BEAUMONT HOSPITAL

INVITATION TO TENDER DOCUMENT - OPEN PROCEDURE

MULTI-PARTY FRAMEWORK AGREEMENT

For

THE PROVISION OF A TREATMENT PATHWAY FOR LOW COMPLEXITY SPINAL PATIENTS

MAXIMUM POTENTIAL DURATION OF THE FRAMEWORK AGREEMENT: FOUR YEARS

DEADLINE DATE FOR RECEIPT OF TENDERS: 04/11/2026 AT 12.00 NOON (LOCAL TIME)

Please note that all information relating to this competition, including clarifications and addenda, will be published on the Irish Government Procurement Opportunities Portal (www.etenders.gov.ie). Registration is free of charge and there is no charge for documents. Beaumont Hospital accepts no responsibility for information relayed (or not relayed) via third parties.

DISCLAIMERS

All information contained in this Invitation to Tender document is provided in the strictest confidence and has been made available solely for the purpose of facilitating the production and submission of tenders. No party may disclose the contents of this document without the express permission of Beaumont Hospital.

Tenderers are recommended to read the Invitation to Tender document thoroughly. While all reasonable steps have been taken to ensure that the information set out in this document is factually correct, no representation or warranty, express or implied, is or will be made or given in relation to the accuracy or the completeness of any information contained in this document or otherwise provided by or on behalf of Beaumont Hospital, in writing or otherwise, to any interested party or its advisers. No responsibility or liability for any loss or damage arising as a result of reliance on this document, or for the information contained in this document, or for any omission is or will be accepted by Beaumont Hospital or by any of its officers, employees, agents or professional advisers. No officer, employee, agent, or professional adviser of Beaumont Hospital has any authority to give or make any representation or warranty, express or implied, in relation to such information. Beaumont Hospital's officers, employees, agents and professional advisers expressly disclaim any and all liability arising out of such documentation or information and any errors or omissions in or from the documents and information.

Beaumont Hospital reserves the right to discontinue the procurement process at any time.

Without prejudice to the principle of equal treatment, Beaumont Hospital is not obliged to engage in a clarification process in respect of tender submissions with missing or incomplete information. Therefore, tenderers are advised to ensure that they return comprehensive tender submissions in order to avoid the risk of elimination from the competition.

CHECKLIST FOR TENDER SUBMISSIONS

In order to allow Beaumont Hospital to fully evaluate completed tender submissions, Tenderers are advised to ensure that their responses include all of the following information:

All information required under each Award Criterion (Section 6)	
The completed and signed Form of Tender (Appendix 1)	
The completed Pricing Schedule (Appendix 2)	
The completed and signed European Single Procurement Document (Appendix 3)	

This checklist has been provided for guidance purposes only and Beaumont Hospital accepts no responsibility for omissions of any description. Tenderers are advised to read this Invitation to Tender document and its appendices in full in order to provide a comprehensive and compliant response.

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1. INTRODUCTION

1.1 About the Contracting Authority

Beaumont Hospital employs approximately 4,300 whole-time equivalent staff and has circa 870 beds. It is the principal teaching hospital for the Royal College of Surgeons in Ireland and enjoys close links with Dublin City University, especially in the area of nurse training, and with other academic institutions in respect of training and research. Further information regarding the hospital is available online: www.beaumont.ie/aboutus.

1.2 About the Competition

The Contracting Authority is employing the open procedure to establish this framework agreement. In accordance with the provisions governing the conduct of the open procedure, any interested economic operator may tender for appointment as a successful framework member. In the first instance, tenders received will be assessed against the Grounds for Exclusion and Eligibility Criteria contained in Sections 4 and 5 of this document, respectively. Tenders that are not eliminated under a Ground for Exclusion or an Eligibility Criterion will then be evaluated against the award criteria, rules and weightings contained in Section 6 of this document in order to identify the most economically advantageous tenders.

1.3 Admittance to the Framework Agreement

The three highest-scoring tenderers identified following the assessment of tender submissions against the award criteria, rules and weightings contained in Section 6 of this Invitation to Tender document shall be admitted to the framework agreement. In the event that three suitable tender submissions are not received, the Contracting Authority reserves the right to establish the relevant framework agreement with only those tenderers deemed suitable by the evaluation process.

1.4 About the Framework Agreement

A framework agreement constitutes a means of establishing overall terms and conditions in accordance with which, for a specified duration, individual contracts may or not be awarded. It is emphasised that a framework agreement constitutes no guarantee to purchase a specific quantity of services from a particular framework member. Indeed, the Contracting Authority reserves the right to operate outside of the framework agreement at its discretion, particularly should it become apparent that doing so would offer greater value for money. **For the avoidance of doubt, admission to this framework agreement constitutes no guarantee that any particular quantity of service will be procured from any framework member.**

This framework agreement shall have a maximum potential duration of four years. In the first instance, the framework agreement shall be utilised for a period of one year. Upon the expiry of this one year period, matters such as budgetary considerations, the performance of framework members and the continued strategic appropriateness of the framework agreement will be considered by the Contracting Authority in order to determine the extent to which the framework agreement will

continue to be used. **For the avoidance of doubt, the Contracting Authority may elect to terminate this framework agreement following the first year of its operation.**

1.5 Operation of the Framework Agreement

These framework agreements shall be operated by reference to both the 'cascade method' and also by reference to 'clinical rationale' as set out below.

