**Estates Maintenance Services**

Document D (Schedule 7 – Performance Management Mechanism)

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# Performance Management Mechanism

## Definitions

1. The definitions set out in Schedule 4 (General Terms & Conditions) of this Contract and the following definitions apply in this Performance Management Schedule (“**this** **Schedule**”). For the avoidance of doubt, where there is divergence or inconsistency between the following definitions and those contained in Schedule 4 (General Terms & Conditions) of this Contract, the definition contained in this Schedule shall prevail in this Schedule.

“**Authorised Officer**” has the meaning in Schedule 4 to this Contract (Definitions and Interpretations) and, for the avoidance of doubt, references to the “**Authorised Officer**” shall include references to their designated deputy from time to time;

“**Authorised Person**”has the same meaning as that term has in HTM 00 2014.

“**Baseline Contract Price**” has the meaning in the Pricing Schedules.

“**Bidder**” has the meaning of all entities who have been invited to bid for this Contract and have been selected to bid at the Supplier Questionnaire (SQ) stage.

“**Breach Notice**” has the meaning in Schedule 4 to this Contract (Definitions and Interpretations).

“**CAFM system**” means a computer-aided facilities management system to be provided as part of the Services under this Contract

“**Change Control Process**” means the process for making variations to this Contract (including, without limitation, the Services and the Performance Standards) in Section 5 of the Specification from time to time.

**“CNWL”** has the meaning in Schedule 4 to this Contract (Definitions and Interpretations);

**“CNWL Site Services Managers**” has the meaning in the Specification.

**“Competent Person”** has the same meaning as that term has in HTM 00 2014.

**“Contract Manager”** has the meaning in Schedule 4 to this Contract (Definitions and Interpretations). For the avoidance of doubt, in relation to QTS’s Contract Manager references to the “**Contract Manager**” shall include references to their designated deputy from time to time;

“**Contract Price**” has the meaning in Schedule 4 to this Contract (Definitions and Interpretations).

“**Corrective Action Plan**” means a detailed action plan prepared by the Supplier setting out how any defaults will be rectified by whom, when, how and how the outcomes will be measured.

“**Deliberate Reporting Failure**” means where there has been a failure in the Services that the Supplier is aware of but the Supplier has not reported it to QTS.

**“Enhanced Monitoring”** means the promotion and enhancement of QTS’ performance management regime where there has been successive failures by the Supplier in order to achieve a compliant outcome.

**“First Time Fix”** has the meaning of making safe any defective equipment, plant or system followed by rectification or repair by a Competent Person.

**“HBN”** has the meaning in the Specification.

“**Helpdesk**” means the helpdesk as part of the CAFM system to be provided and operated by the Supplier under this Contract, including as referred to and described in Section 3.1 of the Specification.

**“HTM”** has the meaning in the Specification.

**“HTM 00 2014”** means the Department of Health’s document “Health Technical Memorandum 00: Policies and principles of healthcare engineering” (2014 edition).

“**KPIs**” are the Performance Parameters and other key performance indicators which determine the minimum acceptable level of performance for a particular Service element.

“**Maximum Deduction**” is the maximum amount that QTS can deduct as a Service Deduction from the Service Fee in any one month if performance of the Services does not meet the required standard.

“**Minimum Standard**” means each “Minimum Standard” identified in the tables in Sections 2.1, 2.2 and 2.3 and the “Respond and Make Safe” period and “Rectification Period” identified in the table in Section 2.4.

"**Performance Monitoring System**” means the provisions of this Schedule.

“**Performance Parameters”** means the Performance Parameters described in Sections 2.1, 2.2 and 2.3.

“**Performance Standards**” are the service level requirements, KPIs and associated metrics related to the Services or any of them as described in this Schedule, including any amendments made to such Performance Standards, or additional Performance Standards introduced, from time to time in accordance with this Contract.

“**PPM**” means Planned Preventative Maintenance.

“**QTS Contract Monitoring Team**” means QTS’s Contract Manager and such other persons as QTS includes in such team from time to time.

“**Premises and Locations**” has the meaning in Schedule 4 to this Contract (Definitions and Interpretations).

“**Service Deduction**” is the amount that, in accordance with this Schedule, in respect of any month the Supplier is liable to deduct from the Service Fee, or (if not deducted when required) pay to QTS as charged by QTS, for not achieving the KPIs.

“**Service Fee**” means the monthly Contract Price for all elements of the Services, but before any Service Deductions or other deductions pursuant to this Schedule.

“**Service Level Report**” means the Supplier’s monthly report in accordance with Section 3.

“**Service Levels**” are the metrics and other Performance Standards related to the KPIs.

“**Site**” has the meaning in the Specification.

“**Specification**” means the document set out in Schedule 5 to this Contract (Specification and Tender Response Document) as amended and/or updated from time to time in accordance with this Contract.

**“Staff”** means all persons employed or engaged to perform the Supplier’s obligations under this Contract, including:

all persons employed or engaged by the Supplier to perform the Supplier’s obligations under this Contract;

all Sub-contractors; and

all persons employed or engaged by Sub-contractors to perform the Supplier’s obligations under this Contract or such Sub-contractors’ obligations under the Sub-contracts such Sub-contractors are party to.

“**Step In Rights**” means the step in rights and procedure for QTS in Section 4.

“**Warning Notice**” has the meaning in Section 1.7.

“**Weighting**” means the weighting applied to each KPI for which there may be a Service Deduction. The Weightings shall total 100%, but their allocation to particular KPIs can be varied by QTS from time to time in accordance with Section 1.4 to adjust the Weightings between KPIs and/or when adding or removing KPIs from those for which there may be a Service Deduction.

“**Works**” has the meaning in the Specification.

1. In this Schedule:

references to documents, documentation, records, reports, copies or any other similar items, whether or not using any of those words, include references to those items in digital format as well as paper or other hard copy format; and

references to QTS (or anyone acting on behalf of QTS) having a right to receive, inspect have otherwise have access to, or be able to see, audit or review, whether or not using any of those words, any documents or other items or information referred to in sub-paragraph (2)(a) above, shall include QTS being able to exercise such rights by using digital access or receiving copies of such documents or other items by email.

1. References to a “Section” in this Schedule are references to numbered sections in this Schedule unless stated otherwise.

**Notifications, advice and other communications to and with QTS:**

Save to the extent either:

expressly stated to the contrary in this Schedule or in any other part of this Contract; or

the Supplier is expressly instructed to the contrary by the Authorised Officer from time to time,

all notifications, advice and other communications to and with QTS:

must be given by the Supplier to QTS’s Contract Manager if they are notifications, advice or other communications under provisions in Schedule 5 (Specification) or in this Schedule 7 (Performance Management Mechanism) and (save as otherwise instructed by QTS) the CNWL Site Services Manager at the relevant Site; and

must be given by the Supplier to the Authorised Officer if they are notifications, advice or other communications under any part of this Contract other than in Schedule 5 (Specification) or this Schedule 7 (Performance Management Mechanism).

## Purpose

The purpose of this document is to set out the required performance management mechanism for the Services. QTS has developed this Schedule because any failure in delivering the Services effectively, and as required by this Contract, could have significant effects on patient care, availability of patient bedroomsand the general running of the Premises and Locations.

