

**FRAMEWORK AGREEMENT**

**DATED**

**2022**

**Cambridge University Hospitals NHS Foundation Trust**

**AND**

**FRAMEWORK AGREEMENT**

**For Financial Leasing Services**

**THIS AGREEMENT** dated

**BETWEEN:**

- (1) **Cambridge University Hospitals NHS Foundation Trust** (“the Authority”) of Hills Road, Cambridge, Cambridgeshire CB2 0QQ; and
- (2) **[INSERT]** (“the Provider”) of **[INSERT ADDRESS]**

## **1 BACKGROUND**

### **Framework of Providers**

- 1.1 The Authority is setting up a framework of providers able to provide financial leasing services to all public bodies in the UK including (but not limited to):
- NHS bodies, including all Trusts and Authorities, including Acute and Primary Care, Ambulance Trusts: <https://www.nhs.uk/servicedirectoriest/pages/nhstrustlisting.aspx>, CCGs: <http://www.nhs.uk/ServiceDirectoriest/Pages/CCGListing.aspx>, Area Teams: <http://www.nhs.uk/ServiceDirectoriest/Pages/AreaTeamListing.aspx>, Special Health authorities, including those listed at: <http://www.nhs.uk/ServiceDirectoriest/Pages/SpecialHealthAuthorityListing.aspx>, Schools, including (but not limited to) all listed on Edubase 2: <http://www.edubase2.com/> Universities: <http://www.edubase2.com/Universities/> Local Government, including those listed at: <https://www.local.gov.uk/our-support/guidance-and-resources/communications-support/digital-councils/social-media/go-further/a-z-councils-online> Fire service, including those listed at: <http://www.fireservice.co.uk/information/ukfrs> Government ministerial departments, agencies, public bodies and organisations, including those listed at: <https://www.gov.uk/government/organisations>

Reference to all public bodies above shall include statutory successors and organisations created as a result of re-organisation or organizational changes in relation to all these types of bodies. The framework will also be available for all newly formed or merged public bodies.

## **Role of this agreement**

- 1.2 This agreement governs the on-going relationship between the Provider and the Authority in connection with any request from a Customer to provide Services to it.
- 1.3 In particular, this agreement is intended to enable a Customer to source Call-Off Contracts in respect of the Services through mini-competitions conducted in accordance with this Framework Agreement.
- 1.4 This agreement will form part of the Call-Off Contract at mini-competition, and Call-Off Contracts will be subject to its terms.

## **2 DEFINITIONS AND INTERPRETATIONS**

### **Definitions**

- 2.1 In this Framework Agreement, the following expressions shall have the following meanings:

#### **"Call-Off Contract"**

means the terms which will apply to the engagement of the Provider by a Customer pursuant to this Framework Agreement. The Call-Off Contract will include the Schedule to the Master Lease Agreement, the Technical Specification and mini-competition competition requirements, the Master Lease Agreement, this Framework Agreement, the Provider's response to the mini-competition.

#### **"Categories"**

Means the broad categories of equipment, software and supplies for which financial leasing can be obtained through this Framework. The Categories are set out at Schedule 3. Providers will only receive notification of mini-competitions for Categories they have selected.

#### **"Commencement Date"**

30<sup>th</sup> September 2022

**"Customer"**

means any of the public bodies in the UK as set out in clause 1.1 above

**"Customer Representative"**

means the representative nominated by the Customer for the purposes of this Framework Agreement

**"Data Protection Legislation"**

means the Data Protection Act 2018 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;

**"Framework Agreement"**

means this framework agreement and its schedules. The framework agreement is not exclusive to the Provider.

**"Framework Manager"**

means Lifecycle Management Group Limited ("Lifecycle") or such other person appointed and authorised by the Authority for the purposes of this Framework Agreement as notified by the Authority to the Provider

**"Intellectual Property Rights"**

means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off

**"Master Lease Agreement"**

The Master Lease Agreement will form part of the Call-off Contract. An example of a Master Lease Agreement is set out in Schedule 1. There will be circumstances in which the Master Lease Agreement will need to be significantly amended, for example for a software lease. In these circumstances the Master Lease Agreement will be amended and Providers will be sent

an amended version at mini-competition.

**"Parties"**

Parties to this Agreement and Party shall be construed accordingly

**"Services"**

means any or all of the services defined at Schedule 3 which are to be provided by the Provider for a Customer in relation to any actual or proposed asset as more particularly described in each Call-Off Contract used for a mini-competition

**"Technical Specification"**

means the set of requirements, set out in Schedule 5, all Providers will have to meet during the whole of the period of all Call-off Contracts to which they are a party. Customers will be able to amend the terms of the Technical Specification for specific Call-Off Contracts. Providers will be notified of any amendments made to specific Call-Off Contracts at mini-competition.

**"Working Day"**

means any day on which banks are generally open for business (other than Saturdays, Sundays or public holidays).

