

SERVICES FRAMEWORK START DATE: 1 April 2023

SERVICES FRAMEWORK

PART I – GENERAL PROVISIONS

1. INTERPRETATION

The following definitions and rules of interpretation apply to your Contract (which includes this Services Framework) with us.



1.1. Definitions:

Business Day:	means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
Contract:	means the agreement between the Supplier and the Customer for the supply of Services as is set out in (i) this Services Framework; and (ii) the relevant Statement of Work
Credit Check:	company or personal information may be passed on to credit reference agencies and finance providers to perform a credit search following receipt of your Purchase Order.
Customer:	means the person or firm who purchases Services from the Supplier and as is specified in the relevant Statement of Work.
Customer Data:	means such data provided by the Customer to the Supplier pursuant to any of the Customer's obligations under this Contract.
Covered Users:	means the Customer's Personnel authorised to use the PSP as notified to the Supplier under the relevant Statement of Work.
Data Processing Policy:	means the data processing set out in Schedule 2 of this Services Framework.
Deposit:	is such sum as set out in the relevant Statement of Work to be paid to the Supplier at the time of the Purchase Order.
Donor:	means a person of interest to the customer giving a sample of breath or saliva (via swab)

Equipment:	any physical item, software or hardware, or other IP which is used in the course of the Supplier discharging its responsibilities under this agreement
Finance Agreement:	you may be introduced to a panel of finance providers following receipt of your Purchase Order and the completion of a Credit Check to enter into a finance agreement with a finance provider in order to purchase or lease the equipment identified in your Purchase Order. We may receive a commission payment from these finance providers.
Initial Term:	means a period of 3 years from the commencement date.
Non-negative Sample:	means a sample that has the presence of one or more drugs in a sample (i.e. a positive result for the presence of drugs)
Part I (General Provisions)	means clauses 1 to 23, and Schedules 1 and 2 of this Services Framework (inclusive).
Part II (Testing Services)	means clauses 24 to 30, and Schedule 3 of this Services Framework (inclusive).
Part III (Peer Support Services)	means clauses 31 to 37 of this Services Framework (inclusive).
Party:	means a party to the Contract and Parties shall be construed accordingly.
Peer Support Service and / or Peer Support:	means listening support, wellbeing advice (i.e. non-specialist and non-clinical advice surrounding lifestyle choices), and signposting to specialist services and/or such other peer support services as defined in the Statement of Work.

Peer Support Volunteer:	means a peer support volunteer engaged by the Customer in relation to the provision of the Peer Support.
Personnel:	means any employee, agent, consultant or contractor of a party.
PSP:	means a peer support program supplied to the Customer by the Supplier under this Services Framework.
Purchase Order:	means the purchase order form submitted to the Supplier by the Customer.
Schedule	means a schedule to this Services Framework.
Services:	means the Services supplied by the Supplier to the Customer as set out in the Statement of Work Specifications.
Services Framework Start Date	means the date that is stated as being the Services Framework Start Date at the top of the first page of this document, and being the date upon which this Services Framework becomes binding on the Parties.
Service Level Agreement:	means the service level agreement contained in Schedule 3 of this Services Framework.
Supplier:	means OdiliaClark Ltd (a company incorporated and registered in England and Wales with registered number 11683708).
Statement of Work:	means the work schedule (substantially in the form of the template set out at Schedule 1), containing the terms for Services and Deliverables as agreed between the Parties.

Total Loss	means the damage and/or loss of equipment of an extent that means it cannot be repaired and/or returned to the Supplier in satisfactory condition for further use.
Testing Services and/or Testing:	means measurement for the presence of levels of alcohol or drugs in a donor's system

1.2.

1.2. Interpretation:

1.2.1. A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.2.2. A reference to **writing** or **written** includes fax and or email, but not by text message via mobile phone.

1.2.3. A reference to a **clause** is a reference to a clause in this Services Framework.

2. COMMENCEMENT AND DURATION

2.1. Subject to clause 11, this Services Framework shall commence on the Services Framework Start Date and shall continue until the later of either (i) termination by either party in accordance with clause 9.1; or (ii) the final date upon which Services are delivered under any relevant Statement of Work (such date as is determined by the Supplier acting reasonably).

2.2. The Services, as shall be specified in the relevant Statement of Work shall commence on the date specified in that Statement of Work and shall continue according to the terms specified

3. BASIS OF CONTRACT

3.1. Any quotation given by the Supplier shall not constitute an offer and is only valid for a period of 30 Business Days from its date of issue, or as otherwise indicated on the quotation.

3.2. The Purchase Order constitutes an offer by the Customer to purchase Services in accordance with this Services Framework.

