

Schedule 1

Terms and Conditions

1 Term

The contract period will be as stated in the quotation unless cancelled in writing by either party giving two (2) months notice in advance. ("**the Term**") unless terminated earlier pursuant to this Schedule.

2 Service

2.1 The service provided by the Regional Radiation Protection Service (RRPS) based at the Royal Surrey County Hospital, Egerton Road, Guildford, Surrey, GU2 7XX is a combined onsite radiation safety, equipment performance and maintenance survey*, Radiation Protection Adviser (RPA) and Medical Physics Expert (MPE) appointment. All service charges are based on a maximum of one (1) hour travel time from the RRPS. Services outside of this may be charged additional time for travel.

2.2 One (1) combined onsite survey will be carried out annually. Visits will be undertaken during normal working hours (9am – 5pm Monday to Friday, excluding public holidays) at a time mutually agreed to both the client and the RRPS. Out of hours visits may be provided by special arrangement.

2.3 Radiation Protection Advisor Appointment

Consultation and appointment of RPA will be provided during the period stated overleaf. This is a statutory requirement under Regulation 14 of IRR17 and will provide advice as detailed in Schedule 6 of IRR17. Similarly the appointment of an MPE as required under Regulation 14 of IR(ME)R17 will be provided. Telephone advice will be available at any time during this period. A template radiation protection file is provided either electronically or hard copy which outlines the legislative requirements and should be amended for the needs of the practice.

Additional services as detailed below may be provided, however will be subject to a separate quotation.

- RPA site visits.
- Personnel monitoring dosimeters.
- General advice or consultancy on X-ray equipment and room design.
- RPA letters and reports.
- MPE support and advice.

2.4 Radiation Protection and Equipment Performance Survey

The annual combined onsite visit will ensure that the requirements of IRR17, IR(ME)R17 and associated recommendations are complied with. This will include an onsite audit of radiation protection files and related documentation, performance

measurements of the specified x-ray equipment, patient dose assessment and safety survey of the equipment's use. Advice may be given where required on the setting up of local rules, radiation protection procedures and local quality assurance.

2.5 Preventative Maintenance Survey

The routine maintenance survey shall include the following:

- Inspection and safety check for correct function and operation
- Lubrication and adjustment where deemed necessary by the RRPS

Additional services outside of the standard preventative maintenance covering simple repairs are available and outlined within section 5. Any work requiring significant invasive maintenance or repair may require the involvement of the equipment manufacturer and advice will be provided.

2.6 Breakdown Services and Simple Repairs

An additional breakdown and/or repair service may be provided by the RRPS. Requests for this service are provided within normal working hours (9am – 5pm, Monday to Friday, excluding public holidays) and are chargeable at additional hourly rates. With the exception of minor consumables (deemed as items held in stock with a value of less than £2.50, e.g. bulbs and fuses) spare parts will be charged additionally. All additional work will be quoted prior to works being undertaken.

2.7 Access to Equipment

Following the agreement of services to be provided it is expected that the client ensures that the equipment is available for inspection at the agreed time and date. In the event that the booking is to be rescheduled / cancelled a minimum of 3 working days' notice must be provided. In the event of cancellation with insufficient notice or equipment unavailability charges will be made at standard hourly rates. RRPS reserves the right to charge if equipment is not available.

2.8 The Service Provider warrants those services will be provided with reasonable skill and care and in accordance with its usual quality assurance standards and that the Staff employed by the Service Provider providing the Services will be suitably skilled and experienced to the satisfaction of the Client.

2.9 The Client impliedly and expressly acknowledges that, except as expressly provided in these terms, the Service Provider gives no warranties or representations to the Client (whether express or implied) in respect of the Services. Whilst every effort is made to achieve ant turn-around times required for the conduct of Tests, no warranty or guarantee is given that such turn-around times will be achieved in any particular instance. The Service Provider accepts no liability whatsoever for any loss incurred by the Client for such an occurrence

2.10 The Client shall notify the Service Provider in writing of any clinical information relevant to the Services and provide the Service Provider with such information as the

Service Provider may reasonably be expected to require enabling the Service Provider to provide the Services.

3 The Service Provider Staff

- 3.1 The Service Provider shall provide at its own expense all Staff necessary for the proper efficient and courteous operation of the service and shall communicate to those employees the obligations under this agreement.

4 Client Obligations

- 4.1 The Client shall ensure that the requirements are complete and accurate and have been communicated to the Service Provider;

- 4.2 The Client shall co-operate with the Service Provider in all matters relating to the Services and provide the Service Provider with such information and materials as the Service Provider may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects and that all necessary and relevant Data Subject consents have been freely obtained as required in the applicable data Protection legislation applicable at that time. The Client agrees to indemnify the Service Provider in full for any Losses that may be attributable from any claim in relation to the provision of the Services.