- 2.2 References to clauses and schedules are references to clauses of and schedules to this Framework Agreement.
- 2.3 The provisions of the schedules are incorporated in this Framework Agreement.
- 2.4 Unless stated otherwise, reference to "Parties" in this Framework Agreement are references to the Authority and the Provider and "Party" shall be construed accordingly.
- 2.5 Any reference to the singular includes the plural and vice versa and references to any gender includes both genders.
- 2.6 Any references to a person includes any individual, firm, unincorporated association or body corporate.

- 2.7 The headings in this Framework Agreement are included for ease of reference only and shall not affect the interpretation or construction of this Framework Agreement.
- 2.8 Any periods of time referred to in this Framework Agreement and expressed in days shall refer to calendar days unless stated otherwise.
- 2.9 Any reference to any statute or any section of any statute includes any statutory extension, amendment, modification, consolidation or re-enactment and any statutory instrument, order or regulation made under any statute for the time being in force.
- 2.10 The words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation".

### **3 THE TERM OF THIS AGREEMENT**

#### **Expiry**

- 3.1 Subject to earlier termination in accordance with Clause 8 this Framework Agreement shall commence on the Commencement Date and shall continue until two (2) years from the Commencement Date ("the initial term") unless an option to extend is exercised by the Authority in accordance with Clause 3.2 below.
- 3.2 The Authority may at any time before the expiry of the initial term extend the duration of this Framework Agreement for a further two years by serving written notice on the Provider.

### **4 SELECTION OF PROVIDERS TO PROVIDE SERVICES FOR A CUSTOMER**

#### **Method of Selection of Providers by Mini-Competition**

- 4.1 Where a Customer considers that it may or will require the performance of Services, the selection of a provider from those appointed under the framework arrangements will be made by conducting a mini-competition through the following method.

- 4.2 The Customer shall identify which Category their requirement falls under according to those set out in Schedule 3.
- 4.3 Providers have been asked to select the Categories in relation to which they would like to be invited to bid at mini-competition. Providers will only be invited to bid to provide financial leasing in relation to Categories they have pre-selected. During the Framework Agreement, if a Provider no longer wishes to provide financial leasing in relation to a particular Category through the Framework they will notify the Framework Manager in writing, upon which the Framework Manager will remove that Provider from that Category. If a Provider wishes to be added to a Category the Provider will inform the Framework Manager in writing, upon which the Framework Manager will add the Provider to the Category.
- 4.4 The Customer shall invite all Providers who have selected the relevant Category to respond to a specification of service requirements and proposed Call-Off Contract within the timescale defined by the Customer.
- 4.5 Providers will be notified of proposed mini-competitions by the Customer through the Framework Manager either by notification through the online portal established by the Framework Manager to conduct mini-competitions or by other means of communication organised by the Framework Manager where the mini-competition is not to be conducted through the online portal.
- 4.6 Mini-Competitions shall only be deemed to be pursuant to this Framework Agreement if (i) the notification of the Customer's intention to hold a mini-competition is communicated to providers on the framework through the Framework Manager and (ii) the mini-competition is conducted through the online portal established by the Framework Manager to conduct mini-competitions or through a mini-competition organised by the Framework Manager.
- 4.7 The Customer shall evaluate any mini-competition responses to the specification of service requirements and proposed Call-Off Contract received from those providers in accordance with evaluation criteria and methodology determined in accordance in this Clause 4 and Schedule 4 (Evaluation Criteria). In relation to each specific mini-competition:
- 4.7.1 the criteria, weightings and methodology to be applied for that mini-competition;

4.7.2 the extent to which (if any) any identified provision of the Call-Off Contract may be invited to be varied by providers in their mini-competition responses; and

4.7.3 any more precisely formulated terms that will apply to the Call-Off Contract for that mini-competition

will be notified by the Customer to all providers participating in the mini-competition in advance of the commencement of the mini-competition.

4.8 All Providers invited to participate in the mini-competition process will be responsible for their associated costs.

4.9 Mini-competitions will be evaluated on any or all of the criteria listed in this Clause in accordance with the methodology set out in Schedule 4:

4.9.1 PV of rentals to Primary Term

4.9.2 Cap percentage rate

4.9.3 Risk Transfer

4.10 Providers may be asked by the Customer to bid on a number of different contract terms, for example 5 and 7 years. The scoring methodology to determine which contract term will be awarded is set out in Schedule 4.

#### **Completing the Call-Off Contracts**

4.11 If the Customer decides to award the Call-Off Contract following the evaluation of the mini-competitions the Customer may conduct a voluntary standstill period (which will normally be for 10 calendar days) before entering into the Call-Off Contract with the winning bidder.

#### **Limitations to Call-Off Contracts**

4.12 In no circumstances shall the scope of a Call-Off Contract issued to be entered into pursuant to this Framework Agreement materially exceed the scope of Services described Schedule 3.