1.5.1 The Cascade Method

Generally, and in the absence of any clinical rationale requiring the referral of a patient to a particular framework member, the 'cascade method' will apply to the award of work under the framework agreement. The 'cascade method' shall operate as follows:

- In the first instance, the requirement will be offered to the first-ranked framework member.
- In the event that capacity issues or other factors dictate that the first-ranked framework member is unable to fulfil the requirement, the requirement will be offered to the second-ranked framework member.
- This process will be repeated until the requirement can be successfully fulfilled by a framework member.

1.5.2 Clinical Rationale

Given the Contracting Authority's remit, it is anticipated that, from time-to-time, clinical factors may necessitate the selection of a particular framework member. In such circumstances, the Contracting Authority shall have the absolute right to procure the required services directly from a particular framework member and to disregard the 'cascade method.' In this regard, and in accordance with Article 33(4)(b) of Directive 2014/24/EU (which is being observed in this instance on a strictly analogous basis), the objective criteria to be relied upon in determining whether to procure services directly from a particular framework member are as follows:

- The case-history and medical requirements of the patient in question will be considered in light of the medical and surgical facilities and expertise at the disposal of each framework member;
- The need to optimise clinical and surgical outcomes and to minimise clinical and surgical risks will be taken into account in the context of the medical and surgical facilities and expertise at the disposal of each framework member;
- The geographical proximity of the patient to the framework member's clinical site.

Tenderers are advised that the maximisation of patient outcomes is of paramount importance

to the Contracting Authority. Consequently, the Contracting Authority shall be entitled to exercise a level of discretion commensurate with its clinical responsibilities and remit when determining whether to use the 'cascade method' or whether sufficient clinical rationale exists to warrant the direct referral of a particular patient to a particular framework member.

The Contracting Authority shall not be liable to any framework member as a result of a failure to utilise the 'cascade method' for any particular service requirement under this framework agreement. No framework member shall have any claim for damages or otherwise against the Contracting Authority as a result of a decision by the Contracting Authority not to utilise the 'cascade method' for any particular service requirement under the framework agreement; moreover, given its clinical remit, the Contracting Authority shall not be accountable to any framework member for any decisions in this regard.

1.6 Award to Runner-up

In the event that, following the establishment of this framework agreement, a successful framework member cannot, for whatever reason, execute the framework agreement or any contract awarded under it to the satisfaction of the Contracting Authority, the Contracting Authority reserves the right to award membership of this framework agreement to the next highest-ranked tenderer emerging from this competitive process but not initially appointed to the framework agreement. This right may be availed of at any time during the tender validity period. This shall be without prejudice to the right of the Contracting Authority to terminate the agreement and commence a new competitive process.

1.7 Terms and Conditions

Draft terms and conditions for this framework agreement are contained in Appendix 4 of the Invitation to Tender document. Tenderers are not requested to sign these terms as part of their tender submission but should review them carefully and indicate any areas of interest by submitting a written query during the tender period. **It is emphasised, however, that material changes to the terms and conditions will not be considered by the Contracting Authority.**

1.8 Title III of Directive 2014/24/EU

The subject matter of this framework agreement comprises 'Hospital Services' for the purposes of the procurement regulations. Consequently, this competition is governed solely by Title III of Directive 2014/24/EU. On this basis, the Contracting Authority is availing of shortened timescales in order to establish this framework agreement. Moreover, the Contracting Authority reserves the right, at its discretion, to negotiate the terms of submitted tenders and to negotiate the award of contracts under this framework agreement with the successful framework members.

2. SPECIFICATION OF REQUIREMENTS

2.1 Synopsis of Requirement

The Contracting Authority intends to establish a framework agreement with suitably-qualified and experienced medical service providers to deliver end-to-end outpatient assessment, diagnostic and surgical treatment pathways for a cohort of approximately 1,200 patients. These patients are currently on a neurosurgical waiting list, rather than an orthopaedic list; however, the Contracting Authority will accept tender submissions involving orthopaedic spinal surgeon review.

For tenderers' information, a low-complexity spine patient is defined as an individual with a straightforward, one or two level or localised spinal condition that requires standard surgical or medical management with minimal technical difficulty and lower physiological risk.

Under the framework agreement, the successful tenderers will assume responsibility for patients from the first specialist outpatient assessment, through surgical intervention (if clinically indicated) until discharge.