**Note to Bidders: Failure to accept this Performance Management Mechanism will result in Bidders being rejected from the tender process.**

## Overview

### KPIs and Service deductions

A number of KPIs shall apply to each element of the Services provision to keep measurement simple and effective, although the Supplier is required to keep adequate records so that QTS’s Authorised Officer can drill down into particular issues if required. The Supplier must at all times maintain an appropriate level of due diligence in relation to performance of the Services, including performance against the KPIs. The Supplier lacking data for measuring performance against KPIs will be deemed a breach of contract and will also result in a score of “0” for that month’s performance against any KPI for which the data is lacking.

The Supplier shall be liable to deduct a Service Deduction from a month’s Service Fee or (if not deducted when required) pay a Service Deduction charged by QTS, if the required Performance Standards are not achieved as measured against the KPIs within this Schedule. QTS may, in its sole and absolute discretion, disapply all or part of the requirement for a Service Deduction to be deducted, or (if not deducted when required) paid by the Supplier, in respect of any particular month or months, but if QTS does so that shall be without prejudice to:

1. the Supplier’s liability to deduct Service Deductions, or (if not deducted when required) pay Service Deductions charged by QTS, in respect of such particular month or months to the extent that QTS does not disapply the requirement for a Service Deduction to be deducted or paid by the Supplier;
2. the Supplier’s liability to deduct Service Deductions, or (if not deducted when required) pay Service Deductions charged by QTS, in respect of other months; and
3. the Supplier’s other obligations under this Contract.

### No obligation to pay for defective Services or Services that are not performed or supplied

QTS shall have no obligation to pay the Supplier or any other person for any Services or Works that are performed as a result of, or to rectify:

1. any faulty Services (including, without limitation, faulty maintenance or performance of Works) performed or supplied under this Contract, whether by the Supplier or any Sub-contractor or other supplier of the Supplier; or
2. any failure by the Supplier or any Sub-contractor or other supplier of the Supplier to perform or supply any of the Services (including, without limitation, maintenance or any other Works) on time or at all.

### Due Diligence and Supplier’s responsibility for enquiries

1. By entering into this Contract, the Supplier acknowledges, confirms and agrees that:
2. it has had an opportunity to carry out a thorough due diligence exercise in relation to QTS's requirements for the Services as set out in this Contract (including this Schedule and the Specification), as amended from time to time in accordance with the Change Control Process, and has asked QTS all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this Contract and the costs and obligations that it incurs, or may incur, in performing the Services and achieving any Service Levels, Performance Parameters, KPIs, Minimum Standards or any other obligations under this Contract;
3. during the tender process leading to this Contract, it was invited to promptly notify QTS if it became aware during the tender process of any inaccuracies in, or omissions from, any information provided to it or its representatives by or on behalf of QTS which materially and adversely affect the Supplier’s ability to perform the Services or achieve any Service Levels, Performance Parameters, KPIs, Minimum Standards or any other obligations in this Contract;
4. it has received all information requested by it from QTS pursuant to paragraphs (1)(a) and (1)(b) above to enable it to determine whether it is able to provide the Services in accordance with the terms of this Contract and the costs and obligations that it incurs, or may incur, in performing the Services and achieving any Service Levels, Performance Parameters, KPIs, Minimum Standards or any other obligations under this Contract;
5. it has made its own enquiries to satisfy itself as to:
6. the accuracy and adequacy of the information supplied to it or its representatives by or on behalf of QTS; and
7. the costs and obligations that it incurs, or may incur, in performing the Services and achieving any Service Levels, Performance Parameters, KPIs, Minimum Standards or any other obligations under this Contract;
8. it has raised all relevant due diligence questions with QTS before the Commencement Date; and
9. it has entered into this Contract in reliance solely on its own due diligence.
10. Save to the extent (if any) expressly provided in this Contract, no representations, warranties or conditions are given or undertaken by QTS in respect of any information which is or has been provided to the Supplier or its representatives by or on behalf of QTS. Any representations, warranties or conditions given or undertaken by or on behalf of QTS that are not set out expressly in this Contract are excluded, save to the extent (if any) that such exclusion is prohibited by law.
11. The Supplier shall not be entitled to recover from QTS any additional costs which arise from, or be relieved from any of its obligations as a result of, any inaccuracies in, or omissions from, any of the information provided to the Supplier or its representatives by or on behalf of QTS before this Contract is entered into (but which information is not set out expressly in this Contract), whether or not such inaccuracies or omissions are or were notified to QTS by the Supplier in accordance with paragraph (1)(b) above.
12. Nothing in the above paragraphs (1) to (3) (inclusive) shall limit or exclude the liability of QTS for fraud or fraudulent misrepresentation.

## Continuous Improvement and adjustment of Performance Standards and Weightings

1. The Performance Standards and Minimum Standards will be subject to review during the Term to ensure a continuous improvement approach is adopted.
2. Accordingly, QTS shall be entitled, at any time, to use the Change Control Process to impose additional KPIs or other Performance Standards to those in Sections 2.1, 2.2, 2.3 and 2.4 and/or amend the KPIs or other Performance Standards in this Schedule or subsequently imposed that improve qualitative outcomes for patients.
3. Furthermore, by giving the Supplier at least one (1) month’s prior written notice QTS may also at any time amend or reallocate the Weightings and therefore the level of Service Fee Deduction against each or any of the KPIs (including any new or amended KPIs, as referred to above) if it is reasonable for QTS to do so in light of:

any changes from time to time in any Law, any Guidance, any Policies or any other regulatory requirements affecting QTS, CNWL or the Services; or

any changes from time to time in the Premises and Locations; or

any changes from time to time in healthcare, safety or other procedures that CNWL or QTS makes or is making in connection with any epidemic or pandemic; or

partial or complete failures by the Supplier to achieve one or more KPIs or Performance Parameters ; or

partial or complete failures by the Supplier to comply with one or more of the Supplier’s obligations under this Contract,

or if it is otherwise reasonable for QTS to make such amendment or reallocation.

1. QTS shall give notice of any such amendment or reallocation in writing to the Supplier in accordance with Clause 5 in Schedule 1 (Key Provisions) and Clause 27 in Schedule 2 (General Terms and Conditions)
2. After QTS has given notice of an amendment or reallocation (the “**Relevant Amendment or Reallocation**”) in accordance with paragraph (4) of this Section, the Supplier shall be entitled within 5 Business Days after the date such notice is received, or in accordance with Clause 27.2 in Schedule 2 (General Terms and Conditions) is treated as being received, to give notice in writing (again in accordance with Clause 5 in Schedule 1 (Key Provisions) and Clause 27 in Schedule 2 (General Terms and Conditions) that:

it does not accept that the Relevant Amendment or Reallocation is valid and effective under this Contract;

that the question the validity and effectiveness of the Relevant Amendment or Reallocation is a Dispute; and

that by giving such written notice under this paragraph (5) it is giving notice (in accordance with Clause 22.3 in Schedule 2 (General Terms and Conditions)) to QTS to commence the Dispute Resolution Procedure in relation to that Dispute

1. If the Supplier does not give a valid notice to QTS in the form and within the 5 Business Days timescale under paragraph (5) of this Section, then the Relevant Amendment or Reallocation shall be deemed to be valid and effective and shall be binding on the Supplier, and the Supplier shall not be entitled to make any further objection in relation thereto.
2. Moreover, the Supplier shall demonstrate an ingrained ethos of continuous improvement, both in internal management and in performing the Services. By maintaining open communication with QTS and any Sub-contractors, including actively using management information, the Supplier shall ensure that it is able to measure experiences and outcomes of all activities within the Services.
3. The Supplier shall work alongside QTS and any Sub-contractors to maintain a process of continuous improvement of the Services for the benefit of QTS, CNWL, patients, visitors and any other building users.