4.13 In addition any mini-competition response returned by the Provider in response to a proposed Call-Off Contract shall be no less favourable than the relevant submissions in Schedule 2 (Tender Submissions) unless there are exceptional reasons in relation to the Customer's requirements in which case the Customer may, at its absolute discretion, disapply this requirement for the conduct of a particular mini-competition.

#### **Framework Management Fee**

4.14 There is no fee payable to the Framework Manager for use of the Framework. However, many Customers who use the Framework will have lease advisors who may charge a fee for procuring new leases. This fee may be passed on to the Provider. Providers will be notified of this at mini-competition.

## **5 MEASUREMENT OF PERFORMANCE**

### **Measurement of Provider's performance**

#### **Monitoring by the Authority**

5.1 Throughout the period of this Framework Agreement, the performance of the Provider in relation to the performance of Services to Customers may be monitored by the Authority at its absolute discretion. Such monitoring may include but shall not be limited to obtaining feedback on the Provider's performance from Customers. The Authority reserves the right to share, with any Customer, Customer feedback and any other performance monitoring information which is obtained by the Authority.

#### **Monitoring by Customers**

5.2 The Provider's performance under any Call-Off Contract entered into with a Customer shall be monitored by the Customer in any manner which may be considered appropriate in all the circumstances.

5.3 All Providers have an obligation to meet all requirements of the Call-Off Contract. In the event that a Provider does not meet the requirements of the Call-Off Contract, the Customer

should report this to the Framework Manager who will keep a central record of all reported breaches.

#### **Records of Performance Monitoring**

5.4 The Provider shall keep a written record of any performance monitoring carried out by a Customer pursuant to or under any Call-Off Contract entered into with a Customer and shall at the written request of the Authority provide access to such records to the Authority for contract monitoring purposes.

#### **Management Information**

5.5 The Provider will provide management information as requested and/or as detailed in the Technical Specification or any other request made by the Framework Manager.

#### **Evaluation Feedback**

5.6 The Provider will comply with agreed evaluation and feedback procedures discussed with the Framework Manager and Customer Representative where appropriate.

### **6 CONTINUOUS IMPROVEMENT AND CO-OPERATION**

#### **Commitment to Seek Continuous Improvement**

6.1 The Provider shall, throughout the period of this Framework Agreement, look for and seek to achieve, in conjunction with other providers and others involved in the delivery of Services with which the Provider is involved, continuous improvement in the quality of the Services.

### **7 ASSIGNMENT**

#### **Assignment by the Authority**

7.1 The Authority shall be entitled to assign or novate this Framework Agreement to any successor to the Authority's functions (and the Provider agrees to join in any written agreement which may be necessary to achieve this purpose).

#### **Assignment by the Provider**

7.2 The Provider shall not be entitled to assign any benefit or burden in this Framework Agreement either in whole or in part without the prior written consent of the Authority. Where such consent is given, this may be subject to conditions at the discretion of the Authority, such consent not to be unreasonably withheld.

#### **Subcontracting by the Provider**

7.3 The Provider shall not subcontract in whole or part the performance of obligations under this Framework Agreement without the prior written consent of the Authority, such consent not to be unreasonably withheld.

7.4 For the avoidance of doubt, the obligation in Clause 8.3 is in relation to the performance of obligations under this Framework Agreement and sub-contracting terms in relation to Call-Off Contracts entered into by the Provider with any Customer will be governed by the terms set out in each relevant Call-Off Contract.

## **8 TERMINATION AND SUSPENSION**

8.1 The Authority or Framework Manager may terminate or suspend this Framework Agreement with a Provider immediately following any breach of its terms by the Provider or any breach by the Provider of the terms of any Call-Off Contract entered into with any Customer pursuant to this Framework Agreement. This will not affect the operation of the Framework with any other Provider.

#### **Suspension**

8.2. In the event that this Framework Agreement is suspended in accordance with clause 8.1, the Provider will not be notified of any mini-competitions and will not be invited to submit any

bids in response to mini-competitions issued during the period of suspension. The Framework Agreement will remain suspended until:-

- 8.2.1 the Provider has informed the Framework Manager in writing of the action that has been undertaken to i) remedy the breach and ii) ensure that the breach will not occur again; and
- 8.2.2 the Framework Manager has confirmed in writing to the Provider that in its reasonable opinion the Provider has i) undertaken this action and ii) the action taken has remedied the breach and iii) it is confident that the action will ensure that the breach will not occur again.
- 8.3 Suspension of the Framework Agreement shall not cause any Call-Off Contracts to be suspended. For the avoidance of doubt, all Call-Off Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms.