The successful framework operators shall assume clinical responsibility for the entire patient-care pathway, from initial specialist assessment through all clinically-indicated diagnostic, conservative, interventional and surgical management measures and associated specialist review. The service must be delivered by appropriately-qualified and accredited spinal surgical, medical, nursing, physiotherapy, radiology and allied health professionals, with access to anaesthetic / pain expertise where required.

2.2 Mandatory Components of the Pathway

As a minimum requirement, in each individual case, the patient-care pathway must comprise the following distinct components:

2.2.1 Referral Review and Clinical Triage

The framework operator in question shall review referral information and all relevant pre-existing imaging and investigations, shall confirm the patient's suitability for the low-complexity pathway and shall pro-actively identify any 'red flags,' urgent clinical concerns or any factors that render the patient unsuitable for treatment under this framework agreement. Any such concerns or factors must be communicated immediately to the Contracting Authority.

2.2.2 First Specialist Spinal OPD Assessment

The framework operator in question shall work up a comprehensive history for the patient and shall perform an appropriate clinical examination, to include neurological and musculoskeletal assessment, the functional impact of patient's presenting compliant, an assessment of previous treatment and the review of available relevant imaging. A working diagnosis and documented management plan must be established.

2.2.3 Diagnostic Investigations

Where so required, the framework operator in question shall undertake all investigations clinically-required to establish or confirm a diagnosis and to guide treatment. For the avoidance of doubt, diagnostic investigations may include the conduct and reporting of MRI scans, plain radiography scans and/or CT scans.

2.2.4 Conservative and Rehabilitative Treatment

Where so required, the framework operator in question shall provide specialist spinal / musculoskeletal physiotherapy, individualised exercise and rehabilitation measures and relevant education. Additionally, the patient shall be offered education and shall be supported in the self-management of the presenting complaint. The framework operator in question shall provide activity-related and functional advice and shall review (and, as appropriate, optimise) analgesic use.

The maximum number of physiotherapy sessions that may be provided to an individual patient is six. Any requirement for additional sessions beyond this quantum of six sessions must be approved in advance by the Contracting Authority, with the rationale, proposed number of sessions and estimated timeframe clearly stated by the framework operator in question.

2.2.5 Interventional Treatment

Where clinically-indicated, the framework operator in question shall provide access to image-guided spinal interventions, including selective nerve-root blocks / nerve-root injections, epidural steroid injections and other appropriate evidence-based spinal injection procedures within the agreed scope of the pathway.

The maximum number of interventional treatments that may be provided to an individual patient is two. Any requirement for additional injections or interventions beyond this quantum of two instances of treatment must be approved in advance by the Contracting Authority, with the rationale, proposed number of treatments and estimated timeframe clearly stated by the framework operator in question.

2.2.6 Clinical Reassessment

The framework operator in question shall review the patient's response to conservative and/or interventional treatment, with the review process including a reassessment of pain, function and neurological status. Further conservative treatment may be provided by the framework operator, where deemed clinically-appropriate.

2.2.7 Surgical Intervention

Where clinically-indicated, the framework member in question shall undertake any required surgical intervention, assuming responsibility for the entire length-of-stay, the delivery of the

surgical services, pre-operative and post-operative assessments and all associated overheads. The range of surgical interventions potentially required under this framework agreement is as follows:

- Decompression of spinal nerve roots;
- Decompression of lumbar spinal canal, one level;
- Decompression of cervical spinal cord with anterior fusion, one level;
- Anterior spinal fusion, one level, including instrumentations;
- Decompression of cervical spinal cord with anterior fusion, two or more levels;
- Percutaneous lumbar discectomy;
- Decompression of cervical spinal cord, one level;
- Decompression of cervical spinal cord, two or more levels;
- Revision of spinal procedure with adjustment of spinal fixation;
- Anterior spinal fusion, four or more levels, including instrumentations;
- Nonsegmental internal fixation of spine.

2.3 Possible Outcomes of the Pathway

The successful framework operators shall be responsible for ensuring that each patient reaches **one** of the following clearly-documented endpoints:

A	Symptoms are appropriately managed and the patient is discharged with a documented management or self-management plan.
B	The need for further non-operative management is identified, which is completed within the pathway.
C	The patient is assessed as clinically-suitable for a spinal surgical procedure, which is undertaken by the framework member. Following post-operative assessment, the patient is discharged with a documented management or self-management plan.
D	A complex, urgent or alternative pathway is identified, with escalation or return through an agreed clinical governance pathway.

2.4 General Obligations of the Framework Operators

Each framework operator shall deliver the required pathway as an integrated episode of care. Patients

should not routinely be returned to the originating hospital to obtain diagnostics, physiotherapy, spinal injections, pain-management interventions or any repeat specialist assessments required to complete the pathway; **for the avoidance of doubt, all such matters shall be strictly and solely the responsibility of the framework operator in question.**

Responsibility for a patients' ongoing management within the scope of the commissioned pathway remains with each framework operator. Each framework operator is expected to coordinate and deliver all clinically-indicated diagnostics, physiotherapy, spinal injections, pain-management interventions, surgical procedures and repeat specialist assessments required to complete the patient pathway. Each framework operator shall retain responsibility for the patient until the pathway has been completed or a formal transfer of care has been agreed with the Contracting Authority.