## Compliance with Performance Measures

The Supplier shall deliver the Services in accordance with the Performance Standards set out in this Schedule. The Supplier shall measure the Performance Standards at all times from the Services Commencement Date and the Service Deduction scheme in this Schedule shall commence immediately on the Services Commencement Date.

The Supplier shall monitor its performance in relation to the Service Levels as set out in Sections 2.1, 2.2, 2.3 and 2.4 on a continuous basis so as to ensure identification of potential failings and problems at the earliest possible opportunity and the Supplier shall remedy such failings so as to achieve the required performance level.

The Performance Standards shall be subject to regular review by QTS for QTS to seek to focus them on QTS’s key performance needs throughout the Term.

## Performance Standards Reporting

The Performance Standards shall be reported monthly in a Service Level Report. QTS’s Authorised Officer shall review the Service Level Report each month. Actions to remedy operational issues will be documented, implemented by the Supplier and reviewed as part of the rectification process.

QTS will carry out its own audits of the Performance Standards data provided by the Supplier and through the CAFM & Helpdesk system.

Notwithstanding the other provisions of this Schedule, the Supplier must keep adequate records of all aspects of its performance of the Services, not just the Performance Standards, so that the Authorised Officer and QTS’s Contract Manager can examine particular issues in full detail if required.

In addition to its other obligations, the Supplier shall remedy any failure to achieve a Performance Standard as soon as possible (and in any event within 5 Business Days after the Supplier identifies it or otherwise becomes aware of it) and the Supplier shall commence and carry out such remedy without awaiting production, or QTS approval, of any proposed Corrective Action Plan or other rectification plan.

For the avoidance of doubt, any such remediation of a Performance Standard shall not prejudice QTS’s rights to Service Deductions or to exercise its Step In Rights arising from the relevant failure to achieve a Performance Standard or any other right QTS has under this Contract.

Any Deliberate Reporting Failure shall constitute a material breach of this Contract that is not capable of remedy, and so (without limitation to QTS’s other rights to terminate this Contract and QTS’s other rights) QTS shall have the right to terminate this Contract under Clause 15.4.1 of Schedule 2 (General Terms and Conditions). Service Deduction methodology

The Maximum Deduction is set at 17.5% (plus VAT) of the total Service Fee in any one month. Through the Weightings, the 17.5% (plus VAT) figure is allocated acrossthose KPIs which carry deduction risk.

We provide worked examples in Section 1.11.

Sections 2.1, 2.2, 2.3 and 2.4 set out the KPIs and the Minimum Standards that must be achieved. The Supplier is required to measure and report its performance using the methodology set out below in Sections 2.1, 2.2, 2.3, 2.4 and 3.

**Note to Bidders: This methodology is the required minimum. Bidders can propose additional effective reporting mechanisms as part of their bids.**

The tables in Sections 2.1, 2.2, 2.3 and 2.4 set out certain of the remedies open to QTS for the performance of each Service; it shall be the Supplier’s responsibility to collect data and QTS shall be entitled to undertake audits, or engage others to undertake audits on behalf of QTS, as it sees fit.

Furthermore:

1. each of the applicable Service Deductions is weighted and applied against the Maximum Deduction each month. Failure to meet the Minimum Standard on the same Performance Standard over 2 consecutive months will lead to a warning notice (“**Warning Notice**”) being issued by QTS;
2. failure in 3 consecutive months, or in 4 months out of 6 consecutive months, will entitle QTS to exercise its Step In Rights.
3. the Service Deduction shall be calculated using the Weightings provided in the tables in Section 2.1. Further information on the mechanism is provided in Section 1.11;
4. (to the extent that the Supplier’s failure achieve the Minimum Standard in the Performance Standards is caused by:

(i) a Force Majeure Event affecting the Supplier; or

(ii) any default or omission committed by QTS or CNWL or QTS’s or CNWL’s agents, employees or other contractors, but (for the avoidance of doubt) not QTS’s patients or their visitors,

then to that extent such failure to achieve the Minimum Standard shall not be taken into account in calculating Service Deductions;

1. QTS’s rights to Service Deductions shall be treated as a reduction of the Contract Price and so shall also reduce QTS’s obligation (if any) to pay VAT to the Supplier correspondingly;
2. for the avoidance of doubt, QTS’s financial remedies set out in Section 2.2 are separate from, and in addition to, the Service Deductions and are neither subject to, nor contributing towards, the Maximum Deduction; and
3. (for the avoidance of doubt, all of QTS’s rights and remedies under any provision of this Schedule (including whether QTS exercises its right to apply a Service Deduction, and/or the financial remedies set out in Section 2.2, or not) shall be without prejudice to QTS’s other rights and remedies, and are in addition and without prejudice to each other and all the other rights and remedies QTS has.

## Consequences for continuous or repeated failure

Two (2) Warning Notices in any two (2) consecutive months on the same Performance Standard will lead to a Breach Notice being issued to the Supplier and a requirement to remedy within five (5) Business Days. If the remedy is not achieved within the period of 10 Business Days referred to in the relevant table in section 1.9 or 1.10 then (in addition and without prejudice to its other rights and remedies) QTS shall be entitled to exercise its Step In Rights or to terminate this Contract in accordance with the provisions of Clause 22 in Schedule 1 (Key Provisions).

To the extent that the Supplier’s failure to achieve any of the Performance Standards results from a Force Majeure Event affecting the Supplier then Clause 23 in Schedule 2 (General Terms and Conditions) shall apply and the consequences of such failure shall be mitigated in accordance with that Clause 23.

If the Supplier fails to meet the Minimum Standard for the same Performance Standard in three (3) consecutive months or in any four (4) months in any period of six (6) consecutive months, then (in addition and without prejudice to its other rights and remedies) QTS will be entitled (in its sole and absolute discretion): to terminate this Contract; or

1. to exercise its Step In Rights.

To the extent that the Supplier’s failure to achieve the Minimum Standard for any of the Performance Standards results from any default or omission committed by QTS or CNWL or QTS’s or CNWL’s agents, employees or other contractors (but, for the avoidance of doubt, not CNWL’s patients or their visitors), the Supplier’s failure in performance of the Services against such Performance Standard shall be discounted to that extent.