3.3. A Purchase Order will be valid only if it is sent to the Supplier by letter or electronic mail, or where required, by using the Supplier's approved electronic order forms. A Purchase Order placed with the Supplier shall only be deemed to be accepted when the Supplier accepts that Purchase Order in writing and the parties have signed a

Statement of Work, **at which point, and on which date the Contract (which is made up of (i) the Services Framework; and (ii) the relevant Statement of Work, shall come into existence.**

- 3.4. The Statement of Work shall be the definitive record as to whether Part II (Testing Service), or Part III (Peer Support Services) of this Services Framework, or both shall apply in respect of the Services supplied under that particular Statement of Work.
- 3.5. The Contract constitutes the entire agreement, in respect of the Services detailed in the relevant Statement of Work, between the parties and supersedes and replaces all prior price quotations, agreements, promises, assurances, warranties, representations and understandings between the parties, whether written or oral, relating to its subject matter.
- 3.6. The terms and conditions specified in this Services Framework and any relevant Statement of Work apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 3.7. Any samples, drawings, descriptive matter or advertising issued by the Supplier and any descriptions of the Equipment or illustrations or descriptions of the Services contained in the Supplier's brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Equipment described in them. They shall not form part of the Contract or have any contractual force.

4. GENERAL CUSTOMER OBLIGATIONS

- 4.1. The Customer shall:
- 4.1.1. ensure that the terms of the Statement of Work are complete and accurate;
- 4.1.2. comply with the provisions of this Services Framework and with the provisions of each Statement of Work. The Customer's failure to properly perform any of its obligations under the Contract shall relieve the Supplier from any obligation to perform (and any liability for non-performance relating to) any aspects of the Services that are noted as being, or could reasonably be considered as being, dependent upon Customer's performance of such obligations. In the event of the Supplier suspending or otherwise ceasing to perform the Services as a result of the Customer's breach of this clause 4.1.2 the Supplier may, if applicable and where it is appropriate to do so, inform the relevant national authority that the Services have been withdrawn;
- 4.1.3. provide the Supplier as soon as is reasonably practicable in any circumstance, with all such information, materials and support as may reasonably be requested by the Supplier to enable provision of the Services and/or performance of the Contract and ensure that such information is complete and accurate and not misleading in all material respects; and
- 4.1.4. co-operate with the Supplier as required in all matters relating to the Services.

- 4.2. If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (a "**Customer Default**"):
- 4.2.1. without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- 4.2.2. the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 4.2; and
- 4.2.3. the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

5. PRICE AND TERMS OF PAYMENT

- 5.1. The Supplier shall be entitled to charge the Customer for:-
- 5.1.1. Any fees agreed to be payable by the Customer in writing; and
- 5.1.2. Any expenses reasonably incurred by the Supplier and/or the individuals whom the Supplier engages in connection with the Services including venue expenses, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and as required by the Supplier for the performance of the Services.
- 5.2. All amounts payable by the Customer under the Contract are exclusive of all applicable taxes (including sales, use and VAT) and are based on the Supplier's tariffs and fee rates applicable at the time of submission of the Purchase Order. Applicable taxes are those in force at the date of invoicing.
- 5.3. The Customer shall pay each invoice submitted by the Supplier:
- 5.3.1. as set out in the Statement of Work, or in the absence of such provisions, within 14 days of receipt of the invoice, and
- 5.3.2. in full and in cleared funds to a bank account nominated in writing by the Supplier, time for payment shall be of the essence of the Contract.
- 5.4. Any dispute about an invoice must be raised by the Customer in writing within 14 days of the invoice date. Such dispute will not entitle the Customer to defer payment of any amount due under the Contract.
- 5.5. If the Customer fails to make payment due to the Supplier under the Contract by the due date, the Customer shall pay:

- 5.5.1. an administration fee of £250.00 in respect of the Supplier's costs in dealing with such outstanding payment; and
- 5.5.2. interest on the overdue sum from the due date until the date of payment of the overdue sum (whether before or after judgment) at the rate of 8% per annum above the base rate from time to time of the Bank of England.
- 5.6. All invoices are subject to a minimum invoice charge of £200.00. The Supplier has the right to charge an administrative fee of up to £25.00 to re-issue an invoice for any reason.
- 5.7. The payment method is bank transfer or direct debit (to such account specified by the Supplier to the Customer in writing from time to time). Any other method of payment must receive prior written agreement from the Supplier.
- 5.8. Upon receipt and acceptance by the Supplier of a Statement of Work, the Supplier is entitled to require payment of up to 100% of the quoted price. The Customer shall pay such invoice in accordance with clause 5.3. A reconciliation and final invoice (where relevant) will be prepared by the Supplier and the Customer shall pay such invoice in accordance with clause 5.3.
- 5.9. All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 6. CANCELLATION OF APPOINTMENTS/NON-ATTENDANCE**
- 6.1. The Customer may be liable to the Supplier to pay cancellation fees in the event that the Customers cancels an appointment and/or training course booking after such booking has been processed.
- 6.2. For the purpose of this clause 6.1.1, a Booking shall be processed when the Customer receives either a written or verbal confirmation from the Supplier that the Booking has been approved.
- 6.3. Bookings can only be cancelled by the Customer completing a cancellation form and returning it to the Supplier via email.
- 6.4. Cancellations with 7 days or less of the appointment and/or training start date will be charged the full fee.
- 6.5. Cancellations with 14 days or less of the appointment and/or training start date will be charged half of the full fee.
- 6.6. Cancellations more than 14 days in advance of the appointment and/or training start date will incur no charge.
- 6.7. If an individual fails to attend an appointment or training course on the day without any notice this will be classed as cancelling on the day.
- 6.8. Once an invoice has been raised and sent, this will become payable by the Customer under all circumstances.

