.

16.5 Where the Authority or a Participating Authority receives Confidential Information from the Framework Participant, the Authority or the Participating Authority may disclose such Confidential Information to, and permit its use by, any third party for any purpose provided for or contemplated by the Framework Agreement.

16.6 The Authority or the Participating Authorities shall be entitled to disclose any Confidential Information received from the Framework Participant to its professional advisors to the extent that the Authority or Participating Authorities considers that they have a reasonable need to receive and consider the same.

16.7 Save as otherwise expressly permitted in the Terms, the Framework Participant shall be permitted to disclose the Confidential Information only to its directors, officers, employees, agents and professional advisors who need
to see and know it in connection with provision of the Agency Worker Services (who are hereafter called the “Permitted Persons”) and the Framework Participant agrees to ensure that its Permitted Persons shall not divulge the Confidential Information to any third party and shall deal with the Confidential Information solely in accordance with the terms of this Framework Agreement and if required by the Authority or a Participating Authority, shall procure that such Permitted Persons enter into a confidentiality undertaking in a form approved by the Authority or the Participating Authority.

16.8 The Authority shall be free to disclose the terms of this Framework Agreement and any documents connected with provision of the Agency Worker Services to and within the SGHD and to other Government departments, agencies and non-departmental public bodies and the parties agree that the Authority or the Participating Authorities shall be free to use and disclose such information on such terms and in such manner as the Authority or Participating Authorities sees fit.

16.9 The parties acknowledge that damages may not be an adequate remedy for any breach of this Clause 16 by either party or any of the Framework Participant’s Permitted Persons and the parties may be entitled to obtain any legal and/or equitable relief, including interdict, in the event of any breach of this Clause 16.

16.10 Without prejudice to the parties’ other obligations under this Framework Agreement, if directed to do so by the Authority or Participating Authorities at any time and in any event promptly following termination or expiry, the Framework Participant shall return to the Authority or Participating Authority as the case may be or destroy all Confidential Information of the Authority or
the Participating Authority and shall certify that it does not retain any such
Confidential Information, save to the extent that any Confidential Information
needs to be retained:

16.10.1 by the Framework Participant for the purposes of the
performance of the Agency Worker Services;

16.10.2 in cases where there is a partial termination for the purpose of the
performance of the remainder of the Framework Agreement or a
Contract thereunder; or

16.10.3 by the Framework Participant in order to enforce any of its rights
or remedies under the Framework Agreement.

16.11 Notwithstanding termination or expiry, the Authority or Participating
Authorities shall be entitled to retain and use Confidential Information
provided to it by or on behalf of the Framework Participant:

16.11.1 for the purposes of ensuring any continuing provision of Services
to a Participating Authority; or

16.11.2 in cases where there is a partial termination for the purposes of
performance of the remainder of a Contract under the Framework
Agreement; or

16.11.3 in order to enforce any of its rights or remedies under the
Framework Agreement; or

16.11.4 in order to maintain a record of the Confidential Information of the
Framework Participant to enable the Authority and/or
Participating Authorities to establish its continuing obligations.
16.12 In the event that the Framework Participant fails to comply with this Clause 16 (Confidentiality), the Authority reserves the right to terminate the Framework Agreement by notice in writing with immediate effect.

16.13 All obligations set out in this Clause 16 to keep confidential all Confidential Information as defined in:-

16.13.1 part (a) of the definition of ‘Confidential Information’ shall remain in force without limit on time; and

16.13.2 part (b) of the definition of ‘Confidential Information’ shall remain in force during the Framework Agreement Period and for a period of five (5) years thereafter.

17. FREEDOM OF INFORMATION

17.1 Nothing whether expressly provided in the Framework Agreement, or otherwise implied, shall preclude the Authority or Participating Authorities from making public under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 and/or any codes applicable from time to time relating to access to public authorities’ information (“FOI”), details of all matters relating to the Framework Agreement and any Contract(s) unless (i) such details constitute a trade secret; (ii) the disclosure of such details would or would be likely to prejudice substantially the commercial interests of any person (including but not limited to the Framework Participant or any Authority); or (iii) such details fall within any other exemption under FOI. The Authority and Participating Authorities will take all reasonable steps to provide the Framework Participant with notice of any intended disclosures under FOI prior to making such information public. Framework Participant shall provide all such assistance
as may be reasonably required by the Authority and/or Participating Authorities to enable the Authority or Participating Authority to comply with its obligations under FOI.

18. **GENERAL**

18.1 Any notice to be given under the Framework Agreement shall be delivered personally or sent by first class recorded delivery post (airmail if overseas) or electronic mail. Except as otherwise provided in the Terms, the address for service shall be the registered or principal office of the recipient or such other address for receipt of notices as either party may previously have notified to the other party in Writing. A notice shall be deemed to have been served:

18.1.1 if personally delivered, at the time of delivery;

18.1.2 if posted, at the expiration of 48 hours or (in the case of airmail seven Days) after the envelope containing the same was delivered into the custody of the postal authorities; and

18.1.3 if sent by electronic mail, at the time of the transmission.

18.2 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 authorities as prepaid first class, recorded delivery or airmail letter (as appropriate) or that the hard drive has recorded the successful transmission of the electronic mail.

18.3 Except to the extent otherwise agreed in Writing between the parties, notices deliverable to the Framework Participant, shall be addressed to the Point of Contact.

18.4 Save as required by law and/or the requirements of any relevant stock
exchange, no publicity shall be made by any of the parties relating to any matter in connection with the Framework Agreement without the prior written consent of the other parties.

18.5 The Framework Participant shall from time to time upon the request of the Authority, execute any additional documents and do any other acts or things which may reasonably be required to implement the provisions of the Framework Agreement.

18.6 Any provision of the Framework Agreement that is held to be invalid, illegal or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purposes of the Framework Agreement, the parties shall commence good faith negotiations to remedy such invalidity.

18.7 The Framework Participant acknowledges and agrees that it has not relied on any representation, warranty or undertaking (whether written or oral) in relation to the subject matter of the Framework Agreement and therefore irrevocably and unconditionally waives any rights it may have to claim damages against the Authority and any Participating Authority, for any misrepresentation (whether made carelessly or not) or for breach of any warranty unless the representation relied upon is set out in the Framework Agreement or unless such representation was made fraudulently.

18.8 The failure by the Authority, or the Framework Participant or, as the case may be, any Participating Authority to insist upon the strict performance of
any provision, term or condition of the Framework Agreement or a Contract or to exercise any right or remedy consequent upon the breach thereof shall not constitute a waiver of the Authority’s or any Participating Authority’s rights and/or remedies in respect of such breach or any subsequent breach of such provision, term or condition.

18.9 No waiver of any of the provisions of the Framework Agreement or a Contract shall be effective unless it is expressly stated to be a waiver and communicated to the other party in Writing in accordance with the provisions of Clause 18.1.

18.10 The right of a Participating Authority to place Orders and accept Booking Proposals under the Framework Agreement shall automatically devolve to its statutory successors.

19. DIVERSITY

19.1 The Framework Participant undertakes that it shall not discriminate unlawfully within the meaning and scope of any legal requirement relating to discrimination (whether in relation to race, gender, disability, religion or otherwise) (“the Anti-Discrimination Legislation”) in employment of Agency Workers or performance of the Services and shall promote equality and work towards the Services reflecting best practice as identified in the Codes of Practice issued by the Equality and Human Rights Commission. The Framework Participant shall take all reasonable steps to ensure the observance of this clause by all staff and by all contractors and Sub-Contractors of the Framework Participant and the Framework Participant shall ensure that its policies and practices comply with the requirements of such legal requirements including without limitation, the Equality Act 2010 and other equalities legislation.
19.2 The Framework Participant shall notify the Authority immediately of any investigation of or proceedings against the Framework Participant under the Anti-Discrimination Legislation and shall cooperate fully and promptly with any requests of the person or body conducting such investigation or proceedings, including allowing access to any documents or data required, attending any meetings and providing any information requested.

19.3 The Framework Participant shall indemnify the Authority and each Participating Authority against all costs, claims, charges, demands, liabilities, damages, losses and expenses incurred or suffered by the Authority or any Participating Authority arising out of or in connection with any investigation conducted or any proceedings brought under the Anti-Discrimination Legislation due directly or indirectly to any act or omission by the Contractor, its agents, employees or Sub-Contractors.

19.4 The Framework Participant shall impose on any Sub-Contractor obligations substantially similar to those imposed on the Framework Participant by this Clause 19.

20. **RESTRICTIVE COVENANTS**

20.1 The Framework Participant shall not enforce any restrictive covenant of any scope or duration which may form any contract or part of any contract between the Agency Worker and the Framework Participant including, but not limited to, any covenant preventing an Agency Worker from working at a location of his choosing or for any Framework Participant, Participating Authority or other recruitment agency of his choosing.

20.2 Each Participating Authority and the Framework Participant undertake that it shall not without the prior Written consent of the other during the period of the
20.3 The Framework Participant shall ensure that an Agency Worker shall not during the course of or arising out of their deployment in the provision of the Services solicit any person employed by a Participating Authority with a view to that person being engaged or employed by or under any other arrangement with the Framework Participant.

20.4 No Party shall be considered to be in breach of its obligations in Clauses 20.2 and 20.3 above where an individual becomes an employee of, or is engaged by, a party as a result of a response by that individual to an advertisement placed by or on behalf of a party where it is apparent from the wording of the advertisement, the manner of its publication or otherwise that the principal purpose of the advertisement was not the solicitation or recruitment of a Framework Participant or a Participating Authority employee and that the advertisement was equally likely to attract applications from individuals who were not employees of any party to the Framework Agreement.

21. EMPLOYMENT RELATIONSHIP AND TUPE

21.1 The Parties agree and acknowledge that an Agency Worker is either employed or engaged by the Framework Participant and that no employment relationship between the Agency Worker and the Participating Authority exists or is to be implied.

21.2 Where there is a transfer pursuant to the TUPE Regulations of the contracts of employment of any of the Framework Participant’s staff (such staff being...
referred to herein as “Affected Employees”) to a Participating Authority or a New Contractor then the provisions of this Clause 21 shall apply.

21.3 The Framework Participant shall comply with the TUPE Regulations, provided always that notwithstanding the TUPE Regulations, the Framework Participant shall provide all the information which it is required to disclose in terms of Regulation 11 of the TUPE Regulations to the Participating Authority no later than two (2) months before the Service Transfer Date.

21.4 The Framework Participant shall advise the Participating Authority in Writing prior to the Service Transfer Date of any updates to the information referred to at Clause 21.3.

21.5 The Framework Participant warrants that the information to be provided by the Framework Participant in terms of Regulation 11 of the TUPE Regulations will be true, accurate and complete in all material respects.

21.6 The Framework Participant shall and does hereby indemnify the Participating Authority and any New Contractor from and against all Pre – Transfer Liabilities relative to the period up to and including the Service Transfer Date.

21.7 The provisions of this Clause 21 shall survive following termination of the Framework Agreement for any reason whatsoever and without limit in time.

22. FORCE MAJEURE

22.1 A party to a Contract, provided that it has complied with the provisions of Clause 22.3, shall not be in breach of a Contract, nor liable for any failure or delay and performance of any obligations under the Contract arising from a Force Majeure Event.

22.2 The corresponding obligations of the other party will be suspended to the
same extent as those of the first party first affected by the Force Majeure Event.