#### **Termination by the Authority**

- 8.4 The Authority may terminate this Framework Agreement immediately following any breach of its terms by the Provider or any breach by the Provider of the terms of any Call-Off Contract entered into with any Customer pursuant to this Framework Agreement (other than a breach which is notified to, and remedied by, to the Framework Manager's satisfaction, the Provider within 15 Working Days of the notice) or in the event of the Provider ceasing to carry on its business becoming insolvent, or having a liquidator, trustee in bankruptcy, receiver, manager, administrator or administrative receiver appointed in respect of the Provider's assets or (where the Provider is a partnership) those of any partner of the firm. A Customer may only request the Authority to exercise its right to terminate under this Clause 8.3 where a liquidator, trustee in bankruptcy, receiver, manager, administrator or administrative receiver is appointed in respect of (where the Provider is a partnership), any partner of the firm, where the Customer reasonably considers that such an event would materially affect the performance of the Services.

#### **Termination by the Provider**

- 8.5 The Provider may terminate this Framework Agreement immediately following any breach of this Framework Agreement by the Authority (other than a breach which is notified to, and

remedied by, the Authority within 15 Working Days of the notice), or in the event of the Authority ceasing to carry on its business.

#### **Termination by Either Party**

8.6 Either Party may terminate this Framework Agreement at any time by serving not less than 30 days' prior written notice on the other.

#### **Effect of Termination**

8.7 Termination or expiry of the Framework Agreement shall not cause any Call-Off Contracts to terminate automatically. For the avoidance of doubt, all Call-Off Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms.

### **9 PROBLEM SOLVING AND DISPUTE AVOIDANCE OR RESOLUTION**

#### **Notification**

9.1 As soon as either Party is aware of any difference or dispute with the other arising out of, or in connection with, this Framework Agreement (which does not fall to be dealt with under any Call-Off Contract entered into between the Provider and any Customer) they shall give notice in the first instance to the Framework Manager.

#### **Negotiation**

9.2 The Parties will endeavour to resolve any difference or dispute by direct negotiation in good faith between senior executives and each Party shall give serious consideration to a request by the other to refer a difference or dispute to mediation.

#### **Mediation**

9.3 Any disputes arising under or in connection with this Framework Agreement which cannot be resolved in accordance with Clause 9.2 shall be settled as far as possible by mediation in

accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure (or such other mediation procedure as the Parties may agree).

### **Litigation**

9.4 No Party may commence any court proceedings in relation to any dispute in relation to this Framework Agreement until they have attempted to settle the dispute by mediation in accordance with Clause 9.3 save that nothing in this Clause 9 shall prevent either Party from applying to the courts at any time for injunctive relief.

## **10 NOTICES**

### **Notices in Writing**

10.1 All notices must be in writing.

### **Forms of Service**

10.2 Any notice may be served by leaving it with, or sending it by pre-paid first class post, facsimile or email to:

In the case of the Provider:

**[ADDRESS AND EMAIL DETAILS]**

In the case of the Authority:

C/O The Framework Co-Ordinator, Lifecycle Management Group Limited, Unipart House, Garsington Road, Cowley, Oxford OX4 2PG.

Email: [leasinggroup@lifecycle.co.uk](mailto:leasinggroup@lifecycle.co.uk)

or such addresses as shall be duly notified by the Parties to each other in accordance with this Clause.

## **Times of Service**

10.3 Notices delivered by hand shall be deemed to have been delivered when handed over. Notices sent by post shall be deemed to have been delivered on the first Working Day after posting and notices given by email shall be deemed to have been served upon successful transmission between the hours of 9am and 5pm on any Working Days, subject to a confirmatory copy being sent by pre-paid first class post or by hand by the end of the next Working Day.

## **11 NO AGENCY, PARTNERSHIP OR JOINT VENTURE**

11.1 Nothing contained in this Framework Agreement shall be construed as creating an agency, partnership or joint venture relationship between the Parties.

## **12 APPLICABLE LAW**

12.1 This Framework Agreement shall be governed by English law and the Parties submit to the exclusive jurisdiction of the English courts.

## **13 RIGHTS OF THIRD PARTIES**

13.1 Save for any right expressly conferred by this Framework Agreement on a Customer, the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Framework Agreement and accordingly the Parties do not intend any third party (other than a Customer) to have any right in respect of this Framework Agreement by virtue of that Act.

## **14 CORRUPT GIFTS AND PAYMENT OF COMMISSION**

14.1 The Provider shall not, and shall use commercially reasonable endeavours to ensure that any sub-contractors shall not, pay any commission, fees or grant any rebates to any employee, officer or agent of the Authority nor favour any employee, officer or agent of the Authority with gifts or entertainment of significant cost or value nor enter into any business

arrangement with employees, officers or agents of the Authority other than as a representative of the Authority, without the Authority's written approval. The Authority shall have the right to audit any and all such records necessary to confirm compliance with this Clause at any time whilst the Framework Agreement is in force and during the three year period following expiry or termination of the Framework Agreement. Breach of this Clause or commission of an offence by the Provider, its officers, employees and/or agents under the Prevention of Corruption Acts 1889-1916 shall entitle the Authority to terminate the Framework Agreement and any other contracts between the Provider and the Authority with immediate effect.