7. LIMITATION OF LIABILITY

7.1. Subject to clauses 7.2 and 7.4:

7.1.1. each of the Parties (together with its respective workers, office clerks, employees, representatives, managers, officers, directors, agents and consultants and all its partners and affiliates,) (the "Indemnifying Party") shall be liable to the other Party only for the proven direct and immediate damage caused by a breach of the Indemnifying Party's obligations under the Contract and then, only if the Party seeking redress has provided written notice thereof not later than twelve (12) months after the date of its knowledge of the relevant claim (unless any longer period is prescribed under applicable law and cannot be contractually limited); and

7.1.2. In all cases (whether arising under contract, tort, negligence, strict liability, through indemnification or otherwise), the Parties' respective aggregate liability in respect of all or any claims arising out of or in connection with the Contract, shall be limited to the lesser of:

- (a) the direct and immediate loss or damage caused by the party's breach of its obligations under the Contract; OR
- (b) the total charges paid to the Supplier during the twelve (12) months' period immediately preceding the event giving rise to the first claim

7.2. The Parties shall not be liable to the other Party for any of the following: (i) loss of business profits; or (ii) loss of or damage to goodwill or other similar losses; or (iii) loss of business or sales opportunities; or (iv) loss of agreements or contracts; or (v) loss of use or corruption of software, data or information; or (vi) loss of revenue; or (vii) loss of anticipated savings; or (viii) loss of or damage to data; or (ix) for any indirect or consequential losses, costs, charges, expenses or damages incurred by them or by any third party.

7.3. The Customer shall indemnify the Supplier (together with its workers, office clerks, employees, representatives, managers, officers, directors, agents and consultants and all Supplier partners and affiliates) for any losses, injuries, claims and costs which they may suffer as a result of or arising from or in any way connected with the provision of the Services (including Peer Support) or products or software provided pursuant to the terms of the Contract, except to the extent that they are expressly required to bear such losses themselves according to the terms of the Contract.

7.4. Notwithstanding any other provision of this Service Framework, the liability of the parties shall not be limited in any way in respect of the following:

7.4.1. death or personal injury caused by negligence;

7.4.2. fraud or fraudulent misrepresentation;

7.4.3. any other losses which cannot be excluded or limited by applicable law; or

7.4.4. any losses caused by wilful misconduct.

8. FORCE MAJEURE

- 8.1. The Supplier shall not be (or be deemed to be) liable for any default by reason of any delays, errors, damages, failure to perform or other problems caused by any events or circumstances which are unforeseen or beyond the Supplier's reasonable control, or which result from compliance with governmental requests, laws and regulations.

9. TERMINATION

- 9.1. Without affecting any other right or remedy available to it, either Party may terminate the Contract by giving the other Party no less than three months' written notice (separate to any notice to terminate a Statement of Work), provided such notice does not end before the later of: expiry of the Initial Term; or the final date upon which the final ongoing Statement of Work expires or is otherwise terminated or the delivery of the Services thereunder is completed, in the opinion of the Supplier acting reasonably. **For the avoidance of doubt, termination of a particular Statement of Work shall not affect the ongoing operation of this Services Framework.**

- 9.2. Without affecting any other right or remedy available to it, either Party may terminate the Contract with immediate effect by giving written notice to the other Party if:

9.2.1. the other Party takes any step or action in connection with its entering into administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court), having a receiver appointed to any of its assets or ceasing to carry on business; or

9.2.2. the other Party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

- 9.3. Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount when due under the Contract on the due date for payment.

- 9.4. Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services under the Contract if the Customer fails to pay any amount due under the Contract on the due date for payment or if the Customer becomes subject to any of the events listed in condition 9.2.

- 9.5. The Supplier shall be entitled to terminate with immediate effect if a Total Loss occurs in relation to the Equipment.

10. CONSEQUENCES OF TERMINATION

- 10.1. On termination of the Contract:

10.1.1. the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice which shall be payable by the Customer immediately on receipt;

10.1.2. the Customer shall return all of the Supplier's (or any third party engaged by the Supplier's) materials and Equipment which have not been fully paid for. If the Customer fails to do so, then the Customer shall provide the Supplier with such reasonably access to the Customer's premises during the Customer's normal office hours to enable the Supplier to take possession of the Equipment.

10.2. Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination.