22.3 Any party that is subject to a Force Majeure Event shall not be in breach of the Contract provided that:-

22.3.1 it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance such notice to include details of the Force Majeure Event, including evidence of its effect on the obligations of the party affected by the Force Majeure Event and any action proposed to mitigate its effect;

22.3.2 it could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and

22.3.3 it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under the Contract in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.

22.4 Failure by the Contractor to perform any of the obligations under a Contract by virtue of a Force Majeure Event shall, without prejudice to the Participating Authority's other rights and remedies, entitle the Participating Authority (at its option):-

22.4.1 to withdraw such Services from the Order provided confirmation is given in Writing to this effect;
22.4.2 to release itself from any obligations to and to accept and pay for any Services performed late, as a direct result of a Force Majeure Event, provided confirmation is given in Writing to this effect; and

22.4.3 to purchase other services of the same or similar description from any other Framework Participant or any third party.

23. LIMITS OF LIABILITY

23.1 Subject to Clause 23.4, the Framework Participant shall indemnify and hold the Authority and Participating Authorities harmless from all claims, costs, proceedings, damages and expenses (including legal and other professional fees and expenses) and other liabilities whatsoever, excluding all indirect or consequential liabilities awarded against, or incurred or paid by, the Authority and/or any Participating Authority as a result of or in connection with:-

23.1.1 any alleged or actual infringement, whether or not under Scots law, of any third party’s Intellectual Property Rights or other rights arising out of the use or supply of the Services; or

23.1.2 any liability, loss, damage, injury, cost or expense incurred by the Authority and/or any Participating Authority or in respect of any claim made against the Authority and/or Participating Authority in respect of any liability, loss, damage, injury, cost or expense by the Participating Authority’s employees or agents or by any user of the Participating Authority’s services, or third party, to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises as a consequence of a breach of contract or a negligent performance or failure or delay in performance of the Services by the Framework Participant.
23.2 Except in the case of death or personal injury caused by negligence, and fraudulent misrepresentation or in other circumstances where liability may not be so limited under any applicable law, the liability of any party in under or in connection with the Framework Agreement or under or in connection with each Contract, whether arising in contract, delict, negligence, breach of statutory duty or otherwise shall not exceed TWO MILLION POUNDS STERLING (£2,000,000).

23.3 The Commission has been agreed on the basis that the parties to the Framework Agreement may limit their liability to each other as set out herein and the parties confirm that they will themselves bear or insure against any loss for which the other party has limited its liability hereunder.

23.4 Under each Contract the Participating Authority will through the Clinical Negligence and Other Risks Indemnity Scheme in Scotland be responsible for the indemnification of the Agency Worker in respect of claims or proceedings arising out of clinical acts or omissions during the diagnosis, care or treatment of the Participating Authority’s patients arising under common law further to a Contract, excluding criminal acts, provided that the Framework Participant has fulfilled its obligations under the Contract.

24. INSURANCE

The Framework Participant shall effect with a reputable insurance company a policy or policies of insurance covering all the matters which are the subject of indemnities under the Contract with a minimum limit of indemnity of TWO MILLION POUNDS STERLING (£2,000,000) per annum for any one incident in any one Year, unless an alternative figure has been specified in the Invitation to Tender and/or Letter of Award, or such other sum as may be agreed between the Authority and the Framework Participant in Writing.
Framework Participant shall at the request of the Participating Authority produce the relevant policy or policies together with the receipts or other evidence of payment of the latest premium due thereunder.

25. HEALTH AND SAFETY

25.1 The Framework Participant will take all such steps as a Participating Authority may from time to time in writing reasonably request to exchange information and provide Agency Workers with the information to assist the Participating Authority to comply with the Participating Authority’s obligations under the Health and Safety at Work Act 1974 and related legislation and all other relevant legislation relating to health and safety issues.

25.2 During the provision of Agency Worker Services to a Participating Authority, the Agency Worker is deemed to be under the exclusive direction, supervision and control of the relevant Participating Authority throughout the engagement and the Participating Authority assumes responsibility for the health and safety and supervision of the Agency Worker from the start of any engagement.

26. GOVERNING LAW

The Parties accept the exclusive jurisdiction of the Scottish courts and agree that the Framework Agreement is and Contracts are to be governed by and construed in accordance with Scots law.
THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING TERMS AND CONDITIONS OF FRAMEWORK AGREEMENT FOR THE PROVISION OF AGENCY STAFF TO NHS BODIES IN SCOTLAND

SCHEDULE: PART 1

AGENCY SERVICES

1. Booking Management

1.1 The Framework Participant shall provide an efficient and responsive booking management service for the provision of Agency Worker Services during the hours specified by the Framework Participant in its Tender, being not less than the Minimum Opening Hours. The Framework Participant shall ensure that a suitable member of its staff can be contacted by the Participating Authority outwith these hours. Agency Worker Services may be required any time on any day of the year.

1.2 The Framework Participant will ensure that all employees engaged in the placing of Agency Workers receive appropriate training in the following areas to ensure an efficient and responsive Service that facilitates the placement of appropriately qualified and experienced Agency Workers:

The structure of NHSScotland

The structure of medical grades and the experience, training, qualifications and compliance requirements for the various specialities and categories of Agency Workers to be supplied under the Framework Agreement

The principal hospital locations of each participating Authority and transport links.

Immigration regulations

GMC registration checking procedures

Working Time Regulations 1998

NHS HDL (2004)34 Meeting the Requirements of the Working Time Regulations: Doctors in Training

NHS HDL(2003)3 (Working Time Regulations)

NHS CEL 14(2209) Working Time Regulations Compliance Guidance

Occupational health requirements

Recruitment Requirements (as set out in Schedule Part 2)

Requirements of Safer Pre and Post Employment Checks Policy for NHSScotland
SGHD Code of Practice in Locum Appointments PCS (DD) 1998/1

Handling of Complaints

All relevant policies, rules, regulations, procedures and standards of each Participating Authority and relevant professional bodies.

1.3 The Framework Participant will ensure that all Agency Workers are advised in advance of the Location for the performance of the Contract and transport links.

1.4 The Framework Participant will ensure that all employees engaged in the placing of Agency Workers make offers in response to bookings from Participating Authorities with details of an Agency Worker only after they have received positive confirmation of availability from the Agency Worker being offered in the response.

2. **Agency Worker Specifications – Specific**

Registered medical practitioners across the range of specialisms required by Participating Authorities at the following grades:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Consultant</strong></td>
<td>MBBS or equivalent medical qualification; MRC or other relevant Royal College Postgraduate Examination equivalent; Full registration with the GMC at time of appointment; and At least 48 months experience at Registrar or Specialist Registrar in specialty (or 36 months experience at Registrar or Specialist Registrar for Psychiatry)</td>
</tr>
<tr>
<td><strong>Associate Specialist</strong></td>
<td>MBBS or equivalent medical qualification; MRC or other relevant Royal College Postgraduate Examination equivalent; Full registration with the GMC at time of appointment; and At least 36 months experience at Registrar or Specialist Registrar or Staff Grade in specialty</td>
</tr>
<tr>
<td><strong>Staff Grade</strong></td>
<td>MBBS or equivalent medical qualification; MRC or other relevant Royal College Postgraduate Examination equivalent; Full registration with the GMC at time of appointment; and At least 36 months experience at SHO or higher grade in specialty</td>
</tr>
<tr>
<td><strong>ST4</strong></td>
<td>MBBS or equivalent medical qualification; MRC or other relevant Royal College Postgraduate Examination equivalent; Full registration with the GMC at time of appointment; Achievement of ST3 competencies or 60 months postgraduate training, with at least 24 months experience in specialty (not including Foundation modules)</td>
</tr>
<tr>
<td>Grade</td>
<td>Requirements</td>
</tr>
<tr>
<td>-------</td>
<td>--------------</td>
</tr>
<tr>
<td>ST3 (formerly SpR)</td>
<td>MBBS or equivalent medical qualification; Full registration with the GMC at time of appointment; Achievement of ST2 competencies or 48 months postgraduate training, with at least 24 months experience in the specialty (not including Foundation modules)</td>
</tr>
<tr>
<td>ST2</td>
<td>MBBS or equivalent medical qualification; Full registration with the GMC at time of appointment Achievement of ST1 competencies or 36 months postgraduate training, with at least 12 months experience in the specialty (not including Foundation modules)</td>
</tr>
<tr>
<td>ST1</td>
<td>MBBS or equivalent medical qualification; Full registration with the GMC at time of appointment; Achievement of Foundation competencies or 24 months postgraduate training, with at least 4 months experience in specialty (not including Foundation modules)</td>
</tr>
<tr>
<td>FY2 (formerly SHO)</td>
<td>MBBS or equivalent medical qualification; Full registration with the GMC at time of appointment; UK doctors to have at least 12 months experience at FY1 grade or equivalent or overseas doctors to have at least 6 months experience in the UK; Doctors to have at least 4 months experience in the relevant specialty</td>
</tr>
<tr>
<td>FY1 (formerly PrHO)</td>
<td>MBBS or equivalent medical qualification; Full registration with GMC at the time of appointment; UK graduates to have completed the PrHO or FY1 year or Overseas graduates to have completed the PrHO/Intern year overseas</td>
</tr>
</tbody>
</table>

The Grades above are not exhaustive and new requirements may be introduced by the Participating Authority or the Authority acting reasonably.

3. **Agency Worker Requirements**

**General**

3.1 All Agency Workers must be careful, skilled, qualified, trained and experienced in the duties required of them, registered with the GMC as appropriate with the level of experience required as detailed below or as required by the Participating Authority in the role for which the Framework Participant intends to place the Agency Worker as specified by the Framework Participant in an Order.

3.2 All Agency Workers shall be competent in understanding and using both written and oral English. In the case of an overseas Agency Worker, who is not exempt from the GMC’s English language requirements for registration, the Framework Participant will ensure that prior to the deployment of that Agency Worker in the provision of the Agency Worker Services the Agency Worker has passed each of the four academic modules of the IELTS test or equivalent. For us to accept your IELTS certificate it must show:
3.2.1 that you got a score of at least 7.0 in each testing area (speaking, listening, reading and writing)

3.2.2 that you got these scores in the same test

3.2.3 that you took the academic version of the test

3.2.4 the original stamp and test report form (TRF) number

3.3 The Framework Participant shall as a minimum make in a way that cannot be altered, and retain on the Agency Worker’s file a clear copy of the original IELTS certificate seen by the Framework Participant;

All Agency Workers shall:-

3.3.1 be able to communicate effectively with the Participating Authority’s staff, other healthcare workers, patients, carers and the general public;

3.3.2 be helpful, pleasant and courteous;

3.3.3 have good telephone skills;

3.3.4 have legible handwriting;

3.3.5 be confident and able to deal with Participating Authority’s staff at all levels;

3.3.6 be able to work with minimum supervision, where appropriate; and

3.3.7 be prompt and punctual.

3.4 All Agency Workers must have current Certificate of Fitness for Employment confirming health clearance/immunisations and test results in accordance with latest SGHD guidelines prior to being deployed in the provision of the Agency Worker Services.

3.5 All Agency Workers must have completed Disclosure Scotland checks and be members of the PVG Scheme and have an appropriate PVG Scheme Record updated as required and met the pre-employment screening requirements set out in Schedule Part 2.