## **15 Prohibited Acts**

15.1 The Provider warrants and represents that:

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

- (i) offered, given or agreed to give any officer or employee of the Authority any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining or performance of this or any other agreement with the Authority or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the Authority; or
- (ii) in connection with this Framework Agreement paid or agreed to pay any commission other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to the Authority; and

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

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

15.2.1 the Authority shall be entitled:



- (i) to terminate this Framework Agreement and recover from the Provider the amount of any loss resulting from the termination;
- (ii) to recover from the Provider the amount or value of any gift, consideration or commission concerned; and
- (iii) to recover from the Provider any other loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence under the Bribery Act 2010;

15.2.2 any termination under Clause 15.2 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Authority; and

15.2.3 notwithstanding Clause 15.2 of this Framework Agreement, any dispute relating to:

- (i) the interpretation of Clause 15 of this Framework Agreement; or
- (ii) the amount or value of any gift, consideration or commission,

shall be determined by the Authority, acting reasonably, and the decision shall be final and conclusive.

## **16 Data protection**

16.1 The Parties acknowledge their respective duties under Data Protection Legislation and shall give each other all reasonable assistance as appropriate or necessary to enable each other to comply with those duties.

16.2 Where the Provider is Processing Personal Data under or in connection with this Framework Agreement, the Provider must, in particular, but without limitation:

16.2.1 only Process such Personal Data as is necessary to perform its obligations under this Framework Agreement, and only in accordance with any instructions given by the Authority under this Framework Agreement;

16.2.2 put in place appropriate technical and organisational measures against any unauthorised or unlawful Processing of that Personal Data, and against the accidental loss or destruction of or damage to such Personal Data, the state of technical development and the level of harm that may be suffered by a Data Subject whose Personal Data is affected by unauthorised or unlawful Processing or by its loss, damage or destruction;

- 16.2.3 take reasonable steps to ensure the reliability of Staff who will have access to Personal Data, and ensure that those Staff are aware of and trained in any relevant policies and procedures.
- 16.3 The Provider and the Authority shall ensure that Personal Data is safeguarded at all times in accordance with the Law, and this obligation will include (if transferred electronically) only transferring Personal Data (a) if essential, having regard to the purpose for which the transfer is conducted; and (b) that is encrypted in accordance with any international data encryption standards for healthcare, and as otherwise required by those standards applicable to the Authority under any Law and Guidance (this includes, data transferred over wireless or wired networks, held on laptops, CDs, memory sticks and tapes).
- 16.4 Where any Personal Data is Processed by any subcontractor of the Supplier in connection with this Framework Agreement, the Provider shall procure that such subcontractor shall comply with the relevant obligations set out in Clause 16 of this Framework Agreement, as if such subcontractor were the Provider.
- 16.5 The Provider shall indemnify and keep the Authority indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings whatsoever or howsoever arising from the Provider's unlawful or unauthorised Processing, destruction and/or damage to Personal Data in connection with this Framework Agreement.

## **17 CONFIDENTIALITY**

- 17.1 Subject to Clauses 5, 6 and 17.2, the Parties shall keep secret and not disclose and shall procure that their employees and any subcontractors keep secret and do not disclose any information of a confidential nature obtained by them by reason of the Framework Agreement. This obligation shall not apply to information:
  - 17.1.1 which is in or enters (other than as a result of a breach of this Clause) the public domain or is trivial or cannot reasonably be considered to be confidential;
  - 17.1.2 which the Authority is required to disclose as a matter of law or in discharge of its obligations of public accountability and freedom of information; or

- 17.1.3 which the Provider is required to disclose by law or pursuant to a request by any regulatory authority with whose regulations the Parties are bound to comply.
- 17.2 In the event of the Parties needing to make a disclosure under Clause 17.1.2 or 15.1.3 above, each Party shall liaise with the other as to the extent and the timing of the disclosure, provided always that such obligation to liaise with the other Party shall not breach any legal or regulatory requirement.
- 17.3 The Provider agrees that the Authority may supply information to Customers who wish, or may wish to enter into a Call-Off Contract with the Provider. Customers will be required to enter into a form of confidentiality agreement before gaining access to confidential information held by the Authority in relation to any Provider.
- 17.4 The Provider undertakes to make no reference in any advertising or other promotional material to the Framework Agreement without the prior written consent of the Framework Manager.
- 17.5 In the event that, pursuant to a request which the Authority has received under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 (as the same may be amended or re-enacted from time to time) or any subordinate legislation made there under (collectively, the "Legislation"), the Authority is required to disclose any information provided to it by the Provider, it will notify the Provider promptly and will consult with the Provider prior to disclosing such information. The Authority agrees to pay due regard to any representations which the Provider may make in connection with such disclosure but reserves the right to apply any relevant exemption at its absolute discretion.

## **18 SEVERANCE**

- 18.1 Any Clause or provision of this Framework Agreement which is held to be illegal or unenforceable (in whole or in part) under any enactment or rule of law shall no longer form part of this Framework Agreement.