- 4.3 The Client is the Data Controller and it shall obtain and maintain all necessary licences, permissions and consents (whether by law, including under the Data Protection legislation), Good Industry Practice or otherwise which may be required before the date on which the Services are to start in order to permit the conduct of any test and the use of the Protected Data as contemplated by these terms and conditions;

- 4.4 The Client shall comply with all relevant laws, regulations and guidelines including all applicable Data Protection laws.

- 4.4 The Service Provider shall not be liable for any costs or Losses sustained or incurred by the Client arising directly or indirectly from the Service Provider's failure or delay performing any of its obligations in this clause 4;

5 Fees and payment

- 5.1 The fees payable by the Client for the Services shall, unless otherwise agreed in writing, be the Contract Prices specified in the Commercial Schedule. The Client shall pay each invoice submitted by the Service Provider in pounds sterling within 30 (thirty) days of the date of the invoice in full and in cleared funds to a bank account nominated in writing by the Service Provider or cash payment.

6 Liability

- 6.1 The Service Provider's total liability to the Client in respect of all other Losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall not exceed the Contract Price paid for the Service within the previous 12 calendar months.
- 6.2 The Service Provider shall not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these terms that is caused by an event outside our reasonable control. This may include (amongst other things) where the Service Provider has to suspend performance of the Services because of a change in the laws and regulations that apply or a cause of force majeure, or because of changes requested by the Client.
- 6.3 If an event outside our reasonable control takes place that affects the performance of the obligations under these terms, the obligations under these terms will be suspended and the time for performance of our obligations will be extended for the duration of the event outside our reasonable control.
- 6.4 The Client shall indemnify and hold harmless the Service Provider and its respective directors, officers, employees and agents in respect of all liabilities, costs, claims, loss, damage, demands, action and expenses (to include any settlements or ex-gratia payments and reasonable legal and expert costs and expenses) arising directly or indirectly from any client default.
- 6.3 Nothing in this Agreement shall exclude or restrict the liability of either Party:
- a. for death or personal injury resulting from its negligence;
 - b. for Fraud or fraudulent misrepresentation; or
 - c. in any other circumstances where liability may not be limited or excluded under any applicable law.
- 6.3 Each Party shall always, take all reasonable steps to minimise and mitigate any loss for which that Party is entitled to bring a claim against the other pursuant to this Agreement.
- 6.4 This clause 6 shall survive termination of the Contract.

7 Intellectual Property

- 7.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Service Provider. Intellectual Property to the effects of this Contract means any inventions, discoveries, data, improvements, combinations, extensions, computer software (source code and object code), methods, processes, machines, manufactures, compositions of matter, algorithms, original works of authorship, designs, prototypes, trademarks, trade secrets, and all related know-how,

whether or not protectable under the patent, copyright, and/or trade secret laws of any applicable jurisdiction.

- 7.2 The Service Provider shall provide a limited, non-exclusive, non-transferable license to use the Intellectual Property derived from the provision of the Services pursuant to the terms and conditions hereinto for the Client's own internal use. For avoidance of doubt the Data generated for the provision of the Services, shall at all times remain the sole and exclusive property of the Service Provider.
- 7.3 The Client acknowledges that, in respect of any third-party Intellectual Property Rights in the Services, the Client's use of any such Intellectual Property Rights is conditional on the Service Provider obtaining a written licence from the relevant licensor on such terms as will entitle the Service Provider to license such rights to the Client.
- 7.4 This clause 7 shall survive termination of the Contract.

8 Confidentiality

- 8.1 A party (Receiving Party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (Disclosing Party), its employees, agents or subcontractors, and any other confidential Information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such Confidential Information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party.
- 8.2 The Service Provider agrees that it will hold and maintain the confidence of:
- a) all information of a confidential nature which is received by the Service Provider from the Client in connection with the Services;
 - b) all Results (which shall be interpreted as any information, data or knowledge, including but not limited to any Intellectual Property, which is conceived, developed, achieved and/or obtained as part of the Services), invoices and other information of a confidential nature issued by the Service Provider to the Client in connection with the Services; and
 - c) save with the Client's consent, will not disclose such information other than to its professional Staff, independent consultants and/or persons to whom it has delegated the performance of the Services and who require the information for such purpose and save where the Client has informed the Service Provider of its employment agency or insurer, the Service Provider shall be entitled to assume and the Client warrants that both the Client and/or patient consent to the disclosure of information relating to that Client and/or patient to that employment agency or insurer.