10.3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

11. SURVIVAL OF TERMINATION

11.1. Any clauses in this Contract that are expressly stated, or by implication intended, to apply after termination of this agreement shall continue in full force and effect after such termination, including:

11.1.1. Clause 5 (Price and terms of Payment);

11.1.2. Clause 7 (Limitation of Liability);

11.1.3. Clause 12 (Non-solicitation);

11.1.4. Clause 14 (Notices);

11.1.5. Clause 15 (Confidentiality; and

11.1.6. Clause 16 (Processing of Personal Data).

12. NON-SOLICITATION

12.1. The Customer agrees that it shall not, except in accordance with clause 12.2:

12.1.1. solicit or entice away or seek or attempt to entice away (whether full-time or part-time, by contract or by direct hire) any person engaged in the provision of any Services under that Statement of Work throughout the term of this Agreement and for a period of two years thereafter; or

12.1.2. solicit or entice away or seek or attempt to entice away (whether full-time or part-time, by contract or by direct hire) any employee, contractor, agent, consultant or officer of the Supplier engaged directly or indirectly in the performance of a Contract throughout the term of this Services Framework and for a period of 12 months thereafter.

12.2. The Customer may engage a named member of the Supplier's Personnel, provided that:

- 12.2.1. the Customer notifies the Supplier of the named member of the Supplier's Personnel prior to any form of solicitation or communication in relation to a potential job opportunity;
- 12.2.2. the Supplier gives its prior written consent to any such communication; and
- 12.2.3. the Customer pays to the Supplier an amount equal to 12-months' financial remuneration (including salary and maximum bonus limits, but not including expenses) as agreed with the prospective employee. For the avoidance of doubt, this Clause 12 shall not apply to unsolicited responses by any employee, contractor, agent, consultant or officer of the Supplier, to general recruitment advertising.

13. DISPUTE RESOLUTION

- 13.1. Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 13.
- 13.2. The dispute resolution process may be initiated at any time by either Party serving a notice in writing on the other Party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.
- 13.3. The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedure:
 - 13.3.1. Within 10 Business Days of service of the notice, the contract managers of each of the parties shall meet to discuss the dispute and attempt to resolve it.
 - 13.3.2. If the dispute has not been resolved within 10 Business Days of the first meeting of the contract managers, then the matter shall be referred to the Managing Directors (or persons of equivalent seniority) of each of the parties. The Managing Directors (or equivalent) shall meet within 10 Business Days to discuss the dispute and attempt to resolve it.

14. NOTICES

- 14.1. Any notice given by a Party under these Conditions shall be sent to the relevant party at the address set out in the Contract.
- 14.2. Notices may be given, and are deemed received:
 - 14.2.1. by hand: on receipt of a signature at the time of delivery;
 - 14.2.2. by post: at 9.00 am on the second Business Day after posting; and
 - 14.2.3. by email: on receipt of transmission by the recipient.
- 14.3. Any change to the contact details of a Party as set out in the Contract shall be notified to the other Party in accordance with clause 14.1 and shall be effective:
 - 14.3.1. on the date specified in the notice as being the date of such change; or

14.3.2. if no date is so specified, five Business Days after the notice is deemed to be received.

14.4. All references to time are to the local time at the place of deemed receipt.

14.5. This clause does not apply to notices given in legal proceedings or arbitration.

15. CONFIDENTIALITY

15.1. During the term of this Services Framework and indefinite after termination, each Party shall:

15.1.1. hold the other Party's Confidential Information in strict trust and confidence;

15.1.2. refrain from using or permitting others to use the other Party's Confidential Information in any manner or for any purpose not expressly permitted or required by the relevant Contract; and

15.1.3. refrain from disclosing or permitting others to disclose the other Party's Confidential Information to any third party without obtaining the other Party's express prior written consent on a case-by-case basis.

15.2. Each Party shall protect the other Party's Confidential Information from unauthorised use, access, or disclosure in the same manner as that first Party protects its own confidential or proprietary information of a similar nature, and with no less than the greater of reasonable care and industry standard care.

15.3. Upon termination of this Services Framework, each Party shall promptly return to the other Party or, if so directed by that other Party, destroy all tangible embodiments of the other Party's Confidential Information (in every form and medium).

15.4. Customer agrees that the Supplier may add Customer (including Customer's logo) as a reference on the Supplier's website and in such other media as the parties may agree. Customer agrees to act as a reference for prospective customers of the Supplier and provide input and data sufficient for the production of one publicly accessible case study (if requested by the Supplier).

15.5. Analysis results are prepared and supplied exclusively for the use of the Customer and should not be divulged to a third party for any purposes without the prior written agreement of the Supplier. In addition, the Customer is required to maintain secrecy concerning all services provided by the Supplier and their results as well as the composition of products and software delivered by the Supplier. Testing results are not to be publicly disclosed or exploited without the prior written consent of the Supplier. Even if such written consent is given by the Supplier, the Customer (a) remains responsible for any consequences due to the divulgence of such results to a third party and any reliance of such third party on such results and (b) hereby agrees to indemnify the Supplier against any liability which the Supplier may incur as a result of such divulgence or any such third-party reliance.

16. PROCESSING OF PERSONAL DATA

- 16.1. The Parties shall process Protected Data in compliance with their respective obligations placed on them under Data Protection Laws and the terms of the Supplier's Data Sharing Agreement, a copy of which is contained in Schedule 3.