18.2 In the event that a Clause or provision (or part of a clause or part of a provision) is excluded under Clause 18.1 above the validity and enforceability of the remainder of this Framework Agreement shall not be affected.

## **19 ORDER OF PRECEDENCE**

19.1 Should there be a conflict between any of the documents forming the Call Off Contract, the order of priority shall be:-

1. Schedule to the Master Lease Agreement
2. Technical Specification and mini-competition requirements
3. Master Lease Agreement
4. Framework Agreement
5. Provider's response to mini-competition

## **20 SURVIVAL OF CERTAIN CLAUSES**

20.1 Any provisions of this Framework Agreement which expressly or by their nature extend beyond the expiry or termination of the arrangements set out in this Framework Agreement, along with the Clauses expressly set out below, will survive such expiration or termination:

- 20.1.1 Clause 2 (Definitions and Interpretations);
- 20.1.2 Clause 8 (Termination);
- 20.1.3 Clause 9 (Problem Solving and Dispute Avoidance or Resolution);
- 20.1.4 Clause 10 (Notices);
- 20.1.5 Clause 12 (Applicable Law);
- 20.1.6 Clause 13 (Rights of Third Parties);
- 20.1.7 Clause 14 (Corrupt Gifts and Payment of Commission);
- 20.1.8 Clause 17 (Confidentiality); and
- 20.1.9 Clause 20 (Survival of Certain Clauses).
- 20.1.10 Clause 21 (No Liability of the Authority)

## **21 NO LIABILITY OF THE AUTHORITY**

- 21.1 Nothing in this Framework Agreement constitutes any representation or agreement by the Authority that:
- 21.1.1 any Customer will utilise the framework;
  - 21.1.2 the Provider will be successful in securing any, or any minimum number of, Call-Off Contracts;
  - 21.1.3 the Provider will receive any, or any minimum level of, work generally;
  - 21.1.4 any particular volume or value of services will be procured under this framework;
  - 21.1.5 the Customers will complete any Call-Off Contract following the conclusion of any mini-competition; or
  - 21.1.6 the Provider or any other member of this framework panel has exclusivity in relation to the provision of any Services or of the nature set out in this Framework Agreement to Customers.
- 21.2 Neither the Authority nor any of its officers, employees or agents shall have any liability to the Provider whatsoever, whensoever or howsoever arising out of or in connection with this Framework Agreement. No approval, instruction or comment by the Authority or any of its officers, employees or agents in connection with this Framework Agreement will discharge, release or diminish any obligation of the Provider under this Framework Agreement, or give rise to any liability to the Provider on the part of the Authority. The Provider may choose to participate in mini-competitions entirely at its own risk and the Authority shall not be responsible for any costs, expenses or losses incurred by the Provider in connection with this framework, or any mini-competition or of the conduct or decision of any Customer in relation to the award (or otherwise) of any Call-Off Contract.
- 21.3 The scheduling of any Provider's proposal to this Framework Agreement does not constitute any approval or confirmation on the part of the Authority as to the suitability or compliance of the proposal with the requirements of any particular Customer.

## **22 NOMINAL CONSIDERATION**

22.1 The Provider agrees to perform the obligations in this Framework Agreement in consideration of the Authority's payment to the Provider of the nominal consideration of £1 (one pound), receipt of which is hereby acknowledged by the Provider.

## **23 AGENCY AGREEMENT**

23.1 In some circumstances Providers will be required to enter into an Agency Agreement prior to the Lease. In these circumstances Providers will be informed at mini-competition stage and Providers will be invited to propose appropriate terms at that stage.

**IN WITNESS** whereof this Framework Agreement has been executed by the duly authorised representatives of the Parties on the date at the front of this agreement:

**SIGNED FOR AND ON BEHALF OF CAMBRIDGE UNIVERSITY HOSPITALS NHS FOUNDATION TRUST BY:**

Authorised signatory:.....

Name:.....

**SIGNED FOR AND ON BEHALF OF THE PROVIDER BY:**

Authorised Signatory:.....

Name:.....

Position: .....

## SCHEDULE 1: MASTER LEASE AGREEMENT

Attached is an example of a Master Lease Agreement. While this version of the Master Lease Agreement will form part of the Call-Off Contract in the majority of cases, different requirements will mean that on occasions the Master Lease Agreement will be amended. There will be circumstances in which the Master Lease Agreement will need to be significantly amended, for example for a software lease. In the event that the Master Lease Agreement will be amended, Providers will be notified at mini-competition. In these circumstances 10 days will be given at mini-competition.