8.3 The restrictions in paragraph 8.2 shall not apply to information which:

- a) was in the Service Provider's possession prior to disclosure by the Client or
- b) is now or hereafter comes into the public domain other than by default of the Service Provider or
- c) was lawfully received by the Service Provider from a Third Party acting in good faith having a right of further disclosure or
- d) is required by law to be disclosed by the Service Provider or
- e) which is required by a regulatory or accreditation body to be disclosed to it for the purpose of regulating or accrediting the Service Provider.

8.4 This clause 8 shall survive termination of the Contract.

9. Termination and cancelation

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

9.2 The Client shall immediately pay to the Service Provider all of the Service Provider's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Service Provider shall submit an invoice, which shall be payable by the Client immediately on receipt.

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

9.4 The Service Provider will make every effort to provide the Services however it reserves the right to cancel or change the delivery of the Services for any reason by providing the Client with reasonable notice, with the intention of rearranging the delivery of the Services. There may be delays or cancellations for any reason, such as an event outside our reasonable control, operational or technical reasons Where possible we will rearrange the service delivery to the new estimated delivery date.

10 General

10.1 Assignment

This Agreement is personal between the parties and may not be assigned or transferred. Any attempted assignment or transfer in violation of the foregoing will be void.

10.2 Notices

10.2.1 Any notice or other communication required or permitted under this Agreement and intended to have legal effect must be given in writing to the other party and communicated via email to:

rsc-tr.rpsdental@nhs.net

10.2.2 A notice shall be treated as having been received if sent within normal business hours when sent or, if sent outside normal business hours, at the next start of normal business hours.

10.3 Entire Agreement

This Agreement, together with any communication relating to it represents the entire understanding and agreement of the parties, and supersedes any and all previous and contemporaneous understandings, agreements, proposals or representations, written or oral, between the parties, as to the subject matter hereof. Only a writing Agreement signed by both parties may modify it.

If any provision of an Agreement shall be declared invalid, unenforceable or illegal by the courts, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of an Agreement.

10.8 Third Party Rights

For the purposes of the Contracts (Rights of Third Parties) Act 1999, each Agreement is not intended to, and does not, give to any person who is not a party to it any rights to enforce any provisions contained there.

10.8 Applicable law

The Parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter.

Schedule 2
Commercial Schedule

The price to be paid to the Service provider shall be the price stipulated in the quotation

Schedule 3
Definitions and Interpretation

1 Definitions

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

“Actual Services Commencement Date”	means the date the Supplier actually commences delivery of the Services;
“Business Day”	means any day other than Saturday, Sunday, Christmas Day, Good Friday or a statutory bank holiday in England and Wales;
“Codes of Practice”	shall have the meaning given to the term in Clause 1.2 of Schedule 3;
“Commencement Date”	means the date of this Contract;
“Commercial Schedule”	means the document set out at 0;
“Confidential Information”	means information, data and material of any nature, which either Party may receive or obtain in connection with the conclusion and/or operation of the Contract including any procurement process which is: (a) Personal Data or Sensitive Personal Data including without limitation which relates to any patient or other service user or his or her treatment or clinical or care history; (b) designated as confidential by either party or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored); and/or (c) Policies and such other documents which the Supplier may obtain or have access to through the Authority’s intranet;
“Contract”	means the form of contract at the front of this document and all schedules attached to the form of contract;

“Contract Price”	means the price exclusive of VAT that is payable to the Supplier by the Authority under the Contract for the full and proper performance by the Supplier of its obligations under the Contract;
“Data Controller”	shall have the same meaning as set out in the Data Protection Act 1998;
“Data Protection Legislation”	means the Data Protection Act 1998 and any other Law relating to the protection of personal data and the privacy of individuals, including where applicable guidance and codes of practice issued by the Information Commissioner;
“Data Subject”	shall have the same meaning as set out in the Data Protection Act 1998;
“Force Majeure Event”	<p>means any event beyond the reasonable control of the Party in question to include, without limitation:</p> <ul style="list-style-type: none"> (a) war including civil war (whether declared or undeclared), riot, civil commotion or armed conflict materially affecting either Party’s ability to perform its obligations under this Contract; (b) acts of terrorism; (c) flood, storm or other natural disasters; (d) fire; (e) unavailability of public utilities and/or access to transport networks to the extent no diligent supplier could reasonably have planned for such unavailability as part of its business continuity planning; (f) government requisition or impoundment to the extent such requisition or impoundment does not result from any failure by the Supplier to comply with any relevant regulations, laws or procedures (including such laws or regulations relating to the payment of any duties or taxes) and subject to the Supplier having used all reasonable legal means to resist such requisition or impoundment; (g) compliance with any local law or governmental order, rule, regulation or direction that could not have been reasonably foreseen; (h) industrial action which affects the ability of the Supplier to provide the Services, but which is not confined to the workforce of the Supplier or the workforce of any subcontractor of the Supplier; and (i) a failure in the Supplier’s and/or Authority’s supply chain to the extent that such failure is due to any event suffered by a member of such supply chain, which would also qualify as a Force Majeure Event in accordance with this definition had it been suffered by one of the Parties;