## Where Service Deductions apply

Whenever (whether at the commencement of this Contract or at any subsequent time) there is a percentage amount specified in the “**% of Service Fee at risk**” column for a KPI in the table at Section 2.1,the review and action processes illustrated below shall apply in respect of each failure to meet the Minimum Standard for that KPI:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **EVENTS** | **Month 1** | **Month 2 week 1** | **Month 3 week 1**  **(if in month 2 there is a Minimum Standard failure on same KPI as month 1)** | **Month 4 week 1 (and week 1 of months thereafter)**  **(if in month 3 there is Minimum Standard failure on same KPI as months 1 and 2 – and again if the same occurs in any consecutive month thereafter)** |
| REPORTING | KPI fails Minimum Standard | Review of month 1 Minimum Standard failure | Review of month 2 Minimum Standard failure on same KPI as month 1 | Review of month 3 Minimum Standard failure on same KPI as months 1 and 2, and each (if any) consecutive month thereafter when there is Minimum Standard failure on the same KPI |
| QTS ACTION |  | Service Deduction applied for month 1  Now and at any time hereafter QTS’s rights include the right to receive from the Supplier (whether or not requested by QTS) a Root Cause Analysis of the problem and a Corrective Action Plan  **A Warning Notice maybe issued at any time following notification if the opinion of QTS the circumstances compromise Patient welfare or Services** | Now and at any time hereafter QTS’s rights include the right to issue 1st Warning Notice  Now and at any time hereafter QTS’s rights include the right to exercise its Step In Rights  Service Deduction applied for month 2 | Now and at any time hereafter QTS’s rights include the rights to issue 2nd Warning Notice and a Breach Notice  Now and at any time hereafter QTS’s rights include the right to exercise its Step In Rights  Now and at any time hereafter QTS’s rights include the right to terminate this Contract if not remedied in 10 Business Days Service Deduction applied for month 3 and each (if any) consecutive month thereafter when there is Minimum Standard failure on the same KPI |
| SUPPLIER REQUIRED ACTION | The Supplier shall take immediate action to remedy poor performance against Performance Standards as identified in month or as otherwise specified in any of Sections 2.1, 2.2, 2.3 and 2.4 | Service Deduction applied for month 1  Whether or not requested by QTS, the Supplier shall issue to QTS a Root Cause Analysis andaCorrective Action Plan  The Supplier shall continue to remedy throughout month 2 | Service Deduction applied for month 2  Whether or not requested by QTS, the Supplier shall issue a Corrective Action Plan.  The Supplier shall continue to remedy throughout month 3 | Supplier shall continue to remedy in month 4 and thereafter and has 10 Business Days to remedy before QTS’s rights include the right to terminate  Service Deduction applied for month 3 and each (if any) consecutive month thereafter when there is Minimum Standard failure on the same KPI |

Moreover, the Supplier shall comply with the requirements of the “Recording and Monitoring Method” and “Action“ columns in the tables in Sections 2.1, 2.2 and 2.3 for each of the “Monitoring Periods” stated in those tables.

## Where Service Deductions do not apply

The review and action processes illustrated below shall apply in respect of failure to meet:

1. the Minimum Standard for a KPI in Section 2.1 whenever (whether at the commencement of this Contract or at any subsequent time) there is no percentage amount specified in the “**% of Service Fee at risk**” column of the tables in that Section 2.1 for such KPI; or
2. the Minimum Standard for a KPI in the table in Section 2.2 (though such review and action processes shall be in addition to the financial consequences stated in that table); or
3. any of Performance Parameters in the table in Section 2.3.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **EVENTS** | **Month 1** | **Month 2 week 1** | **Month 3 week 1**  **(if in month 2 there is a Minimum Standard failure on same KPI or Performance Parameter as month 1)** | **Month 4 week 1 (and week 1 of months thereafter)**  **(if in month 3 there is Minimum Standard failure on same KPI or Performance Parameter as months 1 and 2 – and again if the same occurs in any consecutive month thereafter)** |
| REPORTING | KPI or Performance Parameter fails Minimum Standard | Review of month 1 Minimum Standard failure | Review of month 2 Minimum Standard failure on same KPI or Performance Parameteras month 1 | Review of month 3 Minimum Standard failure on same KPI or Performance Parameter as months 1 and 2, and each (if any) consecutive month thereafter when there is Minimum Standard failure on the same KPI or Performance Parameter |
| QTS ACTION |  | Now and at any time hereafter QTS’s rights include the right to receive from the Supplier (whether or not requested by QTS) a Root Cause Analysis of the problem and a Corrective Action Plan  **A Warning Notice maybe issued at any time following notification if the opinion of QTS the circumstances compromise Patient welfare or Services** | Now and at any time hereafter QTS’s rights include the right to issue 1st Warning Notice  Now and at any time hereafter QTS’s rights include the right to exercise its Step In Rights | Now and at any time hereafter QTS’s rights include the rights to issue 2nd Warning Notice and a Breach Notice  Now and at any time hereafter QTS’s rights include the right to exercise its Step In Rights  Now and at any time hereafter QTS’s rights include the right to terminate this Contract if not remedied in 10 Business Days |
| SUPPLIER REQUIRED ACTION | The Supplier shall take immediate action to remedy poor performance against Performance Standards as identified in month or as otherwise specified in any of Sections 2.1, 2.2, 2.3 and 2.4 | Whether or not requested by QTS, the Supplier shall issue to QTS a Root Cause Analysis and **a** Corrective Action Plan  The Supplier shall continue to remedy throughout month 2 | Whether or not requested by QTS, the Supplier shall issue a Corrective Action Plan.  The Supplier shall continue to remedy throughout month 3 | Supplier shall continue to remedy in month 4 and thereafter and has 10 Business Days to remedy before QTS’s rights include the right to terminate |

Moreover, the Supplier shall comply with the requirements of the “Recording and Monitoring Method” and “Action“ columns in the tables in Sections 2.1, 2.2 and 2.3 for each of the “Monitoring Periods” stated in those tables.

## Worked example

As mentioned above, QTS has set a 17.5% (plus VAT) maximum total Service Deduction risk against a Service Fee. This means that in any one month if the Supplier failed to achieve all the KPIs in respect of which a Service Deduction may apply, then 17.5 of the entire Service Fee for that month (plus VAT) will be deductible from the Supplier’s invoices to QTS, as well as the provisions of Section 1.9 and other remedies under this Contract, applying.

For the purposes of the worked example we have assumed that the Minimum Standards for two KPIs, one with a 10% Weighting and the other with a 5% Weighting, have not been met.

With those Weightings, the percentage of the Service Fee that can be deducted is (10% + 5%) x 17.5% = 2.7%

Assumed total monthly Service Fee = £200,000 (excl VAT)

Scoring of each single KPI = 0 (i.e. because the Supplier failed to achieve the required 100%)

Service Deduction % for the two KPIs = 2.7%

Amount deductible from invoice in respect of the two KPIs = £5,250 plus VAT

# Key Performance Indicators

The tables set out the minimum Performance Standards for each element of the Service and the categories under the following headings in each table below have the following meanings:

* “**Performance Parameters”** or “**PP**” are the specific key performance indicator for a particular Service element
* “**Recording and Monitoring Method**” is the method of data collection related to each PP
* “**Monitoring Period**” is the Supplier’s minimum reporting period for each PP at each Site

## KPIs

The following are the KPIs for which Service Deductions may be made by QTS.