17. NO PARTNERSHIP OR AGENCY

- 17.1. The Parties are independent persons and are not partners, principal and agent or employer and employee and a Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. Neither Party shall have, nor shall represent that they have, any authority to make any commitments on the other Party's behalf.

18. VARIATION

- 18.1. This Services Framework may be modified in writing from time to time by the Supplier and Purchase Orders will be governed by the most recent version of this Services Framework that is in effect at the time the Supplier issues the Statement of Work.

19. SEVERANCE

- 19.1. If any provision of part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 19 shall not affect the validity and enforceability of the rest of the Contract.

20. WAIVER

- 20.1. No failure, delay or omission by the Supplier in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 20.2. No single or partial exercise of any right, power or remedy provided by law or under the Contract by the Supplier shall prevent any future exercise of it or the exercise of any other right, power or remedy by the Supplier.

21. ASSIGNMENT

- 21.1. The Customer shall not assign, transfer, mortgage, charge, subcontract or otherwise encumber or deal with all or any of its rights or obligations under the Contract without the prior written consent of the Supplier.

22. RIGHTS OF THIRD PARTIES

- 22.1. Unless expressly stated otherwise, a person who is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

23. GOVERNING LAW & JURISDICTION

- 23.1. The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 23.2. Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

PART II - TESTING SERVICES

24. SUPPLY OF TESTING SERVICES

- 24.1. The Supplier shall supply the Testing Services to the Customer in accordance with the relevant Statement of Work and with Part I (General Provisions) and Part II (Testing Services) of this Services Framework in all material respects, including but not limited to the Service Level Agreement set out at Schedule 3.
- 24.2. The Supplier shall use reasonable endeavours to meet any performance dates specified in any written correspondence or other agreements, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 24.3. The Supplier reserves the right to amend the Specifications if necessary to comply with any applicable law or regulatory requirements, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 24.4. The Supplier shall supply any Equipment to the Customer in accordance with the Contract (where applicable) and shall not, other than in the exercise of its rights under the Contract or applicable law, interfere with the Customer's quiet possession of the Equipment.
- 24.5. The Supplier shall use all reasonable endeavours to effect delivery and installation of the Equipment by the date and time agreed between the parties. Title and risk shall transfer in accordance with conditions 24.6 and 24.7.
- 24.6. The Supplier shall install the Equipment. The Customer shall procure that a duly authorized representative of the Customer shall be present at the installation of the Equipment.
- 24.7. Acceptance by such representative of installation shall constitute conclusive evidence that the Customer has examined the Equipment and has found it to be in good condition, complete and fit in every way for the purpose for which it is intended (save as regards any latent defects not reasonably apparent on inspection). If required by the Supplier, the Customer's duly authorized representative shall sign a receipt confirming such acceptance. The Customer shall provide all requisite facilities, access and suitable working conditions to enable delivery and installation of the Equipment to be carried out safely and expeditiously.

- 24.8. The Customer shall, at all times prior to the passing of title in the Equipment in accordance with conditions 24.6 and 24.7, at its own expense, obtain and maintain the following insurances:
- 24.8.1. insurance of the Equipment to a value not less than its full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as OC may from time to time nominate in writing;
 - 24.8.2. insurance for such amounts as a prudent owner or operator of the Equipment would insure for, or such amount as the Supplier may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Equipment or its use; and
 - 24.8.3. insurance against such other or further risks relating to the Equipment or its use as may be required by law, together with such other insurance as the Supplier may from time to time consider reasonably necessary and advise to the Customer.
- 24.9. All Testing carried out by the Supplier is carried out in line with the Customer's company drugs and alcohol policy. The Supplier shall not bear any responsibility if the sampling plan and/or the range of analysis to be performed prove to be insufficient or inappropriate for any reason.
- 24.10. The Customer will ensure that the Supplier has received a copy of the Customer's drug and alcohol policy one week prior to the commencement of Testing.
- 24.11. If Testing is to be undertaken at a Customer facility or site, or a site chosen by the Supplier, the Customer will make the employees selected for Testing available for Testing at the agreed dates and times.
- 24.12. If any of the selected Customer employees are unavailable for Testing for any reason, and/or any cancellation of any services is not in accordance with 9.1, the Supplier reserves the right to charge full or part payment for the Service and or/ any associated costs incurred.
- 24.13. The Customer will ensure all staff are aware of the Customer's drugs and alcohol policy and their obligations to be Tested. No person can be forced to provide a sample of urine, hair, saliva or blood for any purpose (notwithstanding any term of the Customer's drugs and alcohol policy to the contrary). Should an employee of the Customer decline to take part in the Testing process, the Supplier will randomly select another employee of the Customer and inform the Customer's HR department of the failure to provide a sample.
- 24.14. Notwithstanding that the Supplier may have prepared such policy, the Supplier will bear no responsibility for any dispute or claim against the Customer (whether from a Customer employee or otherwise) arising out of or in connection with the content, subject matter or formation of the Customer's drugs and alcohol policy.
- 24.15. the Supplier shall only carry out Testing using Home Office-approved equipment. The Supplier will provide equipment and consumable parts as required. This is to ensure calibration and shelf life are controlled.