3.6 The Framework Participant shall take account of continuity of care in offering to place an Agency Worker further to an Order.

3.7 The Framework Participant shall, and shall procure that any Sub-Contractor shall, provide its staff with a photo ID card form of identification which such staff shall display on their clothing at all times when they are on the Participating Authority’s premises.

4. Agency Worker Recruitment

The Framework Participant shall conduct recruitment of Agency Workers in accordance with Schedule Part 2.

5. Training
5.1 The Framework Participant will ensure that every Agency Worker is properly and sufficiently trained and instructed (and kept informed of any updated information) with regard to the following:

5.1.1 the task or tasks that person has to perform and the role and responsibility of the Agency Worker;

5.1.2 all relevant provisions of the Terms;

5.1.3 all relevant policies, rules, regulations, procedures and standards of the Participating Authority which have been disclosed to the Framework Participant in Writing, including:

(a) the anti-discrimination and equal opportunities policies;

(b) where relevant to the Agency Worker concerned, the computer access and information security policy, on-site security requirements;

(c) health and safety policy;

(d) where relevant to the Agency Worker concerned, lone worker policies;

(e) hot spot mechanism for alerting security staff and where relevant to the Agency Worker concerned, policies regarding handling of violence and aggression;

(f) record keeping requirements (including patient records) and the Caldicott requirements and protocols and confidentiality policies;

(g) infection prevention and control policies, including those relating to MRSA and Clostridium Difficile;

(h) the complaints procedure and complaints handling;

(i) policy for dealing with allegations of abuse;

(j) crash call procedure;

(k) fire procedures;

(l) risk incident reporting; and

(m) no-smoking policy;

5.1.4 basic or advanced life support (adult or paediatric as appropriate and dependent on type of engagement) which is compliant at all times with the Resuscitation Council UK guidelines and has been delivered by means of a practical course.

5.1.5 occupational health and health and safety law and practice, including the Control of Substances Hazardous to Health Regulations 2006 and The
Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995;

5.1.6 Safeguarding Children, compliant with 0 – 18 years: guidance for all doctors, General Medical Council, and Safeguarding Children & Young People Roles & Competencies for Health Care Staff”, Royal College of Paediatrics and Child Health, April 2006

5.1.7 manual handling;

5.1.8 the need to observe the highest standards of hygiene, customer care, courtesy and consideration when working in an health service environment;

5.1.9 the need to keep sensitive personal information such as information relating to the health of any individual strictly confidential and that unauthorised disclosure is a serious disciplinary offence;

5.1.10 the requirement to co-operate with any audit carried out in accordance with the Framework Agreement, the investigation of any complaint relating to the parties and any investigation relating to the security of NHS information, patient information, computer security or security of premises and for this purpose the right of the Participating Authority to personal information held by the Participating Authority about the Agency worker;

5.1.11 that the Agency Workers must work as directed by the Participating Authority and follow all reasonable requests, instructions, policies, procedures and rules of the Participating Authority;

5.1.12 that Agency Workers shall not neglect, nor without due and sufficient cause omit, to discharge promptly and diligently a required task within the terms of the engagement;

5.1.13 the requirement regarding completion and authorisation of (and the importance of the counter-fraud documentation on) timesheets and the requirement for Authorised Timesheets to be submitted by Framework Participants with Invoices;

5.1.14 the need to maintain proper standards of appearance and deportment whilst at work;

5.1.15 the requirement to be properly and presentably dressed in such uniform and protective clothing, or otherwise, as required by the Participating Authority;

5.1.16 the requirement to display photo ID badge on clothing at all times during an engagement when they are on the Participating Authority’s premises in the format required by the Participating Authority to facilitate clear identification;

5.1.17 induction and training requirements of the framework participant and any funding available form the Participating Authority;

5.1.18 fraud awareness to ensure that the Agency Worker is aware of what constitutes fraudulent behaviour and the action the Agency Worker should take if they are aware of any fraudulent behaviour taking place;
5.1.19 infection control and other policies and requirements that the Participating Authority requires to be brought to the attention of Agency Workers from time to time.

5.2 The Framework Participant shall retain on the Agency Worker’s file, in a way that cannot be altered, confirmation that the Agency Worker has received in advance of any performance of Agency Worker Services the information specified in paragraph 5.1 (in the form of a Staff Handbook or otherwise) and a signed and dated acknowledgement by the Agency Worker that the Agency Worker has read and understood and shall comply with the requirements in the performance of a Contract.

5.3 Without prejudice to the requirements of this Section (Training), where the Agency Worker has received or receives regular training from another employer, organisation or Framework Agency, the agency shall:

5.3.1 obtain from that employer, organisation or agency written confirmation of the type and extent of such training;

5.3.2 as a minimum make, in a way that cannot be altered, and retain on the Agency Worker’s file a clear copy of the original certification/documentation seen by the Framework Participant and/or of such confirmation as referred to in paragraph 5.2.1 above; and

5.3.3 provide any additional training, as may be required, to ensure that the Agency Worker complies with paragraph 5.1 above.

5.4 The Framework Participant shall keep Written records of any training undertaken by each Agency Worker in the Agency Worker’s file and, without limitation, the Framework Participant shall ensure that the following details of training are retained:

5.4.1 who provided the training;

5.4.2 the date or dates upon which the Agency Worker received the training;

5.4.3 where the training was undertaken, e.g. location or through electronic means; and

5.4.4 the extent of the training including, but not limited to, the duration of the course and its content.

5.5 The Framework Participant will, as part of the appraisal process of each Agency Worker pursuant to Section 8 (Agency Worker Appraisals and Management) below or otherwise, ensure that the Agency Worker complies with all relevant requirements of CPD.

6. Health and Immunisation

6.1 The Framework Participant shall ensure that all Agency Workers deployed have a current valid Certificate of Fitness for Employment in a form approved by the Authority following health and immunisation screening.
6.2 The Framework Participant shall at its cost ensure that prior to recruitment and annually thereafter all Agency Workers undergo comprehensive health screening conducted by a competent occupational health service in compliance with the latest SGHD guidelines regarding healthcare workers and health clearance/immunisation against infectious diseases, such occupational health service to be approved by the Authority acting reasonably.

6.3 The Framework Participant shall be responsible at all times for ensuring that its chosen occupational health service and that any contractual arrangement incorporates the following requirements:

6.3.1 the occupational health service provider shall only use people who have the necessary skills, qualifications and competencies to undertake their work;

6.3.2 there is at least one fully qualified occupational health nurse who has a recordable qualification with the Nursing and Midwifery Council as a specialist practitioner. Other nurses working for the occupational health service provider shall have the necessary skills, qualifications and competencies for their work;

6.3.3 the occupational health service provider has a formal contractual agreement with a specialist occupational health physician who will be accountable for the medical quality standards being undertaken by the occupational health service provider. This person can be referred difficult cases. The specialist occupational health physician will be eligible for inclusion in the GMC’s Specialist Register;

6.3.4 other doctors working for the occupational health service provider shall have the necessary skills, qualifications and competencies for their work. This normally means that their minimum qualification should be the Diploma in Occupational Medicine; and

6.3.5 the specialist occupational health nurse and specialist occupational health physician as referred to above, must be involved as part of their duty in the strategic management of the department and the quality assurance arrangements for the service.

6.4 The Framework Participant shall ensure that the Agency Worker will not be put forward and/or deployed in the provision of the Agency Worker Services unless the comprehensive health screening undertaken has established that the Agency Worker:

6.4.1 is capable of undertaking the duties required of him;

6.4.2 has demonstrated the required levels of immunity or received immunisation, as appropriate, in respect of the following diseases, in accordance with latest SGHD guidelines regarding healthcare workers:

   (a) HBsAb;

   (b) HBsAg;

   (c) HBcAb;
(d) Hepatitis C;
(e) tuberculosis;
(f) rubella;
(g) measles;
(h) mumps; and
(i) varicella.

6.4.3 if performing Exposure Prone Procedures, has demonstrated that the required blood tests using identified, validated samples have been conducted and appropriate negative results for the following diseases have been received:

Hepatitis B;
Hepatitis C; and
HIV

6.5 All records of an Agency Worker’s health clearance/immunity or immunisations received must be documented in the English language and be verified and signed, or stamped, by a suitably qualified clinician with relevant occupational health experience. All signatures must be legible.

6.6 The Framework Participant shall make, in a way than cannot be altered, and retain on the Agency Worker’s file along with the Certificate of Fitness for Employment clear copies of all relevant health clearance/immunisations and other health records/documentation seen by the Framework Participant.

6.7 The Participating Authority may request to see and the Framework Participant shall thereby supply clear copies of each Agency Worker's medical/health assessment certificates and/or clear copies of all vaccination/immunisation certificates or other relevant records. These certificates/records will be presented to the Participating Authority by the Framework Participant or Agency Worker, when requested. The Framework Participant shall ensure that the Agency Worker will, if requested by the Participating Authority, produce to the Participating Authority before they are involved in the provision of the Agency Worker Services, all relevant certificates or records to prove that the Agency Worker complies in all respects with these requirements.

6.8 The Framework Participant shall inform each Agency Worker of the Participating Authority's requirement for the Agency Worker to declare before each occasion on which they are deployed in the provision of the Agency Worker Services that he is fit to practice at that time and, to allow the Participating Authority to comply with its obligations, the Agency Worker shall be informed of the requirement to advise the Framework Participant of any injury or diagnosed condition which will or might be relevant to the work the Agency Worker is engaged to perform of which the Agency Worker is aware to ensure the Agency Worker is not exposed to any risk that may aggravate such condition or injury. The Framework Participant acknowledges that the Framework Participant will be required to provide an alternative Agency Worker.
if an Agency Worker cannot give this declaration truthfully. The Framework Participant shall use its reasonable endeavours to ensure that the Agency Worker shall not declare himself to be fit to practice if he is suffering from any of the following conditions: vomiting, diarrhoea or a rash.

6.9 The Framework Participant shall ensure that any female Agency Worker is aware that she should inform the Framework Participant if she is or becomes pregnant, has given birth within the previous 6 months or is breastfeeding. Where the Framework Participant is aware of such information, the Framework Participant shall advise the Participating Authority to ensure the Participating Authority can meet its obligations to the Agency Worker.

6.10 The Participating Authority may request that the Agency Worker undergoes a medical examination by the Participating Authority before any occasion on which they are involved in the provision of Agency Worker Services. The Participating Authority shall instruct the Agency Worker of the circumstances and reasons for the medical examination. The Participating Authority shall be entitled to refuse to allow the Agency Worker to be involved in the provision of Agency Worker Services unless the medical examination demonstrates that it is safe for that Agency Worker to work. The Participating Authority shall also be entitled to refuse to allow the Agency Worker to be involved in the provision of Agency Worker Services if the Agency Worker declines to be examined.

7. Performance and Complaints

7.1 The Framework Participant shall advise the Agency Worker of the need to inform the Framework Participant if the Agency Worker is under investigation by their professional body (including, but not limited to, investigations by the GMC) or is suspended from their professional register (including but not limited to, the GMC’s list of Registered Medical Practitioners’ Medical Register. If an Agency Worker reports to the Framework Participant the details of any suspension, an alert notice or any investigation, then the Framework Participant shall, in addition to any other appropriate action, immediately inform the Participating Authority and will comply with any of the Participating Authority’s policies and procedures relevant to such matters. The Framework Participant shall use all reasonable endeavours to ensure that the Agency Workers supplied by the Framework Participant will participate in the investigation of any clinical complaints either during the provision of the Agency Worker Services or subsequently. If an Agency Worker fails to participate, the Framework Participant will not deploy that Agency Worker to any other Participating Authority until such time that the matter has been fully and satisfactorily resolved.