	(j) Pandemic or similar health crisis including a Service Provider Black alert where private services may need to be suspended at the discretion of the Service Provider
“Fraud”	means any offence under any law in respect of fraud in relation to this Contract or defrauding or attempting to defraud or conspiring to defraud the government, parliament or any Contracting Authority;
“Good Industry Practice”	means the exercise of that degree of skill, diligence, prudence, risk management, quality management and foresight which would reasonably and ordinarily be expected from a skilled and experienced service provider engaged in the provision of services similar to the Services under the same or similar circumstances as those applicable to this Contract, including in accordance with any codes of practice published by relevant trade associations;
“Intellectual Property Rights”	means all patents, copyright, design rights, registered designs, trade marks, know-how, database rights, confidential formulae and any other intellectual property rights and the rights to apply for patents and trade marks and registered designs;
“Interested Party”	means any organisation which has a legitimate interest in providing services of the same or similar nature to the Services in immediate or proximate succession to the Supplier or any subcontractor and who had confirmed such interest in writing to the Authority;
“Law”	means: (a) any applicable statute or proclamation or any delegated or subordinate legislation or regulation; (b) any applicable European Union directive, regulation, decision or law; (c) any enforceable community right within the meaning of section 2(1) European Communities Act 1972; (d) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales; (e) requirements set by any regulatory body; and (f) any applicable code of practice, in each case as applicable in England and Wales;
“Losses”	all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of legal and/or professional services) proceedings, demands and charges whether arising under statute, contract or at common law;
“Party”	means the Service Provider or the Client as appropriate and Parties means Service Provider or the Client;

“Personal Data”	means personal data as defined in the Data Protection Act 1998;
“Policies”	means the policies, rules and procedures of the Authority as notified to the Supplier from time to time;
“Protected Data”	Means Personal Identifiable Data which includes genetic, biometric and health data, as well as personal data revealing racial and ethnic origin, political opinions, religious or ideological convictions or trade union membership.
“Remedial Proposal”	has the meaning given under Clause 15.3 of Schedule 2;
“Sensitive Personal Data”	means sensitive personal data as defined in the Data Protection Act 1998;
“Services”	means the services set out in this Contract as per Schedule 2
“Staff”	means all persons employed or engaged by the Supplier to perform its obligations under this Contract including any subcontractors and person employed or engaged by such subcontractors;
“Term”	means the term as set out in the Key Provisions;
“Third Party”	means any supplier of services fundamentally the same as the Services (either in whole or in part) immediately before the Transfer Date;
"TUPE"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (2006/246) and/or any other regulations enacted for the purpose of implementing the Acquired Rights Directive (77/187/EEC, as amended by Directive 98/50 EC and consolidated in 2001/23/EC) into English law; and
“VAT”	means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax.

- 1.2 References to any statute or order shall include any statutory extension, modification or re-enactment, and any order, regulation, bye-law or other subordinate legislation.
- 1.3 References to any legal entity shall include any body that takes over responsibility for the functions of such entity.
- 1.4 References in this Contract to a “Schedule”, “Appendix”, “Paragraph” or to a “Clause” are to schedules, appendices, paragraphs and clauses of this Contract.
- 1.5 References in this Contract to a day or to the calculation of time frames are references to a calendar day unless expressly specified as a Business Day.

- 1.6 Unless set out in the Commercial Schedule as a chargeable item and subject to Clause 30.6 of Schedule 2, the Supplier shall bear the cost of complying with its obligations under this Contract.
- 1.7 The headings are for convenience only and shall not affect the interpretation of this Contract.
- 1.8 Words denoting the singular shall include the plural and vice versa.
- 1.9 Where a term of this Contract provides for a list of one or more items following the word “including” or “includes” then such list is not to be interpreted as an exhaustive list. Any such list shall not be treated as excluding any item that might have been included in such list having regard to the context of the contractual term in question. General words are not to be given a restrictive meaning where they are followed by examples intended to be included within the general words.
- 1.10 Where there is a conflict between the Supplier’s responses to the Authority’s requirements (the Supplier’s responses being set out in Schedule 5) and any other part of this Contract, such other part of this Contract shall prevail.
- 1.11 Where a document is required under this Contract, the Parties may agree in writing that this shall be in electronic format only.
- 1.12 Where there is an obligation on the Authority to procure any course of action from any third party, this shall mean that the Authority shall use its reasonable endeavours to procure such course of action from that third party.