24.16. If testing takes place at a Customer's site, the Customer must ensure that an area which, in the reasonable opinion of the Supplier, is clean, quarantined and safe is provided for the Supplier to conduct Testing.

24.17. The Supplier will provide all Testing results in digital format. Such results will be provided to the Customer's HR Department/nominated representative only.

24.18. The Customer has the right to challenge any Testing results within thirty (30) days after receipt of the results. The Customer shall pay on written demand by the Supplier all costs and expenses arising in connection with such re-tests unless the results show a disparity between the original and retest results.

25. OUT OF HOURS & WEEKEND TESTING

25.1. The Supplier testing locations operate between the hours of 9.00am to 5.30pm, Monday to Friday (the "**Normal Working Hours**").

25.2. For any pre-planned testing that is required outside of Normal Working Hours, the Supplier reserves the right to charge the Customer for any additional costs that are incurred for out-of-hours access.

26. WAITING TIMES

26.1. There will be a 30 minute 'grace period' that commences at the start of a test/sample collection appointment time.

26.2. If a test is delayed by the Customer and/or the Customer's employee for more than 30 minutes, there will be a charge of £30 + VAT per half hour delay.

26.3. The Customer shall indemnify the Supplier for any additional costs and expenses reasonably incurred by the Supplier resulting from a testing appointment being delayed by the Customer and/or the Customer's employee for more than 30 minutes.

27. CUSTOMER'S OBLIGATIONS RELATING TO TESTING SERVICES

27.1. The Customer shall:

27.1.1. provide the Supplier, its employees, agents, consultants and sub-contractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier;

27.1.2. obtain and maintain all necessary licenses, permissions and consents which may be required for the Services before the date on which the Services are to start.

27.1.3. ensure that the Equipment is kept and operated in a suitable environment, used only for the purposes for which it is designed and operated in a proper manner by trained competent staff in accordance with any operating instructions provide by the Supplier; and

27.1.4. make no alteration to the Equipment and shall not remove any existing components from the Equipment.

28. ACTIONS ON A NON-NEGATIVE (POSITIVE) SAMPLE

- 28.1. In the event of a Customer's employee providing a Non-Negative Sample, and if the Customer's drugs and alcohol policy defines a need for a confirmatory test of the sample, the Supplier will request that one of the Supplier's approved third-party United Kingdom Accreditation Service approved laboratories carries out such confirmatory test of that sample.
- 28.2. The Customer shall pay on written demand by the Supplier all costs and expenses incurred by Supplier in obtaining the confirmation test results referred to in clause 28.1 above.
- 28.3. The Customer shall within 5 business days of receipt of a positive confirmatory test, either (i) confirm to the Supplier that it shall engage the Supplier in respect of post-finding support; or (ii) provide written confirmation to the Supplier of arrangements that it has made to source equivalent services with an alternative provider. Failure to comply with this clause 28.3 may affect the validity of the result post-finding support assessment, for which the Supplier shall not be liable.

29. TRANSFER OF PROPERTY

- 29.1. Title in any analysis results, products, equipment, software or similar supplied by the Supplier to the Customer (the "**Property**") will remain with the Supplier until all amounts due and payable under the Contract have been paid by the Customer in full, and until such full payment, the Customer shall have no ownership of or other rights of use in the Property.
- 29.2. Notwithstanding that all amounts due and payable under the Contract may have been paid in full, the Supplier shall retain the right to store, use and publish all Testing results in an anonymous form which does not identify the Customer or any of its employees.
- 29.3. The Customer shall, subject to clause 29.4 have the option (the "**Purchase Option**") exercisable by not less than twenty (20) Business Days' written notice to the Supplier, to purchase the Equipment on the last day of the Rental Period of the Purchase Option Price.
- 29.4. The Purchase Option may be exercised only if all amounts due to the Supplier under the Contract up to the date of exercise of the Purchase Option have been paid in full by the Customer.
- 29.5. Upon completion of the purchase of the Equipment under clause 29.3, such title to the Equipment as the Supplier has shall transfer to the Customer. The Equipment will transfer to the Customer in the condition and at the location in which it is found on the date of transfer.

30. LIMITED WARRANTIES AND RESPONSIBILITIES

- 30.1. Testing is handled and carried out in the conditions available to the Supplier in accordance with the current state of technology and methods developed and generally applied by the Supplier. Analyses, interpretations, assessments, consulting work and conclusions are prepared with a commercially reasonable degree of care

and skill, but the Supplier cannot guarantee that these will always be correct or absolute.