7.2 The Framework Participant shall advise the Agency Worker of the need to inform the Framework Participant if the Agency Worker has been (or is) subject to any kind of investigation or prosecution by the police after the Scheme Record or Scheme Record Update was undertaken by the Framework Participant in accordance with the Framework Agreement. If any Agency Worker reports such an investigation or prosecution to the Framework Participant, then the Framework Participant shall, in addition to any other appropriate action, immediately inform the Participating Authority and will comply with any of the Participating Authority’s policies and procedures with regards to such matters.

7.3 Where the Framework Participant is made aware in writing by the Participating Authority or a professional regulatory body or other organisation that there are
reasonable grounds to believe that the Agency Worker may pose a threat to the safety of patients (for example, arising from events leading to the suspension or dismissal of the Agency Worker by another employer), the Framework Participant will not deploy that Agency Worker to any Participating Authority, until such time that the matter has been fully and satisfactorily resolved.

7.4 The Framework Participant shall obtain the permission of all Agency Workers for the Framework Participant to, in the interests of patient safety, share information relating to the Agency Worker deployed in the provision of the Agency Worker Services with other interested parties.

7.5 The Framework Participant shall have a procedure in place for reporting Agency Workers to their professional body where there is evidence of malpractice or unacceptably poor performance.

8. Agency Worker Appraisals and Management

8.1 The Framework Participant shall ensure that each Agency Worker is appraised annually by a medical practitioner entered on the Specialist Register on the GMC’s List of Registered Medical Practitioners. (‘Appraiser’).

8.2 The Framework Participant shall check that the Appraiser is entered on the Specialist Register on the GMC’s List of Registered Medical Practitioners. A clear copy, made in a way that cannot be altered, of such registration is to be dated and retained on the Agency Worker’s file.

8.3 The Framework Participant shall ensure that the Appraiser has documentary evidence to demonstrate that he has been appropriately trained in the conduct of appraisals, and has been regularly re-trained as appropriate.

8.4 The Framework Participant must supply to a Participating Authority before the Agency Worker is deployed to provide the Agency Worker Services, confirmation that the Agency Worker has undergone an annual appraisal within an ‘approved NHS appraisal system’, which includes 360 degree feedback as well as feedback from patients.

8.5 In addition to any other requirements, the Framework Participant shall check and record the performance of any newly-qualified Agency Worker or any Agency Worker returning to employment or any Agency Worker newly-employed or engaged by the Framework Participant twice in the first 3 months of their first deployment to provide the Agency Worker Services (whereby the first is immediately following their first deployment to provide the Agency Worker Services and the second is at the end of that 3 month period) and then thereafter on an annual basis.

8.6 Information regarding the performance of the Agency Worker where he has provided the Agency Worker Services should be made available to the Appraiser. If the Framework Participant has any concerns about the performance of the Agency Worker, the Framework Participant will not deploy that Agency Worker to any other Participating Authority until such time that the concerns about the performance of the Agency Worker have been fully investigated and resolved. The Agency Worker should not have an appraisal until the investigation is completed and resolved.
8.7 The Framework Participant shall promptly inform each Agency Worker of any changes in any Agency Worker's agreed rates of pay and of any information relating to infection control, outbreak of viruses and all other pertinent matters. The Framework Participant shall also circulate to each Agency Worker any information which any Participating Authority requires to be so circulated.

8.8 The Framework Participant shall ensure that each Agency Worker maintains a written portfolio of his professional experience and attendance at professional development courses, which should also include a Written and agreed ‘Personal Development Plan’ as agreed at the appraisal.

8.9 The Supplier shall ensure that medical locums are able to be appraised and suitable to be revalidated in the profession in line with the Medical Profession (Responsible Officers) Regulations 2010.

9. Framework Participant Records

9.1 The Framework Participant shall:

9.1.1 maintain an alphabetical index of all Agency Workers together with their full name, National Insurance Number, GMC registration number, signature, full permanent address, date of birth and current contact details;

9.1.2 assign each Agency Worker with an individual serial number and assign an individual serial number to each Participating Authority to which the Agency Worker is supplied in the provision of the Agency Worker Services;

9.1.3 maintain cross-referenced records showing which Agency Workers were assigned to which Participating Authority and during which dates and times;

9.1.4 maintain Agency Worker files detailing the agency Worker Information specified in Annex 3, (qualifications Certificate of Fitness for Employment, medical/health certificates and copies of vaccination/immunisation certificates, Scheme Record or Scheme Record Update, IELTS certificate if relevant, work permit, training completed, CPD and appraisal record, recruitment details (including references) current professional body registration if applicable).

9.1.5 obtain a signed statement from each Agency Worker in a form approved by the Authority acknowledging the importance of patient confidentiality that the Agency Worker has been instructed regarding the NHS confidentiality policy and that breach of the policy is a serious disciplinary matter that may result in dismissal.

9.1.6 obtain a declaration from the agency Worker that the Agency Worker has made arrangements to remain on the licence to practice register of the GMC.

9.1.7 obtain a declaration from the Agency Worker that he/she has made formal arrangements to be appraised regularly by a medical practitioner in line with the process detailed in paragraph 8 above.

9.1.8 maintain financial records including the records of all expenditure undertaken by the Framework Participant in relation to the Services,
counterfoils or copies of all receipts in relation to the Services, tax, ENIC and WTR payment details relating to each Agency Worker;

9.1.9 record and retain particulars of any complaints made against the Framework Participant or against any Agency Worker and of the action taken to resolve the complaint and to prevent its recurrence;

9.1.10 record and retain details of any incidents of abuse or suspected abuse either against or by an Agency Worker, and any action taken as a result;

9.1.11 maintain records relating to the operation of the Quality Assurance System.

9.2 All Records shall be kept in a secure environment and be reasonably accessible at all times.
SCHEDULE PART 2

RECRUITMENT REQUIREMENTS

1. Processes and Procedures

1.1 The Framework Participant shall operate clear and written processes and procedures for the recruitment and selection of all Agency Workers which meet all Legal Requirements including that relating to equal opportunities and anti-discrimination practice.

1.2 The Framework Participant shall make use of Good Industry Practice in the recruitment and employment of Agency Workers to be supplied in the provision of Agency Worker Services and as a minimum comply at all times with all SGHD guidelines on safer recruitment, pre-employment screening and Codes of Practice for the recruitment, including international recruitment, and employment of temporary staff in the NHS, as amended, supplemented or replaced during the Framework Agreement Period.

1.3 The Framework Participant shall ensure that all necessary and appropriate checks are undertaken on an Agency Worker prior to that Agency Worker being offered for deployment or deployed in the provision of the Agency Worker Services.

1.4 The Framework Participant shall not offer for deployment or deploy any Agency Worker in the provision of Agency Worker Services if they have failed any such checks.

2. Interview

2.1 The Framework Participant shall undertake individual face-to-face interviews of the Agency Worker prior to the Agency Worker being deployed in the provision of Agency Worker Services and ensure that its recruitment and selection policies and procedures are operated so that questions relevant to the anticipated work of the Agency Worker in the provision of Agency Worker Services are asked during that interview. The Framework Participant’s selection of the Agency Worker must be based on merit.

2.2 Prior to interviewing an Agency Worker, the Framework Participant must ensure that the Agency Worker has completed an application form that meets with Good Industry Practice and requests full details of that Agency Worker’s previous continuous employment history. Where the previous employment history is not continuous or shows gaps of 3 months or more, the Framework Participant must question the Agency Worker to establish the reasons for such gaps and document these reasons within the Agency Worker’s file.

2.3 The Framework Participant shall undertake the individual face-to-face interviews referred to paragraph 2.1 above in a location that is secure and private.
2.4 In the case of an overseas Agency Worker, if an initial interview is conducted by telephone or videoconference, a face-to-face interview must be held by the Framework Participant after the Agency Worker has arrived in the United Kingdom and prior to the Agency Worker being deployed in the provision of Agency Worker Services.

2.5 The Framework Participant shall use only suitably trained, experienced and competent personnel to conduct face-to-face interviews.

2.6 In all cases the interviewer is to be suitably trained, experienced and competent in conducting face-to-face interviews and to ask questions of the Agency Worker regarding relevant experience and in all matters referred to in this Schedule Part 2 (Recruitment Requirements). The interviewer shall have relevant qualifications and/or relevant experience or training in interviewing techniques and shall be able to assess, select and place the Agency Worker in the provision of the Agency Worker Services according to their qualifications, competencies, experience, training, skills and compliance with the Terms and any Contract.

2.7 All Agency Workers must be able to demonstrate their clinical competence, qualifications, skills, training to meet the Grade for which it is intended to deploy the Agency Worker.

3. Information Required in Respect of Agency Workers

3.1 The Framework Participant must ensure that for each Agency Worker it obtains and verifies at recruitment and prior to the Agency Worker being deployed in the provision of the Agency Worker Services, the information set out in Annex No. 3 (Agency Worker Information), and that such information is thereafter updated, monitored and/or reassessed as necessary and as prescribed herein.

3.2 The objective of the Framework Participant itself obtaining and verifying this information is to ensure that the Framework Participant relates the information provided by the Agency Worker to that person and is used by the Framework Participant to determine that the Agency Worker’s identity is genuine, relates to a real and living person and establishes that the individual is rightfully using that information.

3.3 Without prejudice to any restrictions that may be imposed by other provisions of the Framework Agreement, the Framework Participant shall not deploy the Agency Worker in the provision of the Agency Worker Services where the Framework Participant is aware of any adverse information which would have a material impact on either the appropriateness of the Agency Worker’s involvement in the provision of the Agency Worker Services or their ability to perform the Agency Worker Services.

3.4 The information relating to each Agency Worker must be retained by the Framework Participant on the Agency Worker’s file, recording the information in such a way that cannot be altered, in the English language and to enable audit of the same as provided for under Clause 7 of the Framework Agreement.

3.5 In the case of an overseas Agency Worker, where the information relating that Agency Worker is obtained in a language other than English, the Framework Participant must ensure that such information is officially translated (at the Framework Participant’s expense) into the English language.
3.6 For Agency Workers who are not British citizens or EC nationals and have not been granted permanent residency in the UK, the Framework Participant shall retain a copy of the right to work permit within the Agency Worker’s file.

3.7 The Framework Participant shall obtain the permission of the Agency Worker to verify all information relating to that Agency Worker as required by the Terms and in the interests of patient safety. If an Agency Worker fails to provide such permission, the Framework Participant will not deploy that Agency Worker in the provision of the Agency Worker Services to any Participating Authority.

4. Rehabilitation of Offenders Act and Disclosure Scotland Checks

4.1 By reason of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) Order 2003, the provisions of Section 4(2) and paragraph (b) of Section 4(3) of the Rehabilitation of Offenders Act 1974 do not apply to persons whose deployment is concerned with the provision of health services and which would enable such persons to have access to patients in the course of their normal duties, and accordingly the Framework Participant shall question any person proposed to be deployed or seeking to be deployed by the Framework Participant in the provision of the Services concerning his or her previous convictions for offences of any description and shall not without prior written approval of the Participating Authority, deploy any such person who discloses any previous conviction(s).