| **Ref** | **KPI** | **Minimum Standard** | **Performance Parameter** | **Recording and Monitoring Method** | **Monitoring Period** | **Action (in addition to others under this Contract)** | **Weighting** | **% of Service Fee at risk** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1 | **PPMs** | 98% | Scheduled Planned Preventative Maintenance programme is undertaken, on time, as set out in the Specification. | The Supplier’s & QTS’s interrogation of CAFM system records and physical inspection | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.9 | 15.0% | 2.6% |
| 2 | **Statutory & Mandatory Compliance** | 100% | The Supplier will comply fully with all aspects of statutory and mandatory compliance as set out in the Specification. Any non-compliance during the period will be recorded. The score needs to be no less than 100% for all items | The Supplier’s & QTS’s interrogation of CAFM system records and physical inspection | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.9 | 15.0% | 2.6% |
| 3 | **Response, make safe and rectification of Emergency (see Section 2.4) requests** | 100% | Following each Reported Fault, the Supplier shall properly and promptly assign the category of Fault and the Supplier shall Respond, Make Safe and effect a Permanent Rectification in compliance with the Response and Rectification Times and category descriptions outlined in Section 2.4 and any other protocols stipulated by QTS from time to time, acting reasonably. Respond and Make Safe and Rectification times shall run concurrently | The Supplier’s & QTS’s interrogation of CAFM system records and physical inspection | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.9 | 10.0% | 1.8% |
| 4 | **Response, make safe and rectification of Urgent (see Section 2.4) requests** | 100% | Following each Reported Fault, the Supplier shall properly and promptly assign the category of Fault and the Supplier shall Respond, Make Safe and effect a Permanent Rectification in compliance with the Response and Rectification Times and category descriptions outlined in Section 2.4 and any other protocols stipulated by QTS from time to time, acting reasonably. Respond and Make Safe and Rectification times shall run concurrently. | The Supplier’s & QTS’s interrogation of CAFM system records and physical inspection | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.9 | 7.5% | 1.3% |
| 5 | **Response, Make safe and rectification of Next Day (see Section 2.4) requests** | 98% | Following each Reported Fault, the Supplier shall properly and promptly assign the category of Fault and the Supplier shall Respond, Make Safe and effect a Permanent Rectification in compliance with the Response and Rectification Times and category descriptions outlined in Section 2.4 and any other protocols stipulated by QTS from time to time, acting reasonably. Respond and Make Safe and Rectification times shall run concurrently. | The Supplier’s & QTS’s interrogation of CAFM system records and physical inspection | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.9 | 5.0% | 0.9% |
| 6 | **Response, Make safe and rectification of** Routine (see Section 2.4) requests | 98% | Following each Reported Fault, the Supplier shall properly and promptly assign the category of Fault and the Supplier shall Respond, Make Safe and effect a Permanent Rectification in compliance with the Response and Rectification Times and category descriptions outlined in Section 2.4 and any other protocols stipulated by QTS from time to time, acting reasonably. Respond and Make Safe and Rectification times shall run concurrently | The Supplier’s & QTS’s interrogation of CAFM system records and physical inspection | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.9 | 5.0% | 0.9% |
| 7 | **Reactive maintenance failures** | 98% | No reactive task that has failed to be rectified in compliance with the Response and Rectification Times and category descriptions outlined in Section 2.4 and any other protocols stipulated by QTS from time to time, acting reasonably, has remained still unrectified for longer than 5 Business Days after expiry of the relevant rectification period referred to above | The Supplier’s & QTS’s interrogation of CAFM system records and physical inspection | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.9 | 5.0% | 0.9% |
| 8 | **Minor improvement works** | 98% | Following each request for minor improvement works the Supplier shall properly and promptly assign the category of the Works and the Supplier shall Respond, quote and complete the request in compliance with the Response and Rectification Times and category descriptions outlined in Section 2.4 and any other protocols stipulated by QTS from time to time, acting reasonably. | The Supplier’s & QTS’s interrogation of CAFM system records and physical inspection | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.9 | 5.0% | 0.9% |
| 9 | **Employment compliance** | 100% of all Staff meet the required standards at all times | Staff shall have all been appropriately vetted, verified and meet all statutory and other mandatory employment requirements. The score needs to be no less than 100% in all Sites. | The Supplier’s & QTS’s interrogation of Human Resources systems and records | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.9 | 5.0% | 0.9% |
| 10 | **Health and safety compliance** | 100% | This shall include, but not limited to Reliability Availability Maintainability Safety (RAMS) , Lone Working, Moving and Handling, Slips Trips and Falls, Working at Height, Control Of Substances Hazardous to Health (COSHH), Personal Protective Equipment (PPE), Reporting of Injuries Diseases and Dangerous Occurrences Regulations (RIDDOR), Accident and Incident reporting. | QTS’s interrogation of CAFM system records. | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.9 | 20.0% | 3.5% |
| 11 | **Monitoring** | 100% | The Supplier shall ensure that the performance of the Estates Maintenance Services are effectively monitored each month and the report in respect of each month is delivered to QTS’s Contract Manager within 5 Business Days after the end of that month | Monthly report | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.9 | 5.0% | 0.9% |
| 12 | **Helpdesk call response time** | 100% | All calls to be answered, by a person, within 10 seconds | The Supplier’s interrogation of telephony records. | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.9 | 2.5% | 0.4% |

## KPIs for which there are prescribed financial consequences other than Service Deductions

In addition to the % Service Deductions, as outlined in Section 2.1 for KPIs listed there, the following deductions and non-charging Performance Parameters will also be included. For the avoidance of doubt, these are in addition to the 17.5% (plus VAT) Maximum Deduction.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Ref | **KPI** | **Minimum Standard** | **Performance Parameter** | **Recording and Monitoring Method** | **Monitoring Period** | **Action** | **Financial Consequence** |
| 13 | **Facility availability**  **(comprising of bedroom, internal or external communal areas, kitchen or hygiene areas)** | 100% | For each 24 hour period that a facility is unavailable beyond the required rectification period and category descriptions outlined in Section 2.4, the Supplier shall pay to QTS a fixed sum of £700 plus VAT per unavailable facility by way of Contract Price reduction. | Daily notification to QTS’s Authorised Officer of any unavailability.  Monthly consolidated report by the Supplier | Daily and Monthly | Remedy as an “Urgent” priority in accordance with Section 2.4 (unless the circumstances are such as fall within the “Emergency” priority criteria in that Section) and pay the sums provided for in the “Financial Consequences” column here | £700 plus VAT per 24 hours (or part thereof) shall be deducted from the Service Fee for each unavailable facility for bedroom unavailability and £400 plus VAT per 24 hours (or part thereof) for all other categories listed in the KPI (2nd) column of this table.  Where meals are unable to be served due the kitchen unavailability the Supplier shall be liable for the cost of replacement meals brought in from other locations and subject to the provisions Food Safety Act 1990 or as amended. |
| 14 | **Access control systems for inpatient areas** | 100% | Where a fault with an access control system in a patient area is not rectified in compliance with the 24 hour rectification period for Emergency and Urgent category descriptions outlined in Section 2.4, the Supplier pay the cost of, manned guarding for the period after that 24 hour rectification period. Notwithstanding the foregoing the Supplier shall put in place the manual guarding as soon as the report is reported. | Daily notification to QTS’s Authorised Officer of any incidents.  Monthly Consolidated report by the Supplier | Daily and Monthly | Remedy as an “Urgent” priority in accordance with Section 2.4 (unless the circumstances are such as fall within the “Emergency” priority criteria in that Section) and bear and pay the costs referred to in the “Financial Consequences” column here | The Supplier shall bear and pay the cost of such security guarding after the 24 hour rectification period and will not charge or otherwise pass such cost on to QTS. |

## Additional Performance Parameters

The Supplier shall comply with the following additional Performance Parameters.