Master Lease  
Agreement 2022 Tem



Schedule 2022  
Template.pdf



**SCHEDULE 2**

**TENDER SUBMISSIONS**

## SCHEDULE 3

### SCOPE OF SERVICES AND CATEGORIES

#### SCOPE OF SERVICES

Lessors appointed to the framework will be invited to offer financial leasing services for a broad range of equipment, software and supplies required by organisations including (but not limited to):

**CRACOE medical equipment** including (but not limited to) nuclear medicine, MRI scanners, CT scanners, contrast injectors, radiotherapy, angiography and fluoroscopy, lithotripters, bone densitometers, digital mammography, mobile image intensifiers, static x-ray, mobile x-ray;

**Non-CRACOE medical equipment** including (but not limited to) contrast injectors, ophthalmology, surgical microscopes, medical lasers, flexible endoscopy, rigid endoscopy, ventilators, anaesthesia, dental capital, architectural surgical medical systems, neonatal incubators and related accessories, ECG, external defibrillator, operating tables, patient monitoring, infusion pumps, renal / haemodialysis, bladder scanners, robots, ultrasound, electrosurgical generators;

**Decontamination, dental decontamination and sterilisation equipment;**

**Measuring, analysis and testing equipment** including (but not limited to) pathology, laboratory;

**Ward, domestic and estates equipment** including (but not limited to) patient trolleys and stretchers, pressure area care, furniture, mobile / modular / temporary buildings, estates plant and machinery, demountable car parks, car park barriers / ticketing machinery, waste disposal, catering, domestic appliances, washroom, industrial machinery;

**ICT equipment, hardware and software** including (but not limited to) network architecture, enterprise hardware, client hardware, radio, wi-fi architecture, telecommunications, systems to support medical equipment, software, security, photocopiers, printers;

**Green technology (renewable energy and energy efficiency) equipment** including (but not limited to) solar, photo-voltaic and thermal, heat pumps, bio-mass, LED, building control management technology;

**Vehicles** including (but not limited to) ambulances, patient transport vehicles, materials handling, construction, trucks, lorries, buses, coaches, cars, vans.

#### **Other sundry equipment**

Lessors will only be invited to bid in relation to equipment, software and supplies within the Categories that they have selected.

**SCHEDULE 4**  
**EVALUATION CRITERIA**

**Mini-competition Criteria**

Bids will be evaluated on any, all or a combination of the following criteria:

1. PV of rentals to Primary Term
2. Cap percentage rate
3. Risk Transfer

All bids will be scored in accordance with the scoring methodology outlined within this document and the winner for each term will be identified, based on the criteria and weightings chosen for the particular mini-competition. Where bids are received for more than one term, the winners for each term will then be subjected to a further evaluation, to determine the Most Economically Advantageous Tender – the Term Test.

**1. Price: PV of Rentals to Primary Term**

This will be calculated at an appropriate rate. The rate at which rentals will be discounted may be varied from time to time and notified to Lessors at mini-competition. The initial rate is 3.5% and will be applied using the compounding frequency that mirrors the frequency of the rental payments. The PV of Rentals to Primary Term will be expressed as a percentage of Capital Cost.

Where selected as a criterion, the scoring of the PV of Rentals to Primary Term will use the following methodology:

Lowest bid	10 points (raw score)
Higher bids	10 points less % deviation from lowest bid

For example, if the lowest bid is 76% of Capital Cost it would score 10 points. The next lowest bid, a bid of 78%, would score 8.0 points (10 points less 2% deviation from best price). The next lowest bid of 79% would score 7.0 points (10 points less 3% deviation from best price). And so on, down to a minimum score of 0.

## **2. Price: Cap Percentage Rate**

The Cap Percentage Rate will be expressed as a percentage of the Capital Cost, as specified by a Lessor in its bid response, and will reflect the maximum the Lessor can charge should the lease be extended beyond the Primary Term, when applying a discount rate of 3.5% to the whole stream of rentals.

Where selected as a criterion, scoring of Cap Percentage Rate will use the following scoring methodology:

Lowest cap	10 points (raw score)
Higher caps	10 points less % deviation

For example, if the lowest bid is 103% it would score 10 points. If the next lowest bid was 104%, it would score 9 points (10 points less 1% deviation from best bid). The next lowest bid, a bid of 105% would receive 8 points (10 points less 2% deviation from best bid). And so on, down to a minimum score of 0.

## **3. Transfer of Risk**

The intention is that all Lessors use the standard Master Lease Agreement. This will enable a level playing field and enable Lessees to evaluate bids on a like for like basis.

However, there are four key variables where Lessors may deviate from the standard. These are:

- Pre-inception variation
- Return conditions
- Special terms
- Early termination of lease

Where a full-pay-out lease, i.e. a lease without residual investment, is requested by the Lessee, two additional variables apply, being:

- Peppercorn rentals
- Share of sale proceeds

Each of these variables may result in a Transfer of Risk to or away from Lessees. This level of risk will be measured at mini-competition stage. Lessors are advised that, as a result, the lowest cost bid may not be the Most Economically Advantageous Tender. The winning bid will always be the Most Economically Advantageous Tender.