Referral back to the Contracting Authority may only occur where a patient's clinical needs fall outside the scope of the commissioned pathway, where further management by the Contracting Authority is clinically-indicated following completion of the pathway, or where an agreed escalation or transfer of care is required. Any such referral should be supported by appropriate clinical documentation and a clear handover of responsibility.

As a general obligation, each framework operator must pro-actively safeguard timely communication with the referring hospital and must provide, upon request, all relevant agreed patient-level activity and outcome data. In this regard, each framework operator shall assume responsibility for maintaining accurate data **for each patient** in respect of the following matters:

- The status of all appointments;
- Any instances of 'did not attend' or 'could not attend';
- The number and nature of investigations undertaken;
- The number and nature of interventions performed;
- All clinical and surgical outcomes;
- The status of any discharge decisions;
- The rationale behind any surgical referral;
- The reason for a patient's return to the referring hospital or exclusion from the pathway (in this regard, each framework operator shall immediately inform the correct referring hospital staff member of any complications, abnormalities or abnormal results arising from the delivery of the required services).

As explained in further detail subsequently in this Invitation to Tender document, each framework operator must comply with all statutory and regulatory provisions relating to consent, information governance and patient safety.

2.5 Facilities and Standards

In providing services under this framework agreement, each framework operator must have access to appropriate and suitable medical, surgical and radiology facilities, which must comply in full with all relevant legislative provisions and must be of a suitable clinical standard to facilitate the delivery of the required services. Each framework operator must have adequate procedures, controls and facilities in place to ensure compliance with all standards and legislation relating to the conduct of medical diagnostic and surgical procedures, including, without limitation, the HSE's National Policy and Procedure for Safe Surgery, the WHO Guidelines for Safe Surgery, the HSE's Code of Practice for Healthcare Records Management and all other relevant provisions.

2.6 Technical Merit of Required Resources

Each framework operator shall ensure that there are sufficient appropriately registered, qualified and experienced medical, surgical, nursing, clinical and non-clinical staff to provide all services required under the framework agreement in full accordance with this Invitation to Tender document, in full accordance with the terms and conditions of the framework agreement and in full accordance with all reasonable instructions of the Contracting Authority.

It is a condition for the operation of this framework agreement that all medical staff relied upon by a framework operator for the purposes of service delivery (i.e., nursing resources, physiotherapists, radiographers, surgeons, doctors and consultants) are appropriately-qualified and in possession of current and valid accreditation by the relevant regulatory body (e.g., CORU, NMBI or the Medical Council). Each framework operator shall ensure that its medical staff maintain the validity of any such accreditation for the currency of the framework agreement. Each framework operator is responsible for ensuring that **all** relevant consents, authorisations, licences, registrations and accreditations required to provide services under the framework agreement are in place prior to service commencement and are maintained for the currency of the framework agreement.

2.7 Conditions re: Provision of Treatment

Tenderers are advised that the following conditions shall apply to the provision of treatment under this framework agreement:

- Each framework operator agrees that time shall be of the essence in respect of the conduct of all required appointments.

- Each framework operator shall conduct all duties arising under this framework agreement with reasonable skill and care consistent with the needs of the patient attending, with due diligence and in full compliance with all appropriate professional standards and relevant policies, in accordance with all applicable laws and exercising such skill, care, diligence, prudence, experience, expertise, foresight and judgement as would be expected from a highly skilled and highly experienced person engaged in the provision of services the same as, or similar, to the services constituting the subject matter of this framework agreement. In addition, all services

provided under this framework agreement shall be delivered in a professional and courteous manner.

2.8 Garda Vetting

Each framework operator shall ensure that all consultants, staff, or any persons providing any services to patients under this framework agreement are satisfactorily Garda vetted.

2.9 Pricing

As explained in the Pricing Schedule in Appendix 2 of this Invitation to Tender document, framework operators shall invoice the Contracting Authority in arrears on a per-patient basis. Payment shall be conditional upon adherence to any invoicing protocols agreed between each framework operator and the Contracting Authority from time-to-time.

2.10 Patient Healthcare Records

Further to Section 2.4 above, each framework operator must create and maintain comprehensive patient healthcare records of attendance in respect of all patients referred under this framework agreement. The framework operators shall ensure that such records demonstrate a full, accurate and contemporaneous record in respect of the services provided.

Each framework operator must securely store and retain patient healthcare records for the periods of time required by applicable law and/or otherwise by the Department of Health and then securely destroy them. Each framework operator must, if so requested by the Contracting Authority, promptly deliver to the Contracting Authority, at all times complying with all relevant obligations under the Data Protection Legislation, a copy of the relevant patient healthcare record held by the framework operator in question in respect of the services provided to any patient.