| **Ref** | **Performance Parameters** | Recording & Monitoring Method | Minimum Standard | **Monitoring Period** | **Action (in addition to others under this Contract)** |
| --- | --- | --- | --- | --- | --- |
|  | The Supplier shall ensure that the performance of the Services are effectively monitored each Contract Month. | Monthly report to QTS | Monthly report provided | Monthly | Report due within 5 Business Days of previous month end. |
|  | The Supplier shall monitor the standard of the Services by measuring each KPI. | Appropriate recording systems which can provide detailed operating data  Based on consolidated score across each Service as shown in Section 2.1 for each Service. | 100% of required data is provided | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.10 |
|  | A plan detailing times, days, type of monitoring to be done shall be proposed by the Supplier and will be subject to the approval of QTS (such approval not to be unreasonably withheld) and subject to such alterations as QTS reasonably stipulates from time to time | Supplier’s plan.  QTS Contract Monitoring Team to monitor and audit compliance. | 100% of planned monitoring will be undertaken. | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.10 |
|  | The Supplier shall prepare a detailed action plan across each of the measured performance activities where the monthly performance falls below the defined standard for any Service. This action plan shall be issued to QTS as part of the Report following the relevant month and it shall set out, without limitation, the following:   * The Supplier’s assessment of the reason for the performance score; * The Supplier’s proposals for rectifying any identified performance failures and the timetable for their implementation; * Details of rectification actions already carried out, or to be carried out by the Supplier within the Response and Rectification Times and category descriptions outlined in Section 2.4 and any other protocols stipulated by QTS from time to time, acting reasonably; * In the Supplier’s view, an assessment of the likely impact on QTS or CNWL activities; * The Supplier’s proposals for increased auditing. | Self-determination by Supplier and assessment or audit by QTS Contract Monitoring Team | Action plan is provided within the timescale required by this Performance Parameter | Monthly | The Supplier will put forward an action plan for rectification within 5 Business Days of an issue being raised at the Monthly Meeting for QTS to consider and the Supplier shall promptly make any changes to such plan required by QTS to remedy the issue |
|  | The Supplier in conjunction with QTS shall undertake a joint review after every six months operation of the Performance Monitoring System specifically to review those general complaints not caught by the Performance Monitoring System being used and if necessary to review the volume of auditing and develop further Performance Parameters. | The Supplier to provide action plan within stipulated timescale. QTS Contract Monitoring Team to audit and monitor compliance. | To review six monthly | Upon request | The Supplier shall put forward an action plan for rectification within 5 Business Days of an issue being raised by QTS for QTS to consider and the Supplier shall promptly make any changes to such plan required by QTS to remedy the issue |
|  | QTS may at all reasonable times observe, inspect and satisfy itself of the adequacy of the auditing procedures carried out pursuant to this Schedule, which shall include, but not be limited to, sample testing and/or review of:   * Response times; * Helpdesk records; * Complaints and comments; * Consumer surveys. * Audit results   When requested, the Supplier shall promptly provide access, data and other information requested by QTS for the purposes of such observation and inspection. | QTS Contract Monitoring Team to monitor and audit compliance | Requests for access or auditing data provided 100% of the time. | Monthly | The Supplier will promptly provide such access, data and other information requested by QTS and in addition put forward an action plan to prevent a reoccurrence within 5 Business Days of an issue being raised by QTS for QTS to consider and the Supplier shall promptly make any changes to such plan required by QTS to remedy the issue |
|  | As part of QTS’s aim to ensure collaborative partnership working with the Supplier in terms of all the Estates Maintenance and Service delivery a monthly meeting will be scheduled by QTS with the Supplier’s Contract Manager or other appropriate representative of the Supplier. The Supplier and QTS shall seek to ensure continuous improvement through the Contract period using the targets & indicators as identified in the Specification and this Schedule. | Meetings recorded with reports, due diligence and action plans presented and (subject to the approval of QTS) agreed and updated as appropriate | 100% of meetings attended by the Supplier’s Contract Manager or other appropriate representative of the Supplier | Monthly | Failure in a month will require the Supplier to demonstrate corrective action to QTS and remedy the failure as outlined in Section 1.10 |
|  | All operational data and priority/risk ratings (as set out in the Specification and this Schedule) are loaded and updated on the Helpdesk | System audit and report interrogation by QTS Contract Monitoring Team | 100% of operational data and priority/risk ratings are loaded on the system | Monthly | The Supplier shall put forward action plan for rectification within 5 Business Days for QTS to consider and the Supplier shall promptly make any changes to such plan required by QTS to remedy the issue |
|  | **Training matrix**  The Supplier will maintain and keep up to date a comprehensive training matrix will be maintained and updated for all management, supervision & other Staff at all the Sites. | QTS Contract Monitoring Team to monitor and audit compliance. | Training matrix provided in the Report for each Contract Month for each Site and each Service | Monthly | The Supplier shall put forward action plan for rectification within 5 Business Days for QTS to consider and the Supplier shall promptly make any changes to such plan required by QTS to remedy the issue |
|  | **Invoices & Monthly Reports**  These will presented within 5 Business Days after month end by the Supplier to QTS, and in the case of invoices will be correctly calculated and itemised and state, and give effect to, any Service Deductions due | QTS Contract Monitoring Team to monitor and audit compliance. | 100% of invoices and back-up and detail provided within the required timescale | Monthly | The Supplier shall put forward an action plan for rectification within 5 Business Days of an issue being raised by QTS for QTS to consider and the Supplier shall promptly make any changes to such plan required by QTS to remedy the issue |

## Reactive Maintenance - Response times

The circumstances allocated to each priority below are examples and are not an exhaustive list.

Furthermore, the Supplier shall ensure that all of these examples of circumstances are reflected in the CAFM system and shall ensure that the Helpdesk Staff are told about the allocations of circumstances below and follow them in operating the Helpdesk.