4.2 All Agency Workers must be members of the PVG Scheme relevant to the work to be carried out by that Agency Worker. Prior to any deployment of an Agency Worker to a Participating Authority, the Framework Participant shall itself ensure that either it has obtained a Scheme Record or Scheme Record Update appropriate to the work to be carried out by the Agency Worker from Disclosure Scotland within the previous twelve months and no Agency Worker shall be deployed where a Scheme Record or Scheme Record Update is not available or where there is any qualification to or matter disclosed in the relevant Record without the consent of the Participating Authority following full disclosure to the Participating Authority. Where a Scheme Record Update states that the Scheme Record or previous Update contained vetting information the Framework Participant shall obtain from Disclosure Scotland the Scheme Record and any previous Scheme Record Update that disclosed vetting information. The Framework Participant shall obtain the consent of the Agency Worker to full disclosure of the Scheme Record and Scheme Record Update to Participating Authorities.

4.3 For overseas Agency Workers who have entered the United Kingdom and/or become resident in the United Kingdom (either temporarily or permanently) within the 6 month period immediately prior to recruitment by the Framework Participant and prior to the deployment of the Agency Worker on any engagement to a Participating Authority, the Framework Participant shall ensure that the Agency Worker has a satisfactory police check from their country of origin that is no more than 3 calendar months old, showing no relevant criminal conduct at the point of recruitment of the Agency Worker by the Framework Participant and that has been validated by the Framework Participant with the originator and that an appropriate Scheme Record or Scheme Record Update is available.
SCHEDULE PART 3

PLACEMENT DETAILS

1. **Items to be Provided to Participating Authorities**

1.1 The Framework Participant shall if required to do so provide the Participating Authority with:

1.1.1 completed Agency Worker Information (in the form set out in Annex No. 3 or any alternate Good Industry Practice form agreed in writing between the Participating Authority and the Framework Participant) for each proposed Agency Worker;

1.1.2 the full curriculum vitae of each proposed Agency Worker; and

1.1.3 clear copies of any of the associated verified documentation requested by the Participating Authority and retained by the Framework Participant on the Agency Worker’s file to validate the information provided by the Framework Participant in accordance with paragraph 1.1.1 above and/or any of the other pre-employment screening checks required by the Terms; prior to any of the proposed Agency Workers being deployed in the provision of the Agency Worker Services.

1.2 Where necessary, the requirements of paragraph 1.1 above can be performed electronically, as agreed with the Participating Authority.

1.3 The Framework Participant shall use all reasonable endeavours to ensure that the Agency Worker wears his photo ID badge at all times whilst working on the Participating Authority’s premises, or otherwise carrying out duties for the Participating Authority under a Contract. In addition, and with reasonable notice given to the Framework Participant, the Participating Authority may require that each Agency Worker must on arrival at the Participating Authority’s premises and before they are involved in the provision of the Agency Worker Services, produce a copy of his health clearance/immunisation/vaccination record and/or blood tests results as referred to in Schedule1 section 6 for inspection by the Participating Authority.

2. **Agency Worker Identification and ID Badge**

2.1 The Framework Participant will inform each Agency Worker of the person within the Participating Authority to whom he should report to on arrival at the Participating Authority’s premises. The Framework Participant shall use all reasonable endeavours to ensure that on arrival at the Participating Authority premises, the Agency Worker produces the original of the Agency Worker’s passport or United Kingdom photo card driving licence and his photo ID badge to facilitate clear identification of that Agency Worker prior to being involved in the provision of the Agency Worker Services on the Participating Authority’s premises.
2.2 The Framework Participant shall ensure that Agency Workers who are not British citizens or EC nationals and who have not been granted permanent resident status in the United Kingdom have received the necessary UK Border Agency permission to work within the United Kingdom. The Framework Participant will make available on request from the Participating Authority or any person authorised by the Participating Authority and/or the Authority the relevant evidence as to the Agency Worker’s UK Border Agency or Home Office provided right to work status and permission to take employment, including the Agency Worker’s work permit number.
SCHEDULE: PART 4

QUALITY ASSURANCE AND CONTRACT MONITORING

1. **Quality Assurance**

1.1 The Framework Participant shall operate a written quality assurance system ("the Quality Assurance System") and shall operate its day to day procedures and practices in respect of the Quality Assurance System and in accordance with paragraph 1.2 below.

1.2 The Quality Assurance System shall contain procedures and practices:

1.2.1 to ensure that Agency Workers supplied (or to be supplied) in the provision of the Agency Worker Services under a Contract are aware of the standard of performance that the Framework Participant is obliged to provide under the Framework Agreement and the Contract and that the Agency Workers are able to meet that required standard;

1.2.2 for regularly monitoring the performance and conduct of individual Agency Workers in the provision of the Agency Worker Services with the Participating Authority including, but not limited to, requesting from the Participating Authority views and feedback on the individual performance, conduct, performance and abilities and quality of each Agency Worker and for this purpose, the Framework Participant may use end of placement assessment reports;

1.2.3 for providing regular feedback to each Agency Worker on their individual performance and conduct (including, but not limited to, feedback resulting from the information obtained under paragraph 1.2.2 above) and immediate feedback where complaints or reports of poor performance or conduct are received;

1.2.4 to promptly and efficiently receive, acknowledge, investigate and resolve complaints of poor performance or misconduct in respect of an individual Agency Worker or the Framework Participant and to keep a full Written record of the nature of each complaint and details of the action taken as a result of the complaint;

1.2.5 to monitor the performance of the Framework Participant in the provision of the Services, including maintaining a system to analyse and identify any pattern of complaints and to ensure recruitment, training, appraisal, contract management and record keeping is carried out in accordance with the Terms;

1.2.6 for regularly consulting with the Authority and the Participating Authority to seek to obtain on the quality of the Services provided by the Framework Participant;

1.2.7 to analyse and identify any patterns of complaints; and
1.2.8 for reporting of complaints to relevant professional bodies.

2. **Contract Monitoring**

2.1 The Framework Participant shall, if requested by the Authority or a Participating Authority in Writing, attend a monitoring meeting at the Authority’s or Participating Authority’s premises to monitor and assess the Framework Participant’s performance of the Services and the Framework Participant shall answer such questions regarding the performance of the Services as the Participating Authority may reasonably require. The meetings shall be attended by such persons involved in the provision of the Services as the Authority or Participating Authority so shall require. The Participating Authority shall use all reasonable endeavours to provide the Framework Participant with not less than 10 working days notice of the meeting but in exceptional circumstances the Participating Authority reserves the right to give the Framework Participant not less than 3 working days notice of the meeting.

2.2 The Framework Participant shall ensure that the following information in respect of each Contract Quarter is provided to the Authority or Participating Authority on request. The following list is not exhaustive and may be subject to variation, addition and enhancement by the Participating Authority:

   2.2.1 number of requests for Agency Worker Services from the Participating Authority(ies) (and lead time to booking);
   2.2.2 number of Contracts made with the Participating Authority(ies), per speciality and grade of Agency Worker;
   2.2.3 notice period provided in Orders by Participating Authority;
   2.2.4 number of Orders fulfilled and percentage of the Framework Participant’s Booking Proposals that result in fulfilment of Orders;
   2.2.5 number and percentage of Orders for which no Booking Proposal was made;
   2.2.6 number of cancellations by grade of Agency Worker;
   2.2.7 comparison of grade, skills and experience of Agency Worker requested by the Participating Authority to grade, skills and experience of Agency Worker proposed by the Framework Participant and accepted;
   2.2.8 cost by grade and speciality;
   2.2.9 duration of each booking-placement;
   2.2.10 number of complaints received in respect of Agency Worker Services or Agency Services;
   2.2.11 All Data and/or information and records retained by the Framework Participant in accordance with Schedule Part 1 as the Authority or Participating Authority may require.

2.3 Any variation to the Services arising from any review meeting, monitoring meeting or evaluation and review conducted in accordance with these provisions shall be
recorded in Writing and agreed in accordance with the Framework Agreement.
SCHEDULE: PART 5

INVOICE PROCEDURES

1.1 Invoices showing the sums due from the Participating Authority to the Framework Participant for the provision of the Services shall be regularly rendered on the Framework Participant’s own invoice form to the Participating Authority. The Framework Participant shall submit an invoice for the Services provided to the Participating Authority within 30 days of their provision, unless a different period is agreed in writing with the Participating Authority. Individual Invoices shall be submitted and accompanied by a clear copy or copies of the Authorised Timesheet unless specifically agreed to the contrary in writing with the Participating Authority.

1.2 The Framework Participant shall submit invoices to the Participating Authority in accordance with the following:

1.2.1 Framework Participant’s official company name (and/or logo), invoicing address and contact details for invoicing queries;

1.2.2 invoice date;

1.2.3 sequential invoice numbering (with any re-issued invoices submitted in accordance with paragraph 1.10 below);

1.2.4 purchase order number/booking reference number (as applicable);

1.2.5 Participating Authority name;

1.2.6 Agency Worker’s full name (forenames and last name as listed in the GMC’s List of Registered Medical Practitioners, as appropriate) and National Insurance Number;

1.2.7 grade and specialty of Agency Worker supplied;

1.2.8 date of each work engagement to which the invoice applies;

1.2.9 total number of hours worked by the Agency Worker (excluding meal or rest breaks);

1.2.10 Agency Worker Rate of Pay paid to the Agency Worker (£ per hour);

1.2.11 WTR payment, as appropriate, paid to the Agency Worker (£ per hour);

1.2.12 total amount paid to the Agency Worker (calculated by reference to the Agency Worker Rate of Pay), shown as an hourly rate and then multiplied by the total number of hours worked by the Agency Worker (excluding meal or rest breaks) (£);
1.2.13 ENIC, as appropriate, charged by the Framework Participant for the Agency Worker (£);

1.2.14 the Framework Participant’s Commission for the provision of the Services to the Participating Authority in respect of the administrative services associated with recruitment, on going management and supply of the Agency Worker to the Participating Authority in accordance with the Terms;

1.2.15 any additional discounts applied to the total cost of the invoice exclusive of VAT (£);

1.2.16 details of any travel expenses, other disbursements and/or accommodation payments, as agreed in Writing between the Participating Authority and the Framework Participant in advance;

1.2.17 total cost (£) of the invoice exclusive of VAT;

1.2.18 VAT (£) (charged as appropriate in accordance with HM Revenue and Customs statutory limits and guidelines), the charges being exclusive of VAT;

1.2.19 total cost of the invoice inclusive of VAT (£); and

1.2.20 payment terms in accordance with paragraphs 1.12 and 1.13 below.

1.3 The Participating Authority may request further information in addition to the requirements of paragraph 1.2 above, to be provided on the invoice.

1.4 The Framework Participant must verify the Timesheet as validly submitted by the Agency Worker further to a Contract made with that Framework Participant.

1.5 For the avoidance of doubt WTR and ENIC payments are reimbursable by the Participating Authority in accordance with Clause 4 of the Terms but are not relevant to the calculation of Commission.

1.6 Failure by the Framework Participant to provide the information as required will entitle the Participating Authority to delay payment of the total cost of the invoice including VAT until such information is provided by the Framework Participant.