2.11 Account Management Obligations

Each framework operator shall nominate a suitably qualified and experienced Account Manager, who will liaise with the Contracting Authority in order to resolve administrative or operational difficulties and who will assume overall responsibility for ensuring the successful delivery of services under the framework agreement.

2.12 Clinical Responsibility

Each framework operator shall assume full clinical responsibility for all aspects of patient treatment under the pathway. In particular, the attention of tenderers is drawn to the following obligations:

- Each framework operator shall assume full responsibility for the actions of its staff engaged in the provision of services under this framework agreement and shall be fully responsible for their acts or omissions, supervision, co-ordination, daily directions and controls and all matters relating to their employment, engagement and work.

- The Contracting Authority reserves the right to request any framework operator to remove a staff member from provision of services under this framework agreement in the event that the staff member in question is found to be carrying out his or her duties in a manner that the Contracting Authority, acting reasonably, considers unsatisfactory.

- As explained in greater detail in the draft terms and conditions of the framework agreement contained in Appendix 4 of this Invitation to Tender document, each framework operator shall be liable to the Contracting Authority for and shall indemnity and keep the Contracting Authority indemnified against all reasonable costs, claims, actions, proceedings, demands, losses, damages, awards, penalties, fines, liabilities and expenses (including without limitation reasonable legal costs and expenses) or suits of whatsoever nature incurred by the Contracting Authority caused by or arising in respect of or in connection with death or personal injury caused to any patient by the negligent act or omission of the framework operator in question.

2.13 General Data Protection Regulation

The Contracting Authority's position is that each framework operator shall constitute a 'Processor' for the purposes of the General Data Protection Regulation. Each framework operator shall comply in all respects with all applicable requirements of the Data Protection Legislation, to include:

- The Data Protection Acts 1988, 2003 and 2018;

- The EU Data Protection Directive 25/46/EC;

- The General Data Protection Regulation (Regulation [EU] 2016/679);

- All other applicable law, regulations and codes of conduct in any relevant jurisdiction relating to the processing of personal data and privacy, encompassing any guidance and/or codes of practice issued by a relevant data protection regulator, including the Data Protection Commissioner and the European Data Protection Board.

3. INSTRUCTIONS TO TENDERERS

3.1 Compliance with Instructions to Tenderers

Tenderers are required to comply with these Instructions to Tenderers when preparing their tender submissions. By submitting a tender, each tenderer acknowledges and agrees to be bound fully by these Instructions to Tenderers. Non-compliance with these Instructions may, and in stated circumstances shall, invalidate the submitted tender, subject always to the discretion of the Contracting Authority. The decision of the Contracting Authority in relation to compliance with these Instructions to Tenderers is final and binding.

3.2 Ambiguities, Discrepancies, Errors or Omissions in the Tender Document

If you consider that you are missing any documents or information, the absence of which would preclude you from submitting a comprehensive tender, or should you become aware of any ambiguity, discrepancy, error or omission in this Invitation to Tender document, please raise the matter by submitting a query through the Irish government's Procurement Opportunities Portal (www.etenders.gov.ie) as soon as possible.

3.3 Queries

All queries regarding this competition should be submitted via the Irish government's Procurement Opportunities Portal (www.etenders.gov.ie) before close of business on **26/10/2026**. The following additional conditions govern the submission of queries:

(a) No approach of any kind should be made to any other person within, or associated with, the Contracting Authority in connection with this Invitation to Tender. Any such approach may, at the absolute discretion of the Contracting Authority, result in the elimination of the tenderer in question from this process.

(b) The Contracting Authority will endeavour to respond to all reasonable queries received but does not undertake to respond to all queries indiscriminately. In particular, queries seeking interpretation of this Invitation to Tender document may not result in a response.

(c) In the event that a tenderer considers a query confidential or commercially sensitive, it must mark the query accordingly. If the Contracting Authority considers, at its absolute discretion, that the query or related response should be properly regarded as confidential or commercially sensitive, the nature of the query and its response will be held as confidential, subject to the Contracting Authority's obligations under law.

If the Contracting Authority is of the opinion that it would be inappropriate to answer the query on a confidential basis, it will notify the tenderer accordingly and require the tenderer to either withdraw the query or agree to its release, accompanied by a response, to all tenderers.

3.4 Qualification of Tenders

Please note that qualifications to a tender submission may render the tender submission invalid.

3.5 Tender Submission

The deadline date and time for receipt of tenders is 04/11/2026 at 12.00 noon (local time). Tenders must be submitted through the eTenders web portal (www.etenders.gov.ie) **only**. The completed tender submission, which is to include all information identified in the Checklist for Tender Submissions contained in this Invitation to Tender document, must be compiled in such a manner such that it can be read immediately upon opening of the post-box. **In particular, tender submissions must be uploaded in a single, zipped (i.e., compressed) folder.** Tenderers must ensure electronic documents are not corrupt. The Contracting Authority is not responsible for corruption in electronic documents.