| **Priority** | **Description** | Respond and Make Safe  **(from time call is placed)** | **Rectification Period**  **(from time call is placed)** |
| --- | --- | --- | --- |
| **EMERGENCY**  **Priority 1** | Any one or more of the following (or others of similar or greater seriousness):   * There is a direct and immediate safety risk to patients, Staff, QTS personnel or public. * There is likelihood of further or serious damage to building fabric or services. * If left unattended, the situation will quickly deteriorate further. * There is a serious risk of fire due to the emergency situation. * Structural failure is likely. * An explosion risk is present. * Services or equipment necessary for the immediate treatment or wellbeing of the patients are not available. * Patients, Staff, QTS personnel or public are trapped. * Lift Entrapment. * There is a serious health risk. * Serious flooding/escape of water. * Total loss of sanitary facilities/blockages or waste and drains. * Suspect gas leakage. * Severe weather conditions affecting patient, Staff, QTS personnel and/or public access across the Site. * Oil spillage on public roads, or where likely to enter public drainage system. * Chemical, effluent or noxious fumes may pollute the environment. * A situation cannot be made safe by ward/departmental QTS personnel themselves even acting on telephoned advice. * Health risk caused by failure to meet statutory and mandatory compliance measures | Dispatch immediately and attend and investigate within 1 hour  Make safe within 1 hour  Available 24hrs a day x 7 days a week. | Make safe within 1 hour and ensure Site attendance will be maintained as necessary for manual intervention or until the service is reinstated or other fault is rectified.  Rectification within 24 hours except to the extent specialist parts are required, in which case rectification as soon as possible. |
| **URGENT**  **Priority 2** | Any one or more of the following (or others of similar or greater seriousness, but not serious enough to fall in the Emergency category):   * If left unattended for more than one day, will lead to situation becoming an Emergency. * There is a loss of facilities or services, which will affect normal patient care being provided. * Partial loss of sanitary facilities. * Rain penetration. * Failure of catering equipment, where no alternative/standby exists. * Loss of control of heating, domestic services, air conditioning plant. * Loss of significant lighting facility. * Equipment failure where no standby exists. * Loss of waste disposal facilities. * Failure of sterilising facility where no standby exists. * Goods or passenger lift breakdown where no alternative is available. * Fire escape routes are compromised. * Accidental or wilful damage by Service Users | Attend and investigate within 4 hours.  Make safe within 1 hour  Available 24 hours a day x 7 days a week. | Rectification within 24 hours except to the extent specialist parts are required, in which case rectification as soon as possible. |
| **NEXT DAY**  **Priority 3** | Any one or more of the following (or others of similar or greater seriousness, but not serious enough to fall in the Emergency or Urgent category):  Services malfunction with significant effect on end users.  Likelihood of deterioration to more urgent category if not attended within timeframe.  Plant and equipment failure where standby exists and there is an effect on end user.  Measures necessary to prevent unnecessary use of energy.  Needed to restore more acceptable environmental conditions within occupied areas.  Significant short-term effect on the delivery of patient care, or other non-patient function.  Goods or passenger lift breakdown where an alternative is available | Attend and investigate within 24 hours. | Rectification within 3 Business Days |
| **ROUTINE**  **Priority 4** | Any one or more of the following (or others of similar or greater seriousness, but not serious enough to fall in the Emergency, Urgent or Next Day category):   * Services malfunction without significant effect on patients or end users. * Plant and equipment failure where standby exists and there is no significant effect on end user. * No likelihood of deterioration to more urgent category. * No significant short-term effect on the delivery of patient care, or other non-patient function. * Restoration of minor building and services defects. | Attend and investigate within 5 Business Days | Rectification within 10 Business Days |
| **Priority 8 Minor Improvement Works** | Chargeable new works requested by QTS’s Authorised Officer or the relevant QTS budget holder or QTS manager.  Provide written quotation to QTS’s Authorised Officer, or the relevant QTS budget holder or QTS manager, for authorisation by the relevant QTS manager/budget holder. | In line with priorities above dependent on the urgency of the task as determined by the Contract Manager. | In line with priorities above dependent on the urgency of the task as determined by the Contract Manager. |
| **Priority 9**  **Keys & locks** | Key & lock replacement which are chargeable and as requested by QTS’s Authorised Officer or Contract Manager or the relevant QTS budget holder, QTS manager or CNWL-provided Site Services Manager. | In line with priorities above dependent on the urgency of the task as determined by the Contract Manager. | In line with priorities above dependent on the urgency of the task as determined by the Contract Manager. |

# Reporting

The following reporting requirements are subject to reasonable change and modification by QTS throughout the Term.

| **Required reporting** | **Report Frequency** |
| --- | --- |
| Monthly Services Report & Meeting – operational progress report, containing as a minimum the following:   * 1. Executive Summary   2. Contractual performance against Specification   3. Contractual performance by KPI and Performance Parameter, and value of Service Deduction calculations   4. Statutory and mandatory compliance   5. Volumetrics (for the month and Year to Date): e.g. helpdesk and associated call logs, number of reactive maintenance requests broken down by response and completion times, planned maintenance and audits undertaken, spend, Supplier costs, spare parts used and costs etc   6. Facilities unavailability   7. Service User accidental or wilful damage   8. Access control systems failure requiring manned guarding   9. Cumulative trends for all Services.   10. Complaints received and remedial actions   11. Risk register and mitigations   12. Action & issues log which includes e-tracker or other Supplier based reporting systems   13. Health, Safety, Environmental & Quality issues   14. Innovation & cost saving initiatives   15. Staffing and training   16. Any Contract variations proposed by either party   17. Invoice schedule, by Site, detailing fixed costs, variable costs and minor improvement works.   18. Results of QA Audits completed in the previous month and schedule for next month   19. Other items as requested   20. Monthly meeting to be attended by the Supplier’s Account and Contract Managers along with representatives from QTS and advisors.   21. Reporting and action plans required as actions in connection with KPIs and Performance Parameters as described in Sections 1.9, 1.10, 2.1, 2.2, 2.3 and 2.4, including root cause analyses and corrective action plans   22. Energy & utilities consumption   23. Rolling PPM planner which includes a review of the PPM tasks to be undertaken by the Supplier against the Maintenance and Lifecycle programme   24. Business Critical issues   25. Audit findings   26. Authorising Engineer reports   27. Any other reports as determined by QTS from time to time | By 5th Business Day of each month |
| **Quarterly Review Report & Meeting** – as per Monthly Meeting but also attended by the Supplier’s account director and other key support personnel. This shall include longer term planning and a summary of Innovations and successes. The Supplier is to present their trend analysis for the preceding quarter and forecast for the next as a minimum requirement. | Quarterly |
| Service user survey report | Annually |
| **Annual Contract Review Report & Meeting** – as per Monthly & Quarterly meetings but also attended by Supplier’s Regional Managing Director and key support personnel. Additional reporting required:   * 1. Annual service plan   2. Financial projections for subsequent year   3. Compliance report on statutory requirements   4. Forward Maintenance register and Lifecycle report   5. A summary report on the condition of the Assets (including changes & events)   6. Future financial forecasting for capital works   7. Other items as determined by QTS from time to time | Annually |
| Business Continuity Plan (updated and reviewed) | Annually |
| Emergency events and drills Report | Monthly where such events or drills occur |
| Health and Safety Annual Review | Annually |
| Equality & Diversity Plan  Completion of QTS’s supplier questionnaire | Annually |
| TUPE  Full details of the organised group of employees whose principal purpose is carrying out duties for the purpose of this Contract. | Annually |

# Step-in rights

**When Step In Rights can be exercised**

1. QTS shall be entitled to exercise Step In Rights under this Section 4 at any time or times during the Term in any of the following circumstances:
   1. if there is a breach of this Contract by the Supplier, and/or an event occurs, which would entitle QTS to terminate this Contract under Clause 22 of Schedule 1 (Key Provisions), Clause 15, Clause 23.8, Clause 25 or Clause 29.2 of Schedule 2 (General Terms and Conditions) or any of Sections 1.8, 1.9 or 1.10 of this Schedule; or
   2. if any act, event or omission occurs which materially prevents or materially delays the performance of the Services or any part of the Services; or
   3. if the Supplier fails to meet the Minimum Standard for the same Performance Standard:
      1. in three (3) consecutive months, or
      2. in any four (4) months in any period of six (6) consecutive months; or
   4. if QTS has requested a Variation under the Change Control Process set out Section 5 of the Specification and the Parties do not agree on the terms of such Variation requested by QTS, its implementation, the pricing of the requested Variation or any increase or decrease in the Contract Price or Baseline Contract Price payable under this Contract or any other issues relating to such requested Variation, within twenty (20) Business Days after QTS requests such Variation (and, for the avoidance of doubt, QTS may exercise its Step In Rights hereunder irrespective of whether or not either Party refers any such matter related to the requested Variation to the Dispute Resolution Procedure in accordance with paragraph 5 of the Change Control Process in Section 5 of the Specification); or
   5. where a Regulatory Body has notified QTS that the exercise by QTS of its rights under this Section 4 is necessary; or
   6. because a serious risk exists to the health or safety of persons, property or the environment; or
   7. to discharge a statutory duty.