The Transfer of Risk score will reflect the level of risk transfer posed by any deviation from the standard terms and will assess the impact of any variations proposed by the Lessor. Lessees will consider each

deviation on its own merits in terms of the individual circumstances – these may vary from Lessee to Lessee and from mini-competition to mini-competition.

Where selected as a criterion, Risk Transfer will be scored out of 10 using the following scale:

Score	Meaning
Fail	<ul style="list-style-type: none"> <li>Unacceptable level of risk transfer. The Provider will be excluded from the procurement process.</li> </ul>
2	<ul style="list-style-type: none"> <li>Deviations result in an acceptable, but more than minor, Transfer of Risk to the Lessee</li> </ul>
4	<ul style="list-style-type: none"> <li>Deviations result in minor Transfer of Risk to the Lessee</li> </ul>
6	<ul style="list-style-type: none"> <li>No Deviations proposed that result in a Transfer of Risk to or from the Lessee – meets expectations</li> </ul>
8	<ul style="list-style-type: none"> <li>Positive deviations result in minor benefit to the Lessee</li> </ul>
10	<ul style="list-style-type: none"> <li>Positive deviations result in benefits to the Lessee that are considered to be more than minor</li> </ul>

### Selection of criteria and weightings

Lessees may elect to use any, all or a combination of criteria and may weight them in an appropriate manner. The weightings must always sum to 100, meaning that the weight-adjusted scores will always be scores out of 100.

Each criterion has a range of scores from zero to ten. These are the raw scores that are then adjusted in line with the weightings selected by the Lessee. For example, if the Lessee selected a weighting of 35% for risk transfer, a bidder scoring 8 out of 10 would have this adjusted by a factor of 3.5 to a score of 28 out of 35.

Where the Term Test is applied, the winner of the mini-competition will be the bidder that has achieved the highest score.

The methodology of the Term Test may be varied if for any reason the Framework Manager concludes that a new methodology would produce more accurate outcomes.

**SCHEDULE 5**  
**TECHNICAL SPECIFICATION**

If appointed to the Framework, the Lessor agrees the following:

1. It will ensure that equipment is collected within the time period specified in the Schedule and, if no time period is specified, then within the time period specified in the Master Lease Agreement, providing the equipment is made available by the Lessee.
2. It will not levy any charges on the Lessee other than those specifically provided for within the Master Lease Agreement, Schedule or Framework Agreement unless specifically agreed by the Lessee.
3. Any condition damages charges to be imposed on the Lessee in accordance with the return conditions detailed in the Master Lease Agreement shall be advised to the Lessee within 40 days of the date the equipment is collected from the Lessee.
4. If so required within a mini-competition, it will agree to continuation or further continuation periods of the Lessee's choosing but, where Rentals are chargeable throughout, it is not obliged to agree to extension periods that add an incremental term equivalent to the original Contract Period or five years, whichever is the greater. This does not however interfere with the Lessee's rights under the Master Lease Agreement to continue using the equipment at zero rentals once the Cap Percentage Rate has been reached.
5. It will provide indicative rentals, when requested and within an agreed timescale.
6. It will resolve a simple customer query or request for information within one working day, and provide an acknowledgement and a timescale for resolution within one working day if the request is more complex.
7. It will bid in its own name in respect of any mini-competition and, if awarded the business, will contract with the Lessee in its own name.
8. All bids in respect of mini-competitions shall remain valid for a minimum of 180 days from the close date of the mini-competition, on the understanding that the Pre-Inception Variation and Pre-Inception Cap Variation clauses will protect the Lessor from movements in interest rates, by varying both the Rental and the Cap Percentage Rate.

9. The Framework Manager will draw up all lease documentation and will use DocuSign (or a similar portal if DocuSign is not available) to obtain the signed and countersigned versions. In the event it is not possible, the Lessor will state this within their bid at mini-competition level, on the understanding this deviation from the technical specification will be scored appropriately under the Risk Transfer criterion.
10. Lease documentation will be formally approved, including formal credit approval, within 48 hours of receiving notification of a successful bid at mini-competition. In the event this timescale is not possible, the Lessor will state their preferred timescale within their bid at mini-competition level, on the understanding this deviation from the technical specification will be scored appropriately under the Risk Transfer criterion.
11. Lessors' Purchase Orders to be issued to the equipment suppliers on the same working day the lease documentation is signed if the lease documentation is signed on or before 14:00, or the following working day if the lease documentation is signed after 14:00. In the event this timescale is not possible, the Lessor will state their preferred timescale within their bid at mini-competition level, on the understanding this deviation from the technical specification will be scored appropriately under the Risk Transfer criterion.
12. It will provide such statistics as the Framework Manager may reasonably request from time to time regarding mini-competitions run under this framework. The Framework Manager may also request face to face review meetings with the Lessor to discuss the framework, performance issues, market trends and other factors affecting the leasing industry, and the Lessor shall agree to any reasonable request for such a meeting.
13. Promotion of this leasing framework will be on an equal footing to the promotion of any other competing leasing framework that it may be party to.