Each tenderer is fully responsible for the uploading of the tender document to the post-box. The post-box will close automatically at 12.00 noon exactly on the closing date; in this regard, tenderers are advised to commence the uploading process substantially in advance of this time to avoid missing the deadline. E-mailed, faxed, hard copy, posted or late tenders will not be considered.

3.6 Extension of Tender Period

The Contracting Authority reserves the right, at its sole discretion, to revise the deadline date for receipt of tender submissions by giving notice in writing to tenderers at any point up to the deadline date contained in this Invitation to Tender document.

3.7 Notice of Addenda

The Contracting Authority reserves the right to update or alter the information contained in this document at any time, but not later than seven (7) days before the deadline date for the receipt of tender submissions. Any such notification will automatically become part of this Invitation to Tender document.

3.8 Modifications to Tenders (Prior to Deadline Date for Receipt of Tenders)

Modifications to tender submissions will be accepted in the form of supplementary information and/or addenda, provided they are submitted before the deadline date for the receipt of tender submissions.

3.9 Cost of Preparation of Tender Submissions

The Contracting Authority will not be liable for any costs incurred by tenderers in the preparation and submission of tenders and/or any associated work effort or costs (legal or otherwise) arising as a result of participation in this competition, regardless of the outcome or conduct of the competitive process.

3.10 Clarification of Abnormally Low Tenders

In the event that the Contracting Authority considers a tender submission to be commercially unsustainable or otherwise problematic in light of the tendered price or any other financial matter, the tenderer shall be invited to provide clarification to the Contracting Authority in respect of all elements of the tender submission that the Contracting Authority deems relevant. Any failure to satisfactorily comply with such a request, or to satisfactorily address the Contracting Authority's concerns, may, at the discretion of the Contracting Authority, result in the elimination of the tender in question.

3.11 Tender Validity Period

To allow sufficient time for tender assessment, a tender validity period of twelve months is required, commencing on the deadline date for receipt of tender submissions.

3.12 Currency

Tender prices and any other financial information must be submitted in Euro (€) only. **All invoices and payments will be in Euro (€) only.**

3.13 Confidentiality

The distribution of this Invitation to Tender document is for the sole purpose of obtaining tender submissions as referred to therein. The distribution of this document does not grant permission or licence to use the documents for any other purpose. Tenderers are required to treat the details of all documentation provided in connection with this competition as private and confidential. Similarly, the Contracting Authority undertakes to use all reasonable endeavours to ensure that any confidential information received from tenderers is not disclosed to third parties, subject always to its obligations under law and the applicable provisions of the Freedom of Information Acts.

In this regard, tenderers are asked to consider if any of the information supplied by them in response to this Invitation to Tender document should not be disclosed because of its sensitivity. Tenderers must specify the precise information that is sensitive and the reasons for its sensitivity. Tenderers are advised that it is not sufficient to merely include a statement of confidentiality encompassing all information contained in a tender submission.

The Contracting Authority cannot guarantee that any information provided by tenderers, either in response to this Invitation to Tender or in the course of any framework agreement established as a result thereof, will not be released pursuant to the Contracting Authority's obligations under law, including the Freedom of Information Acts, European Procurement Directives and all Irish procurement legislation and guidance. The Contracting Authority accepts no liability whatsoever in respect of any information provided that is subsequently released or in respect of any consequential damage suffered as a result of such obligations.

3.14 Conflict of Interest

Any conflict of interest involving a tenderer must be fully disclosed to the Contracting Authority. Any registrable interest involving the tenderer and the Contracting Authority, or employees of the Contracting Authority or their relatives, must be fully disclosed in the tender submission. In the event that the tenderer becomes aware of the conflict of interest only after a tender submission has been made, the conflict of interest must be immediately disclosed to the Contracting Authority. The terms 'registrable interest' and 'relative' will be interpreted in accordance with Section 2 of the Ethics in Public Office Act, 1995. Failure to disclose a conflict of interest may disqualify a tenderer or invalidate a tenderer's membership of a framework agreement, depending upon when the conflict of interest is made known to the Contracting Authority.

3.15 National Legislation

Tenderers are advised that national legislation applies in respect of matters such as employment, working hours, official secrets, data protection and health and safety. Tenderers must have regard to statutory terms relating to minimum pay and to legally binding industrial or sectorial agreements in preparing tenders. Moreover, tenderers are advised that the laws of Ireland will govern this competitive process. This competitive process, any resulting framework agreement and any resulting contract will be subject to the exclusive jurisdiction of the Irish courts.

3.16 Determination of Responsiveness

After opening tender submissions, the Contracting Authority will determine whether each tender submission is substantially responsive to the requirements of this Invitation to Tender document. If a material deviation exists that limits in any substantial way the Contracting Authority's rights or the tenderer's obligations under any framework agreement to be established, the tender shall be rejected.