**Action prior to exercise of the right of step-in**

1. QTS may:
   1. where QTS considers it expedient to do so, require the Supplier by notice in writing to take those steps that QTS considers necessary or expedient to mitigate or rectify the state of affairs giving rise to QTS’s right to exercise the Step In Rights; and/or
   2. appoint any person to work with the Supplier in performing all or any part of the Services (including all or any of those provided by any Sub-contractor or other third party supplier of the Supplier); and/or
   3. take the steps that QTS considers appropriate to ensure the performance of all or any part of the Services (including all or any of those provided by any Sub-contractor or other third party supplier of the Supplier).
   4. Undertake Enhanced Monitoring in addition to or as an alternative to step in the ‘Step In’ rights
2. The Supplier shall co-operate fully and in good faith with QTS, and any other person appointed pursuant to paragraph 2(b) of this Section 4, and shall adopt any reasonable methodology in providing the Services recommended by QTS or that person.

**Exercise of the right of step-in**

1. If the Supplier:
   1. fails to confirm within seven (7) days of a notice served pursuant to paragraph 2(a) of this Section 4 that it is willing to comply with that notice; or
   2. in QTS’s opinion, fails to work with a person appointed in accordance with paragraph 2(b) of this Section 4; or
   3. fails to take the steps notified to it by QTS pursuant to paragraph 2(c) of this Section 4,
   4. i

then QTS may take action under this Section 4 either through itself or with the assistance of third party contractors, provided that the Supplier may require any third parties to comply with a reasonably appropriate confidentiality undertaking.

1. If QTS takes action pursuant to paragraph 4 of this Section 4, QTS shall serve notice (“**Step In Notice**”) on the Supplier. The Step In Notice shall set out the following:
   1. the action QTS wishes to take and in particular the Services, or parts thereof, it wishes to control;
   2. the reason for and the objective of taking the action and whether QTS believes that the primary cause of the action is due to the Supplier's default;
   3. the date it wishes to commence the action;
   4. the time period which it believes will be necessary for the action;
   5. whether QTS will require access to the Supplier's own premises; and
   6. to the extent practicable, what QTS believes to be the effect on the Supplier and the Supplier’s obligations to provide the Services during the period in which the action is being taken.
2. Following service of a Step In Notice, QTS shall:
   1. take the action set out in the Step In Notice and any consequential additional action as it reasonably believes is necessary to achieve the objective described in the Step In Notice (“**Required Action**”);
   2. keep records of the Required Action taken and provide information about the Required Action to the Supplier;
   3. co-operate wherever reasonable with the Supplier in order to enable the Supplier to continue to provide any Services in relation to which QTS is not assuming control; and
   4. act reasonably in mitigating the cost that the Supplier will incur as a result of the exercise of QTS’s rights under this Section 4.
3. For so long as and to the extent that the Required Action is continuing:
   1. the Supplier shall not be obliged to provide the Services to the extent that they are the subject of the Required Action; and
   2. QTS shall only pay to the Supplier the Contract Price after the deduction of:
      1. QTS’s costs of taking the Required Action; and
      2. any applicable Service Deductions, where applicable Service Deductions are those relating to any element of the Service where QTS has not exercised its Step In Rights.
4. Before ceasing to exercise its Step In Rights under this Section 4, QTS shall deliver a written notice to the Supplier (“**Step-Out Notice**”), specifying:
   1. the Required Action it has actually taken;
   2. the date on which QTS plans to end the Required Action subject to QTS being satisfied with the Supplier's ability to resume the provision of the Services and with the Supplier's Step-Out Plan developed in accordance with paragraph 9 of this Section 4; and
   3. the date by which the Supplier is required to submit to QTS a draft Step-Out Plan in accordance with paragraph 9 of this Section 4 (“**Step-Out Plan Date**”).
5. The Supplier shall, following receipt of a Step-Out Notice and by no later than the Step-Out Plan Date, develop for QTS’s approval a draft plan (“**Step-Out Plan**”) relating to the resumption by the Supplier of the Services, including any action the Supplier proposes to take to ensure that the affected Services satisfy the requirements of this Contract.
6. If QTS does not approve the draft Step-Out Plan, QTS shall inform the Supplier of its reasons for not approving it. The Supplier shall then promptly revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to QTS for QTS’s approval. This paragraph 10 of this Section 4 shall be repeated until such time as QTS approves the revised draft Step-Out Plan.
7. QTS shall not withhold or delay its approval of the original or any resubmitted draft Step-Out Plan unreasonably.
8. The Supplier shall bear its own costs in connection with any step-in and/or step-out by QTS under this Section 4.
9. In this Section 4, “**Regulatory Body**” means any statutory or other body having QTS to issue guidance, standards or recommendations with which the relevant party must comply, or to which it must or should have regard, including the following regulatory bodies or any successors thereto:
   1. the Care Quality Commission;
   2. Monitor;
   3. the National Health Service QTS Development QTS;
   4. NHS England;
   5. the Department of Health;
   6. the National Institute for Health and Clinical Excellence; and
   7. HealthWatch England

# Adjustments to the Baseline Contract Price

## Overview

As part of the monthly management review meeting QTS will report to the Supplier:

1. any changes to the Sites (either being added or removed) and their respective Gross Internal Areas (GIAs)
2. any changes to the Asset and Condition Register in relation to capital projects undertaken (for the avoidance of doubt the Supplier is responsible for keeping the Asset & Condition Survey up to date throughout the Contract period; and
3. any proposed changes to the provisions of this Schedule (including changes to KPIs, Performance Parameters or Weightings), the Specification or any other terms of this Contract, including those for which the Change Control Process will be, or is being, used.

## Change control

Where, under the Change Control Process, a change to the Contract Price or Baseline Contract Price has been approved (evidenced by the Supplier and QTS signing their agreement to the change in writing), the Contract Price or Baseline Contract Price will be adjusted on the next monthly invoice or when otherwise agreed by the Supplier and QTS in writing.

## Service Deduction calculation

The Supplier shall deduct the Service Deductions arising in respect of any month from the next month’s invoice. If the Supplier, fails to do this, then QTS shall nonetheless be entitled to make such deduction from any payment due to the Supplier

## Invoicing arrangements

The Contract Price is paid by QTS to the Supplier monthly in arrears. The Supplier must invoice QTS within 5 Business Days after the end of the calendar month for the Services provided in the preceding calendar month. Each month’s invoice is to be paid by QTS within 30 days after receipt.

The Supplier must obtain a purchase order number from QTS contact and quote this in all invoices or quote cost centre, account code and approver’s name on the first page of the invoice – this should be clear and in a format that QTS specifies. Where it exists, the contract number of this Contract must also be quoted on all invoices as well as asset number, reference reports on why the asset has failed with reasons for replacement or refurbishment. This additionally applies to any agreed Contract variations.

The Contract Price and or Baseline Contract Price are stated exclusive of VAT.

# Bidder’s response

| **Subject** | **Response** |
| --- | --- |
| Bidders are to confirm their acceptance of this Performance Management Mechanism. |  |
| Bidders are to discuss how information will be presented to QTS at the frequencies set out in Section 3 of this Schedule |  |