1.7 Subject to paragraphs 1.6 above and 1.9 below, the Participating Authority shall pay the invoice submitted by the Framework Participant within 30 days of receipt by the Participating Authority of such a valid invoice. In the event that the Participating Authority breaches this paragraph, the Framework Participant shall be entitled to charge interest on the outstanding amount owed by the Participating Authority in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

1.8 The Participating Authority shall pay such invoice(s) by BACS (Bank Automated Clearing System) if it so chooses or any alternate means as agreed in Writing between the Participating Authority and the Framework Participant.

1.9 If there is any dispute regarding the hours claimed on an invoice or the Hourly Rate of Pay or Commission charged for the provision of the Services, the Participating Authority reserves the right to withhold payment of the disputed amount on the
invoice until such time as the matter can be resolved, provided that the Participating Authority shall first notify the Framework Participant of such a dispute within a reasonable period of time (being not more than 30 days) following receipt of the invoice by the Participating Authority and further provided that the Participating Authority and the Framework Participant shall use their reasonable endeavours to work towards a resolution of such a dispute within an agreed time frame. The Participating Authority shall use all reasonable endeavours to notify the Framework Participant of any dispute within 14 days.

1.10 Unless otherwise agreed in Writing with the Participating Authority, where an invoice is disputed in accordance with paragraphs 1.6 and/or 1.9, the Framework Participant shall immediately re-issue a revised invoice that clearly enables the Participating Authority to identify that the disputed original invoice has been re-issued and that the disputed original invoice has been cancelled or credited, as the case may be. For example, the re-issued invoice could use the same number as quoted on the original disputed invoice but be followed with the letter ‘A’, or otherwise agreed with the Participating Authority, to denote that the original disputed invoice has been re-issued.

1.11 Whenever under any Contract any sum of money shall be recoverable from or payable by the Framework Participant the same may be deducted from any sum then due or which at any time thereafter may become due to the Framework Participant under the Contract or under any other contract between the Framework Participant or other Associated Companies of the Framework Participant with the Participating Authority.

1.12 In the absence of Written agreement by the parties to a Contract to the contrary, the Commission shall be inclusive of all taxes, duties, expenses and disbursements save for VAT (if applicable) and shall include the costs of all equipment and materials including uniforms, training and equipment supplied by the Framework Participant, all travelling expenses involved and all royalties, licence fees or similar expenses in respect of the making, use or exercise by the Framework Participant of any Intellectual Property Rights for the purpose of performance of the Contract.

1.13 The Framework Participant shall ensure that all meal or rest breaks taken by the Agency Worker in the delivery of the Services are accounted for in the Authorised Timesheet(s) by reference to the actual time that they were physically taken by the Agency Worker. In addition:

1.13.1 the Agency Worker will agree locally with the Participating Authority when any meal or rest breaks shall occur. Where there is no such agreement, the Framework Participant shall use its reasonable endeavours to ensure that the Agency Worker takes these breaks at the mid point during any shift and not at either the start or finish of any shift;

1.13.2 the Framework Participant will inform the Agency Worker of the Participating Authority’s, the NHS CFS’s and the Authority’s requirement to account for all meal or rest breaks taken by the Agency Worker during any shift on their Authorised Timesheet(s). The Framework Participant will investigate all occurrences of non-compliance by the Agency Worker with this requirement and as the case may be, inform the Participating Authority as to the outcome of the Framework Participant’s investigation; and
1.13.3 the Framework Participant will not charge the Participating Authority for any meal or rest breaks taken by the Agency Worker during any shift worked and recorded on the Authorised Timesheet and the Participating Authority will not pay for such, unless agreed in Writing by the Participating Authority.

1.14 If the Framework Participant provides an Agency Worker of a higher grade or greater experience than the grade of Agency Worker requested by the Participating Authority, then, subject to the supply of such Agency Worker of a higher grade or with greater experience being agreed with the Participating Authority prior to such Agency Worker commencing provision of the Agency Worker Services, the Participating Authority shall pay the Agency Worker Rate of Pay, WTR and ENIC applicable to the Agency Worker supplied but shall pay the Agency Fee applicable to the grade of Agency Worker originally requested. To avoid doubt, VAT shall be payable on the total amount charged in respect of supply of the Agency Worker.

1.15 Where requested and only on bookings of over 12 weeks duration, within 1 month of the end of a Contract/any period of engagement of an Agency Worker employed by the Framework Participant and supplied to the Participating Authority, the Framework Participant shall in respect of that Agency Worker and that engagement, provide to the Participating Authority full details of:-

1.15.1 the Agency Worker Rate of Pay applicable

1.15.2 the total amount of WTR payments charged to the Participating Authority;

1.15.3 any holiday taken by that Agency Worker during the term of the engagement; and

1.15.4 the total remuneration paid to that Agency Worker during the term of the engagement to the Participating Authority.

1.16 If the total amount of the WTR payments paid to the Framework Participant in respect of any Agency Worker during any engagement exceeds the amount payable to the Agency Worker (whether by the Framework Participant or otherwise) under Regulation 16 of the Working Time Regulations 1998 then the Framework Participant shall within 14 days of a request by the Participating Authority reimburse such excess by cheque made payable to the Participating Authority or as otherwise agreed.

1.17 The Framework Participant shall Pay ENIC as appropriate and will monitor and provide guidance to any limited companies that supply Agency Workers through the Framework Participant to a Participating Authority, so that they are able to meet their respective ENIC and WTR payment obligations.

1.18 In the case of timesheets completed by the Agency Worker through electronic means, a secure authorisation process must be used at all times. Where necessary, the Participating Authority may require that any electronically completed timesheets, and copies thereof, be printed and confirmed manually i.e., by hand.

1.19 It shall be the responsibility of the Framework Participant to obtain the following information on each timesheet (to create an “Authorised Timesheet”) to demonstrate and confirm that the Services were provided by the Agency Worker deployed:
1.19.1 printed name of the Authorised Signatory;

1.19.2 position of the Authorised Signatory;

1.19.3 signature of the Authorised Signatory;

1.19.4 date the timesheet has been authorised by the Authorised Signatory (and cost centre stamp, if required by the Participating Authority); and

1.19.5 details of Framework Participant, Booking Reference and date of work;

1.19.6 Participating Authority and Location;

1.19.7 details of Agency Worker (name, address, grade & speciality) and hours worked including start and finish times and times of breaks;

1.19.8 counter fraud declaration.

1.19.9 Compliance with key timesheet principles contained in (annex 5)

1.20 Where the requirements of paragraph 1.19 above have not been satisfied, or a signature has not been obtained from the Agency Worker, or where the Authorised Timesheet is otherwise incomplete or illegible, then an invoice in respect of the Services provided by that Agency Worker shall not be submitted by the Framework Participant to the Participating Authority until such time that such requirements have been met or unless the Framework Participant can prove through other documented means, to the reasonable satisfaction of the Participating Authority, that the Agency Worker in question worked the hours that appear on the timesheet submitted.

1.21 The Participating Authority shall use all reasonable endeavours to provide the authorised signature for each timesheet (and cost centre stamp, if required by the Participating Authority) to the Agency Worker without unreasonable delay.

Discount

Where the Participating Authority requires an Agency Worker to be supplied in the provision of the Services for a continuous period of 4 weeks or more, the Framework Participant shall offer to the Participating Authority a discount on the Agency Worker Rate of Pay and/or the commission.
ANNEX 1

CERTIFICATE OF FITNESS FOR EMPLOYMENT –STYLE FOR INFORMATION

(to be retained by the Framework Participant on the Agency Worker’s file and where requested provided to Participating Authority.

Name of Occupation Health Service (or logo)
Address
Telephone number
Email address
Website address

Confidential

Date

To: Framework Participant’s named representative

| Re: | Agency Worker’s full name (forename and surname), e.g. John Doe Smith |
| Date of Birth | DD/MM/YYYY |
| GMC registration no. | 0000000 |

Post applied for

The above named applicant has undergone comprehensive health screening/assessment for the above post in accordance with latest SGHD guidelines regarding healthcare workers and health clearance/immunisation against infectious diseases and is hereby certified as being:

- [ ] fit for employment for the proposed post.
- [ ] Cleared to perform EPP? (*delete as appropriate) Yes / No / Not Applicable

- [ ] fit for employment for the proposed post, with the following restrictions:
not fit for employment for the proposed post.

named applicant should contact the occupational health service.

The above named applicant’s health assessment/clearance review date is: DD/MM/YYYY

A record of the comprehensive health screening/assessment undertaken and results, as appropriate, is attached.

Certificate of Fitness for Employment

<table>
<thead>
<tr>
<th>Forename(s)</th>
<th>John Doe</th>
<th>Surname</th>
<th>Smith</th>
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<tr>
<td>Date of Birth</td>
<td>DD/MM/YYYY</td>
<td>NMC Registration number</td>
<td>0000000</td>
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<tr>
<td>Post applied for</td>
<td>Consultant in Surgical</td>
<td>Employer’s name</td>
<td>Name of Framework Participant</td>
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Record of comprehensive health screening/assessment undertaken and results

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<tr>
<th>Date of Serology Test</th>
<th>Level</th>
<th>IVS</th>
<th>Recheck Date</th>
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<td><strong>Varicella</strong></td>
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* to be completed as appropriate for applicants identified as performing Exposure Prone Procedures.

**TB skin test:**

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<th>X-Ray result</th>
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**BCG:**

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<th>Date</th>
<th>Scar present?</th>
<th>Yes / No</th>
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**Clearance to perform Exposure Prone Procedures?** (*delete as appropriate) Yes / No / Not Applicable

If you require further information or advice, please contact the occupational health service. This certificate is to be kept safe and secure.

This Certificate of Fitness for Employment has been provided by:

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<tr>
<th>Name</th>
<th>Position</th>
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<td>Signature</td>
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<td>Qualification</td>
<td>GMC/PIN no.</td>
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ANNEX 2

REFERENCES

Structured Reference Style for information

<table>
<thead>
<tr>
<th>Company name (or logo)</th>
<th>Address</th>
<th>Telephone</th>
<th>Email</th>
<th>Website</th>
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Name of Identified Referee

Business address

Date

To: Name of Identified Referee

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<th>Re:</th>
<th>Agency Worker’s full name</th>
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<tr>
<th>GMC registration no.</th>
<th>Position applied for:</th>
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Your name has been provided by the applicant named above, who has applied to <insert Framework Participant’s name> to be supplied in the position identified above. We would be grateful if you would reply to the following questions regarding this applicant and provide in confidence any information which you are able to/aware regarding his/her character and suitability to the perform the role and associated duties of the position applied for.

Please provide the following information regarding the applicant named above:

1. How long did the named applicant work for/with you or under your supervision and in what capacity, i.e. clinical position/grade and specialty?