- 30.2. All Supplier equipment and consumables will be of original equipment manufacturer (OEM) origin and will be maintained in accordance with the calibration and servicing schedules as defined by the OEM.
- 30.3. The Customer may at all times be liable for the security of testing stock if a testing programme is to be conducted at a site or venue. Stock will be delivered prior to the commencement of testing. The Supplier will use commercially reasonable care in handling and storing all testing and consumable stock but the Supplier shall not be held responsible for any loss or destruction of stock in transit or upon receipt at a Customer site, venue or facility.
- 30.4. Unless explicitly agreed in writing by all parties, the contractual relationship shall be between exclusively the Customer and the Supplier. There shall be no third-party beneficiary or collateral warranty relating to any order and the Customer shall indemnify and hold the Supplier harmless from and against any and all third party claims in any way relating to the customer or to the order by the Customer.
- 30.5. Where the Supplier supplies any software to the Customer, the Customer shall use such software in accordance with the applicable licence terms, instructions and manuals.

PART III - PEER SUPPORT SERVICES

31. PEER SUPPORT SERVICES

- 31.1. The Supplier shall supply the Peer Support Services to the Customer in all material respects in accordance with the relevant Statement of Work and with Part I (General Provisions) and with Part III (Peer Support Services) of the Services Framework.
- 31.2. The Peer Support Services shall, unless otherwise agreed within the relevant Statement of Work, include the following services:

31.2.1. Governance

- (a) Provision of a PSP in accordance with such of the Supplier's policies and compliance guides as are in place from time to time.
- (b) Coverage under the PSP of all Covered Users as notified to the Supplier by Customer;
- (c) Access to anonymity for Covered Users by ensuring that they only speak to someone also employed by their employer if they so desire;
- (d) Advertising and promotion advice;

31.2.2. Education Program (Available if Required – additional cost)

- (a) Development of an effective training package on mental health and wellbeing for delivery by the Supplier's Crew Resource Management Trainers and other relevant staff including initial module and recurrent modules.

31.2.3. Peer Support

- (a) All Covered Users will have access to Peer Support. Peer Support is strictly limited to listening support, wellbeing advice (i.e. non-specialist and non-clinical advice surrounding lifestyle choices), and signposting to specialist services.
- (b) The Parties acknowledge that Peer Support is not and shall not be considered an emergency service. Upon a Covered User contacting the Supplier for support, the Supplier shall endeavour to respond to the Covered User within the timeframe requested, provided that such timeframe is not less than 24 hours.
- (c) The Customer warrants that any Covered User that requests help within less than 24 hours, the Customer will ensure that it has appropriate safety measures in place for the Supplier to signpost the Covered User to.
- (d) The Customer shall provide immediately upon request to the Supplier confirmation in writing of its crisis management policy and accompanying protocols and procedures. The Customer shall provide immediately upon commencement of this Contract and at all times thereafter accurate and up to date contact details for its crisis management personnel/teams. The Customer hereby permits the Supplier to share any such details with any Covered User as the Supplier may deem appropriate from time to time.

31.2.4. Third Party Specialist Clinical Services

- (a) Clinical aviation psychologist oversight of PSP;
- (b) Clinical intervention and support with Red Flag Behaviours (“Red Flag Behaviours” refers to a Covered User threatening to harm themselves or another person, or to commit a crime.)
- (c) Each request for support is entitled to one conversation with an applicable Mental Health Professional/Aeromedical Examiner with the cost covered by the supplier. Further such conversations shall be paid for by the customer or individual being supported. No further booking shall be made without agreement to such booking being paid either by the individual being supported or customer.

31.2.5. Selection, Training and Supervision of Identified Peer Support Volunteers

- (a) Provision of criteria for selection of Peer Support Volunteers;
- (b) Ensure diversity, where possible, of Peer Support Volunteers in line with the Supplier’s Diversity and Inclusion Policy;
- (c) Delivery of training course for selected Peer Support Volunteers;
- (d) Assessment of the readiness of selected Peer Support Volunteers to perform the role;
- (e) Regular supervision of and contact with Peer Support Volunteers;
- (f) Support for self-care among Peer Support Volunteers;
- (g) Signposting to further skill development opportunities.

- (h) Any further requirements as laid out in the Supplier's compliance guides in force from time to time.

32. DELIVERABLES

32.1. The Supplier shall provide the Customer with the following deliverables:

32.1.1. any and all training materials reasonably required in relation to the Peer Support Services; and

32.1.2. such written reports on trends and mental health issues within the Customer's employees as produced by the Supplier at its discretion from time to time.

33. ONGOING PROGRAM SUPPORT FEES

33.1. The Supplier's fees for ongoing support, as set out in the relevant Statement of Work shall be calculated on the basis of an average usage rate of 2.5% of Customer's Personnel (the "**Estimated Average Usage Rate**") and subject to such Usage Assumptions as set out in the relevant Statement of Work.

33.2. The cost of ongoing program support will be subject to a minimum cost as stated in the relevant Statement of Work.

33.3. The Customer's usage level will be reviewed on the expiry of each three-month period during the Term beginning on the start date for the provision of such ongoing program support services as set out in the relevant Statement of Work (the "**Usage Review**").

33.4. Upon each Price Review, the Supplier's fees for the following three-month period shall automatically adjusted to account for any changes to the number of Covered Users that the Customer has notified the Supplier to include within the support program (provided that such number never falls below one Covered User at any time).