3.17 Clarification of Tenders

To assist in the evaluation and associated comparison of tender submissions, the Contracting Authority may ask tenderers to clarify and supplement certain aspects of their tender submissions, including financial proposals. A request for such clarifications should not be construed as an indication of success in the competition.

3.18 Interference

Any effort by a tenderer to unduly influence the Contracting Authority, its personnel or any other relevant persons or bodies regarding the process of examination, clarification, evaluation and comparison of tenders and any decisions concerning the establishment of the framework agreement shall result in the elimination of said tenderer's tender submission. In accordance with Section 38 of the Ethics in Public Office Act 1995, any money, gift or other consideration from a person seeking success in a public tendering competition will be deemed to have been paid or given corruptly unless the contrary is proved.

3.19 Prohibition on Canvassing

Any tenderer who, in connection with this competition:

(a) offers any inducement, fee or reward to any member, officer or employee of the Contracting Authority or any person acting as an advisor to the Contracting Authority in connection with the competition; or

(b) takes any step constituting a breach of the Prevention of Corruption Acts 1989 to 2010; or

(c) canvasses any of the persons referred to in paragraph (a) above in connection with the competition; or

(d) contacts any officer or employee of the Contracting Authority prior to the framework agreement being established about any aspect of the competition in manner not permitted by this Invitation to Tender document

may be eliminated from the competition, without prejudice to any other civil remedies available to the Contracting Authority and without prejudice to any criminal liability such conduct by a tenderer may attract.

3.20 Prohibition on Collusion

Any tenderer who, in connection with this competition:

(a) fixes or adjusts the amount or terms of his/her tender submission by or in accordance with any agreement or arrangement with any other tenderer (other than a member of his own grouping or consortium); or

(b) enters into any agreement or arrangement with any other tenderer that he/she shall refrain from tendering or as to the amount or terms of any tender to be submitted; or

(c) causes or induces any person to enter into such an agreement or arrangement as referred to in paragraphs (a) or (b) above; or

(d) informs any tenderer of the amount, approximate amount or terms of any rival tender; or

(e) canvasses any other tenderer in connection with this competition; or

(f) offers or agrees to pay or give, or does pay or give, any sum of money, inducement or valuable consideration directly or indirectly to any person for any information in connection with any rival tender submission; or

(g) communicates to any person other than the Contracting Authority the amount or approximate amount or terms of his proposed tender submission (except in the event that such disclosure is

made in confidence and is necessary for the preparation of the tender submission); or

(h) contacts any officer or employee of the Contracting Authority prior to the framework agreement being established about any aspect of the competition in manner not permitted by this Invitation to Tender document

may be eliminated from the competition, without prejudice to any other civil remedies available to the Contracting Authority and without prejudice to any criminal liability such conduct by a tenderer may attract.

3.21 Notification of Tender Evaluations

All tenderers will be informed in writing of the outcome of this tender competition following the completion of the evaluation of tender submissions.

4. GROUNDS FOR EXCLUSION

This Section of the Invitation to Tender document details the grounds for exclusion that apply to this competition in accordance with Regulation 57 of the European Union (Award of Public Authority Contracts) Regulations 2016 (which applies to this competition on an analogous basis).

A tenderer's position under each of these grounds will be assessed by reference to the completed European Single Procurement Document (ESPD) contained in Appendix 3 of this document. The completed ESPD will comprise a 'self-declaration' by the tenderer that the grounds for exclusion detailed hereunder do not apply. The information contained in this Section of the Invitation to Tender document informs tenderers of how the completed ESPD will be interpreted by the Contracting Authority.

For the avoidance of doubt, the Contracting Authority reserves the right to request any tenderer to provide all supporting documentation necessary to demonstrate the inapplicability of any ground for exclusion detailed hereunder. Such a request may be made at any point during the competitive process. **In particular, before reaching an award decision, the Contracting Authority may require the successful tenderer to provide all supporting documentation necessary to demonstrate the inapplicability of any ground for exclusion detailed hereunder.** In the event that the supporting documentation demonstrates that a ground for exclusion does, in fact, apply, the tenderer will be eliminated from this competition.