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</table>

2. Please state the nature and depth of your acquaintance to the named applicant?


3. Do you believe the named applicant to be honest, conscientious and discreet? If no, please provide further details below. Please tick the appropriate box.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4. General performance of the named applicant:

<table>
<thead>
<tr>
<th>Please ✔ as appropriate, providing additional comments in support of the statements made</th>
<th>Unable to comment</th>
<th>Poor</th>
<th>Satisfactory</th>
<th>Good</th>
<th>Very Good</th>
<th>Excellent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clinical skills demonstrated in line with the requirements of the position</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Relationships with patients, other healthcare workers and the public</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Timekeeping and management of workload</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Patient records and other records management</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Reliability</td>
<td></td>
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<td></td>
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<tr>
<td>Communication skills</td>
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<tr>
<td>Supervisory skills</td>
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<tr>
<td>Organisational ability</td>
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<td></td>
</tr>
<tr>
<td>Sickness/absence record</td>
<td></td>
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</tr>
<tr>
<td>Additional comments in support of the statements made</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

5. Do you know of any factors concerning the named applicant which might cause his/her fitness for employment or reasons why the named applicant should not work in a clinical environment? If yes, please provide details below. Please tick the appropriate box.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

6. Are you aware of any criminal conviction(s) relating to the named applicant? If yes, please provide details below. Please tick the appropriate box.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

7. Have you had any reasons to instigate disciplinary action against the named applicant? If yes, please provide details below. Please tick the appropriate box.

| Yes | No |
8. Has the named applicant been or is currently the subject of any proceedings by an appropriate licensing or regulatory body in the United Kingdom or any other country? If yes, please provide details below. Please tick the appropriate box.

| Yes | No |

9. Do you consider the named applicant suitable for the position identified above? If no, please provide further details below. Please tick the appropriate box.

| Yes | No |

10. Would you re-employ the named applicant? If no, please provide further details below. Please tick the appropriate box.

| Yes | No |

11. Please provide any further information which is relevant to above named applicant’s application to be supplied as a locum in the position identified above?

In order to protect the public, the post for which the application is being made is exempt from Section 4 (2) of the Rehabilitation of Offenders Act 1974 by virtue of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003. It is not therefore in any way contrary to the Act to reveal any information you may have concerning convictions which would otherwise be considered as ‘spent’ in relation to this application and which you consider relevant to the applicant’s suitability for employment. Any such information will be kept in strictest confidence and used only in consideration of the suitability of this applicant for a position where such an exemption is appropriate.
Reference Request completed by:

<table>
<thead>
<tr>
<th>Referee name</th>
<th>Name of Identified Referee</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature</td>
<td>Date</td>
<td>DD/MM/YYYY</td>
</tr>
<tr>
<td>Tel. no</td>
<td>Email</td>
<td></td>
</tr>
<tr>
<td>Organisation name</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Organisation address</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ANNEX 3

AGENCY WORKER INFORMATION

1. The required information in connection with the recruitment of each Agency Worker is:

1.1 the Agency Worker’s full name (forenames and last name) as listed in the GMC’s List of Registered Medical Practitioners and National Insurance Number;

1.2 the Agency Worker’s full permanent address and other current contact details, e.g. home and mobile telephone number etc;

1.3 the Agency Worker’s full date of birth;

1.4 the Agency Worker’s signature;

1.4.1 in the case of an application form completed by electronic means, the Agency Worker shall be required to provide their signature at the face to face interview conducted by the Framework Participant;

1.5 details of the Agency Worker’s current next of kin, together with an active emergency contact telephone number;

1.6 verified personal identification and a recent clear photograph:

1.6.1 the Framework Participant must itself have seen the original of the Agency Worker’s United Kingdom or EU or other nationality passport; or United Kingdom photo card driving licence; or the original (or a clear copy certified by a solicitor) of their full birth certificate; and

1.6.2 the Framework Participant shall as appropriate make, in a way that cannot be altered, and retain on the Agency Worker’s file a clear copy of the original documentation seen by the Framework Participant, of the following:

(a) the front cover; and

(b) any pages giving personal details of the Agency Worker; and

(c) the date showing that the document is still valid; and

(d) the page with a clear photograph of the Agency Worker; and

(e) the page which shows the signature of the Agency Worker;

1.6.3 where the Framework Participant itself has not seen the original of the Agency Worker’s United Kingdom or EU or other nationality passport or United Kingdom photo card driving licence, the Framework Participant must have seen a recent clear passport sized photograph of the Agency Worker that has been endorsed on the back with the signature of a Person of Standing in the individual’s community who has known the Agency Worker
for at least 3 years. The clear photograph should be accompanied by a signed statement from the Person of Standing indicating the period of time that the Agency Worker has been known to them. The Framework Participant should check the statement to ensure that the signature matches the one on the back of the photograph and that it contains a legible name, address and telephone number. The Framework Participant must then contact the signatory to verify that he did, in fact, write the statement;

1.7 a current statement of good general health in accordance with paragraph 3.3 of the Agency Worker Requirements and a Certificate of Fitness for Employment (in the form set out in Annex 1 or other appropriate form) to perform the specific duties required of them in the provision of the Agency Worker Services from an NHS provided occupational health service or other competent occupational health service;

1.8 details of the Agency Worker's required level of immunity or immunisations received, as appropriate, and blood test results using identified, validated samples as referred to in Section 3 (Health and Immunisation) of the Agency Worker Requirements;

1.8.1 the Framework Participant shall, in a way that cannot be altered, and retain on the Agency Worker's file clear copies of the documentation seen by the Framework Participant;

1.9 a full curriculum vitae ("CV") that details as a minimum the Agency Worker’s previous 10 years’ continuous employment history (if any and as appropriate) including, but not limited to, any previous or current employment or engagements with other recruitment agencies and explanations for any gaps in employment of more than 3 months and evidence of all previous, relevant training undertaken;

1.9.1 the Framework Participant must ensure that the Agency Worker’s CV is updated every 12 months;

1.10 verified achievement of all registerable and additional higher educational or professional qualifications:

1.10.1 the Framework Participant itself must have seen the original of such certificates; and

1.10.2 a clear copy, made in a way that cannot be altered, of the certification seen by the Framework Participant is to be retained on the Agency Worker’s file;

1.11 details of valid up to date registration and/or memberships of professional bodies e.g. Royal Colleges bodies;

1.11.1 the Framework Participant itself must have seen the original of such certificates; and

1.11.2 a clear copy, made in a way that cannot be altered, of the certification seen by the Framework Participant is to be retained on the Agency Worker’s file;

1.12 GMC registration:

1.12.1 the Framework Participant must itself must have seen the Agency Worker’s original GMC certificate of registration and shall make in a way that cannot
be altered, a clear copy of the certificate and retain it on the Agency Worker’s file; and

1.12.2 thereafter, the Framework Participant must itself have seen evidence that the Agency Worker has made the necessary arrangements to remain on the GMC’s List of Registered Medical Practitioners, e.g. annual certification of registration and shall make, in a way that cannot be altered, a clear copy of such evidence and retain it on the Agency Worker’s file; and

1.12.3 prior to every placement of the Agency Worker on any engagement with a Participating Authority, the Framework Participant will check with the GMC’s List of Registered Medical Practitioners to ensure that the Agency Worker has ongoing registration with the GMC and shall make, in a way that cannot be altered, a clear copy of such registration check including the date checked and retain it on the Agency Worker’s file; and

1.12.4 for any fixed or other long term engagements of 4 weeks or more in duration, the Framework Participant must on a monthly basis itself check with the GMC’s List of Registered Medical Practitioners to ensure that the Agency Worker’s registration is ongoing and shall make, in a way that cannot be altered, a clear copy of such ongoing registration checks including the date checked and retain on the Agency Worker’s file;

1.13 a written record of the face-to-face interview conducted by the Framework Participant with the Agency Worker including (but not limited to) the date of the interview, location of where the interview was undertaken, the name of the interviewer and evidence of the questions asked and interviewers responses;

1.14 confirmation that the Agency Worker is competent in understanding and using both written and oral English, i.e. they are readily able to understand and be understood;

1.15 PLAB Test results where applicable;

1.16 verified Nationality and Immigration Status (Right to Work within the United Kingdom):

1.16.1 the Framework Participant must itself have seen the original documentation of the Agency Worker’s nationality, immigration status and eligibility to perform the type of work being offered in the provision of the Agency Worker Services within the United Kingdom; and

1.16.2 the Framework Participant must as a minimum make, in a way that cannot be altered, a clear copy of the original documentation seen by the Framework Participant and retain it on the Agency Worker’s file that complies at all times with UK Border Agency guidelines.

1.17 if necessary in respect of the work to be carried out by the Agency Worker in the provision of the Agency Worker Services, the Framework Participant shall make, in a way that cannot be altered, and retain a clear copy of the Agency Worker’s original United Kingdom photo card driving licence, or other full driving licence that legally allows the Agency Worker to drive in the United Kingdom;

1.18 the Scheme Record or Scheme Record Update;
1.18.1 the Framework Participant must have a Scheme Record or Scheme Record Update in each case appropriate to the work to be undertaken by the Agency Worker dated no more than twelve months prior to the deployment of that Agency Worker;

1.18.2 where a Scheme Record Update states that the Scheme Record or previous Update contained vetting information a copy of the Scheme Record and any Update that disclosed vetting information must be obtained in addition to the most recent Scheme Record Update;

1.18.3 where the Agency Worker has entered the United Kingdom and/or become resident in the United Kingdom (either temporarily or permanently) within the previous 6 month period immediately prior to recruitment by the Framework Participant, the Framework Participant must ensure that in addition to paragraph 1.17.1 above, that a police check has been undertaken within the previous 3 month period from the date of recruitment with the Agency Worker’s country of origin and is verified with the originator, a clear copy, made in a way that cannot be altered, of which to be retained on the Agency Worker’s file;

1.18.4 the Framework Participant itself must retain on the Agency Worker’s file in a way that cannot be altered a record of the Scheme Record or Scheme Record Update.

1.19 employer’s references:

1.19.1 the Framework Participant shall itself ensure that all employer’s references obtained:

(a) are professionally based, i.e. are not personal references;

(b) are relevant to the type of work either previously carried out or to be carried out by the Agency Worker in the provision of the Agency Worker Services under a Contract; and

(c) be in the form as set out in Annex No. 2 (Structured Reference) as amended, supplemented or replaced from time to time, or other Good Industry Practice standardised form for employer references that satisfies the requirements described in this paragraph and helps identify relevant information and minimises the effort involved to prompt a quick response from the identified named referee;

1.19.2 the Framework Participant shall itself, as a minimum, obtain 2 employer’s references at recruitment, one from each of the most recent engagements of two weeks or more in duration held by the Agency Worker. Each employer’s reference must:

(a) comment on the work undertaken by the Agency Worker and experience, integrity, professional competence, personal qualities and track record of the Agency Worker during the engagement; and

(b) be obtained from the employer’s business address of the identified named referee; and

(c) be provided from the clinical line manager or supervising consultant
of the Agency Worker during the engagement or in the case of Agency Workers that are placed on engagements with a Participating Authority as either Consultants or Associate Specialists, be obtained from the Clinical Director or Head of Department at the most recent substantive or long-term placement of four weeks or more in duration.

1.19.3 thereafter the Framework Participant shall itself, as a minimum, obtain 2 references annually from the date of recruitment and from the most recent engagements held by the Agency Worker and satisfy the requirements described in paragraph 1.18.2 above.

1.19.4 the Framework Participant shall itself ensure that all employer’s references obtained in respect of the Agency Worker are verified with the originator prior to the Agency Worker being placed in the provision of the Agency Worker Services; and

1.19.5 all employers references obtained in respect of the Agency Worker must be retained by the Framework Participant in a way that cannot be altered on the Agency Worker’s file;

1.20 information as to whether the Agency Worker is suspended from duty with any employer, organisation, Framework Participant, other recruitment agency or with the GMC.