33.5. The Supplier reserves the right, at its sole discretion, to increase its fees at any time during the Term if, in its reasonable opinion:

33.5.1. the Customer's actual average usage rate has for a period of three consecutive months or more remained higher than the Estimated Average Usage Rate, or such other average usage rate as agreed from time to time; and/or

33.5.2. the Supplier's costs of delivery increase above a percentage of five percent, to reflect the additional costs that the Supplier incurs.

34. TRAINING

34.1. The parties shall jointly carry out recruitment and selection of the Customer's Peer Support Volunteers, following which each of the Customer's Peer Support Volunteers shall be required to attend an initial training course (the "**Volunteer Initial Training**"), at the Customer's expense, such fees shall be set out within the relevant Statement of Work.

- 34.2. In accordance with National Aviation Authorities (NAA) collaborative approach to peer support provision, managers and key stakeholders who interact with Covered Users are encouraged to attend mental health awareness training and the Customer is required to nominate a minimum of one key stakeholder who must attend such training.
- 34.3. Where the Customer requires any additional individuals to participate in the Key Stakeholder Mental Health Awareness Course, the Customer will be charged a fee per additional person.
- 34.4. The Supplier shall provide Peer Support Volunteers with compulsory further training twice per annum. The further training will be an opportunity for the Peer Support Volunteers and the Supplier to generate and share best practice plus discuss emerging trends and mental health surveys from across the broader wellbeing spectrum developing in aviation. The fees for any further training will be set out within the relevant Statement of Work or otherwise agreed in writing from time to time.
- 34.5. If the Customer fails to release Peer Support Volunteers to attend scheduled compulsory training courses, the Supplier shall, at the Customer's expense, arrange to provide dedicated training course sessions for the Customer's Peer Support volunteers to maintain compliance with the regulatorily required training.
- 34.6. Where the Customer's SOW includes an annual subscription for the Supplier's Interactive Mental Health Awareness Training, the Supplier shall supply such training for up such number of employees as specified in the relevant Statement of Work including all stakeholders e.g. HR Teams, Flight Ops Personnel, Management, in compliance with annual mental wellbeing and PSP awareness training requirements, provide as follows:
- 34.6.1. two same-day Microsoft Teams sessions hosted by the Supplier each quarter;
 - 34.6.2. a total of eight separate training sessions per year of which each pilot must attend at least one session; and
 - 34.6.3. any other mediums of training which may be provided by the Supplier from time to time.

35. CUSTOMER INDEMNITY

- 35.1. The Customer shall indemnify, defend and hold harmless the Supplier from and against all losses arising out of claims from:
- 35.1.1. Third parties resulting from Peer Support Volunteers acting outside the scope of Peer Support;
 - 35.1.2. Any Peer Support Volunteer with respect to compensation for, or cost reimbursement with respect to, the provision of Peer Support if applicable and as set out in the relevant Statement of Work; or
 - 35.1.3. Third parties resulting from any inaccuracies in the Customer Data or any infringement or rights resulting from the provision of the Customer Data.

36. ACCESS TO THIRD PARTY PSYCHOLOGISTS

36.1. The Supplier may provide the following additional Peer Support Services via third-party clinical psychologists:

36.1.1. specialist consultation services for identified individuals referred through the PSP, directly by Customer management, or by any other recognised party within the peer support process;

36.1.2. Specialist psychological assessment and reporting for appropriate cases;

36.1.3. Specialist psychological treatment for referred individuals;

36.1.4. Critical Incident Support via the Supplier's Personnel;

36.1.5. Cross-referrals to other specialists (e.g. AMEs, other medical specialists, other therapists, etc.)

36.2. The additional services provided under this clause 35 will be charged on a per-case basis or per-session basis.

37. CUSTOMER OBLIGATIONS RELATING TO PEER SUPPORT SERVICES

37.1. The Customer agrees:

37.1.1. to nominate a minimum of one member of the Customer's Personnel to attend Key Stakeholder Training;

37.1.2. to provide Peer Support Volunteers consistent with the 'European Pilot Peer Support Initiative' best practice ratio of 0.5% - 1% of Covered Users;

37.1.3. to ensure that it holds one licence each from the Supplier for the provision of Peer Support Services for all Covered Users;

37.1.4. to encourage Covered Users to contact the Supplier in order to access the PSP;

37.1.5. to reply promptly to any requests for information from the Supplier;

37.1.6. to notify the Supplier as soon as is reasonably practicable of any changes in numbers of Covered Users;

37.1.7. to support the PSP through positive messaging from leadership;

37.1.8. to provide the Peer Support Volunteers(s) with such facilities and services (e.g. paid-for telephone facilities) as they might reasonably request if applicable and set out in the relevant Statement of Work; and

37.1.9. to comply with those elements marked as 'AOC Responsibilities' as set out in the Supplier's compliance guides in force from time to time.

37.2. Failure by the Customer to comply with clause 37.1 may limit the Supplier's ability to provide supporting comments in the event of an audit.

37.3. The Supplier shall not be held accountable for any reduction in the effectiveness of the PSP resulting from the Customer's failure to comply with clause 37.1.