1.20.1 the Framework Participant will advise the Participating Authority in writing in advance of the Agency Worker being involved in the provision of the Agency Worker Services, if that Agency Worker is under investigation by the GMC, or suspended from duties by another employer, organisation, Framework Participant, or other recruitment agency;

1.21 information as to whether the Agency Worker is subject to an Alert Notice;

1.22 outcome of the Agency Worker’s most recent end of placement assessment reports and any feedback from Participating Authorities;

1.23 outcome of the Agency Worker’s most recent Annual Review of Competence Progression (“ARCP”) and/or grading of any Record of In-Training Assessments (“RITAs”) obtained in the past 5 years, where applicable;

1.24 where applicable, an Ionizing Radiation Certificate the validity of which has been checked by the Framework Participant for any Agency Worker that will request, authorise or perform radiological procedures together with a declaration from the Agency Worker confirming the level, time and place of training in interpreting x-rays. The Framework Participant must itself make, in a way that cannot be altered, a clear copy of the original certificate seen by the Framework Participant and retain it on the Agency Worker’s file;

1.25 where applicable, Section 22 Mental Health Care and Treatment (Scotland) Act 2003 approval. The Framework Participant must itself make, in a way that cannot be altered, a clear copy of the original approval documentation seen by the Framework Participant and retain it on the Agency Worker’s file;

1.26 signed and dated Disclosure Scotland/Rehabilitation of Offenders Act 1974 and Fitness to Practice declaration by the Agency Worker (pursuant to Section [ ] of [ ]);
1.27 details of any adverse publicity checks that have been performed on the Agency Worker including, but not limited to, any ongoing criminal investigations, disciplinary actions either pending or undertaken by other employers, potential conflicts of interest and details of any pending or previous financial or civil actions;

1.28 details of personal Professional Indemnity Insurance held by the Agency Worker (if any);

1.29 the name and contact details of the Appraiser who has agreed to act as the Agency Worker’s Appraiser with declaration by Agency Worker that he/she has made formal arrangements to be appraised regularly and to maintain GMC registration; and

1.30 the date when the Agency Worker’s last appraisal was carried out and the date (month and year) when the next appraisal is due

1.31 Signed and dated acknowledgement by the Agency Worker that it has received, read, and understood the most recent information provided under Schedule Part 1, paragraph 5 (Training) and will fully comply with the relevant requirements.
ANNEX 4

COMPUTER ACCESS AND SECURITY

1. COMPUTER ACCESS

1.1 The Participating Authority may at its discretion authorise Agency Workers to gain access to certain computer systems and certain programs and data within those systems. All Agency Workers prior to deployment in Agency Worker Services shall be provided with a copy of this Annex 4 and advised of the importance of compliance with computer access and security procedures and that failure to comply is a serious disciplinary offence.

1.2 All persons with access to NHS computer systems MUST:-

• observe the Participating Authority's computer security instructions in respect of the proper use and protection of any password used in connection with such computer systems or any computer any floppy disk, CD ROM disk, removable hard drive or any other device for the storage and transfer of data or programs;

• not load any program into any computer via disk, typing, electronic data transfer or any other means;

• not access any other computer or bulletin board or information service (including, without limitation, the Internet) except with specific prior consent of the Participating Authority or as the case be from the Participating Authority's representative; and

• not download any files or connect any piece of computer equipment to any network or other item of computer equipment except with the prior consent of the Participating Authority or the Participating Authority's representative.

1.3 The Participating Authority shall provide copies of its written computer security policy to the Framework Participant on reasonable request.

2. SECURITY

Agency Workers and Framework Participant staff and agents may be required for interview by the Participating Authority or agents for the purposes of investigation of any security matters. Agency Workers and its staff and agents shall have the right to be accompanied by the Framework Participant's representative and to be advised or represented by any other person whose attendance at the interview is acceptable to the Participating Authority's representative and the Framework Participant's representative.
## ANNEX 5

### KEY ELEMENTS OF TIMESHEETS

<table>
<thead>
<tr>
<th>Key element</th>
<th>Reason for incorporation into timesheet</th>
</tr>
</thead>
</table>
| **Counter fraud declaration to be signed by temporary workers.**          | • The aim of this measure is to deter fraud and aid investigations and prosecutions. Temporary workers have to formally state, that the hours they have recorded on the timesheet are correct.  
• The declaration requires temporary workers to accept that they understand the consequences of providing false or misleading information, e.g. disciplinary, criminal or civil proceedings.  
• By signing the declaration, temporary workers are consenting to the release of information for the purposes of prevention, detection, and investigation of fraud.  
• The declaration assists in establishing and maintaining an anti-fraud culture.                                                                                                                                 |
| **Counter fraud declaration to be signed by an authorised signatory.**     | • The aim of this measure is to prevent and detect fraud and aid investigations and prosecutions.  
• The declaration aids the detection of fraud, in that the authorised signatory is signing to say that the hours stated on the timesheet are correct to the best of their knowledge.  
The declaration seeks to ensure that measures are taken to check that information on the timesheet is accurate and valid, thereby increasing the chance of errors and fraud being detected.  
• Having to sign the declaration will act as a useful prompt to remind authorised signatories that they have to check the hours stated on the timesheet, thereby strengthening the control environment.  
• Acts as deterrence against collusion.  
• By signing the declaration, the individual is consenting to the release of information for the purposes of prevention, detection and investigation of fraud.  
• The declaration clearly informs the authorised signatory of the consequences of knowingly providing false information, e.g. disciplinary, criminal or civil proceedings.  
• The declaration will assist in establishing and maintaining an anti-fraud culture.                                                                                                                                 |
| **Inclusion of NHS Fraud Reporting Line details:** 0800 15 18 280           | • Assists in the detection of fraud and in establishing and maintaining an anti-fraud culture.  
• Encourages staff to report any concerns of fraud or to the NHS Counter Fraud Services.                                                                                                                                                              |
| **Timesheets should be selfcarbonated.**                                   | • Facilitates record keeping.  
• Assists in identifying fraudulently amended timesheets post-authorisation.                                                                                                                                                                      |
<table>
<thead>
<tr>
<th>Key element</th>
<th>Reason for incorporation into timesheet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forms must state that they must be completed using black ink and block capitals.</td>
<td>• Using block capitals and black ink should make the forms legible and ensure that correct details are captured and processed.</td>
</tr>
<tr>
<td>Inclusion of a warning that ‘no correction fluid should be used on the timesheet’.</td>
<td>• Limits the opportunities available to alter timesheets fraudulently once they have been authorised.</td>
</tr>
<tr>
<td>Completed timesheets should be kept for a minimum of two years.</td>
<td>• Instances of fraud are not always detected immediately. Keeping timesheets, or scanned electronic copies, for a period of two years will aid investigations by ensuring that potential evidence is not destroyed.</td>
</tr>
<tr>
<td>Inclusion of a warning on the timesheet that ‘any incomplete or illegible timesheets will result in the form being returned to the temporary worker and a delay in payment’.</td>
<td>• Reduces the risk of error resulting in financial loss to the health body. For example, it should reduce the risk of someone misinterpreting the number of hours on a timesheet resulting in the individual being incorrectly paid.</td>
</tr>
<tr>
<td>Inclusion of a warning on the timesheet that ‘faxed and photocopied timesheets will not be accepted’.</td>
<td>• Reduces the opportunity to conceal fraudulent amendments using a copy of the original. Fraudulent amendments post-authorisation but before submission for processing would be difficult to detect on a photocopied or faxed timesheet.</td>
</tr>
<tr>
<td>Booking reference.</td>
<td>• To aid accounting procedures and reduce the opportunity for fraud by ensuring that shifts have been pre-booked.</td>
</tr>
<tr>
<td>Warning that ‘any alterations or corrections made on the timesheet by the temporary worker must be initialled by the authorised signatory’.</td>
<td>• To prevent timesheet entries being fraudulently modified after having been approved and encourage further checks to be conducted when alterations are not initialled.</td>
</tr>
<tr>
<td>Authorised signatory to sign after each shift worked.</td>
<td>• Temporary workers may work in different locations, requiring a different authorised signatory to confirm hours worked. Prevents authorised signatories signing for periods of work they are personally unable to account for.</td>
</tr>
<tr>
<td>Time of hours worked in 24 hour format.</td>
<td>• 24 hour clock format should be used to ensure that it is clear what time of day or night shifts start and finish.</td>
</tr>
<tr>
<td>Time worked written in longhand.</td>
<td>• Reduces the opportunity for error or fraud by ensuring confirmation of the hours being claimed for.</td>
</tr>
</tbody>
</table>
| Break Time recorded and deducted from hours worked                        | • Confirms staff are taking rest breaks which are not paid for by employer  
• Actual hours worked clearly defined                                             |
# FOR COMPLETION BY TEMPORARY WORKER

Please complete one timesheet for each ward worked using black pen and block capitals as per example.

<table>
<thead>
<tr>
<th>Foresname(s):</th>
<th>Surname:</th>
</tr>
</thead>
<tbody>
<tr>
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<table>
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<tr>
<th>Specialty:</th>
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<table>
<thead>
<tr>
<th>Trust:</th>
</tr>
</thead>
<tbody>
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<td></td>
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</table>

<table>
<thead>
<tr>
<th>Hospital/Location:</th>
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<table>
<thead>
<tr>
<th>Ward/Department:</th>
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</table>

### Booking reference | Shift date | Shift start time (24 hours) | Shift end time (24 hours) | Less total break time (hours/minutes) | Total hours worked (hours/minutes) |
<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>9900123</td>
<td>10/06/04</td>
<td>09:00</td>
<td>18:30 01 20 09:10</td>
<td>EIGHT HOURS AND TEN MINUTES</td>
<td></td>
</tr>
</tbody>
</table>

Total hours worked in long hand

### Copies: GREEN/NHS health body - WHITE/Temporary worker - BLUE/Supplier

<table>
<thead>
<tr>
<th>Supplier company name and/or logo</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suppliers company address</td>
</tr>
</tbody>
</table>

### FOR COMPLETION BY THE AUTHORISED WARD/DEPARTMENT SIGNATORY

I am an authorised signatory for my Health Board. I confirm that the grading, and the shift and rest hours are accurate. I have read and understood the information that may result in disciplinary action and may be liable for prosecution and civil recovery proceedings. I consent to the disclosure of information from this form to the Health Board and the NHS Counter Fraud Services for the purpose of verification of this claim and the investigation, prevention, detection and prosecution of fraud.

<table>
<thead>
<tr>
<th>Grade Worked</th>
<th>Initial (s) and surname of Authoriser</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A J Smith</td>
</tr>
<tr>
<td></td>
<td>10/06/04</td>
</tr>
</tbody>
</table>

Total hours worked in long hand

Authorized Signature  Date  
Authorized Signature  Date  
Authorized Signature  Date  
Authorized Signature  Date  
Authorized Signature  Date  
Authorized Signature  Date  
Authorized Signature  Date  
Authorized Signature  Date  
Authorized Signature  Date  

Any questionable time sheet must be brought immediately to the attention of Counter Fraud Services, you may report any cases of fraud in confidence to the Counter Fraud Services hotline on 0800 30 10 10 20

Temporary Worker Signature  Date