(Grounds detailed overleaf)

EXCLUSION GROUND		REG.
(i)	An economic operator will be excluded from this competition if the economic operator, or a member of its administrative, management or supervisory body, has been convicted of participation in a criminal organisation, within the meaning of Article 2 of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime.	57.1(a)
(ii)	An economic operator will be excluded from this competition if the economic operator, or a member of its administrative, management or supervisory body, has been convicted of corruption, as defined by Regulation 57.1(b) of the European Union (Award of Public Authority Contracts) Regulations 2016.	57.1(b)
(iii)	An economic operator will be excluded from this competition if the economic operator, or a member of its administrative, management or supervisory body, has been convicted of fraud, within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests drawn up under the Council Act of 16 July 1995.	57.1(c)
(iv)	An economic operator will be excluded from this competition if the economic operator, or a member of its administrative, management or supervisory body, has been convicted of terrorist offences or offences linked to terrorist activities, within the meaning of Articles 1 and 3 respectively of Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism or inciting or aiding or abetting or attempting to commit an offence referred to in Article 4 of that Council Framework Decision.	57.1(d)
(v)	An economic operator will be excluded from this competition if the economic operator, or a member of its administrative, management or supervisory body, has been convicted of money laundering or terrorist financing, within the meaning of Article 1 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.	57.1(e)
(vi)	An economic operator will be excluded from this competition if the economic operator, or a member of its administrative, management or supervisory body, has been convicted of child labour and other forms of trafficking in human beings, within the meaning of Article 2 of Directive 2011/36/EU41 of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA.	57.1(f)

NOTE #1: In respect of each of the exclusion grounds detailed under points (i) to (vi) above, an economic operator may provide evidence to the effect that it has undertaken sufficient measures to demonstrate its reliability, despite the existence of the ground for exclusion. Where, in the opinion of the Contracting Authority, such evidence is sufficient, the economic operator shall not be excluded from the competition. Appropriate evidence is detailed in Regulation 57.14 of the European Union (Award of Public Authority Contracts) Regulations 2016.

NOTE #2: In the event that a conviction listed under points (i) to (vi) above occurred more than five years prior to the date of advertisement of this competition, the relevant ground for exclusion shall not apply.

(vii)	An economic operator will be excluded from this competition if the economic operator is in breach of its obligations relating to the payment of taxes or social security contributions and said breach has been established by a judicial or administrative decision having final and binding effect in accordance with the law of the country in which the operator is established or the Member State of the Contracting Authority. *NOTE #1: This provision will not apply when the economic operator has fulfilled its obligations by paying, or entering into a binding arrangement with a view to paying, the taxes or social security contributions due, including, where applicable, any interest accrued or fines.* *NOTE #2: At the discretion of the Contracting Authority, this provision may not apply when only minor amounts of taxes or social security contributions are in question or when the economic operator did not have time, between being made aware of the breach of obligations and the commencement of this competition, to pay, or to enter into an arrangement to pay, the amounts in question.* *NOTE #3: In the event that the breach of obligations referred to above occurred more than five years prior to the date of advertisement of this competition, this ground for exclusion shall not apply.*	57.3(a), 57.3(b)
(viii)	An economic operator will be excluded from this competition if the economic operator, in performance of a public contract, has not complied with all applicable obligations in the fields of environmental, social and labour law that apply at the place where the works are carried out or the services provided and that have been established by European Union law, national law, collective agreements or by international, environmental, social and labour law.	57.8(a)
(ix)	An economic operator will be excluded from this competition if the economic operator is bankrupt or is the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the law of the State. *NOTE: The Contracting Authority may, at its discretion, decide not to exclude an economic operator on this ground for exclusion if it is possible for the Contracting Authority to establish that the economic operator would be able to perform the contract, taking into account national rules, measures and laws relating to the continuation of business.*	57.8(b)
(x)	An economic operator will be excluded from this competition where the Contracting Authority can demonstrate, by appropriate means, that the economic operator is guilty of grave professional misconduct, which renders its integrity questionable.	57.8(c)
(xi)	An economic operator will be excluded from this competition where the Contracting Authority has sufficiently plausible indications to conclude that the economic operator has entered into arrangements with other economic operators aimed at distorting competition.	57.8(d)

(xii)	An economic operator will be excluded from this competition where a conflict of interest, as defined by Regulation 34 of the European Union (Award of Public Authority Contracts) Regulations 2016, cannot be effectively remedied by other, less intrusive, measures.	57.8(e)
(xiii)	An economic operator will be excluded from this competition where a distortion of competition from the prior involvement of the economic operator in the preparation of the procurement procedure cannot be remedied by other, less intrusive, measures.	57.8(f)
(xiv)	An economic operator will be excluded from this competition where the economic operator has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions.	57.8(g)
(xv)	An economic operator will be excluded from this competition where the economic operator has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria, has withheld such information or is not able to submit supporting documents required under Regulation 59 of the European Union (Award of Public Authority Contracts) Regulations 2016	57.8(h)
(xvi)	An economic operator will be excluded from this competition where the economic operator has undertaken to unduly influence the decision-making process of the Contracting Authority, or obtain confidential information that may confer upon it undue advantages in the procurement procedure or where the economic operator has negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.	57.8(i)

NOTE #1: In respect of each of the grounds for exclusion detailed under points (viii) to (xvi) above, an economic operator may provide evidence to the effect that it has undertaken sufficient measures to demonstrate its reliability, despite the existence of the ground for exclusion. Where, in the opinion of the Contracting Authority, such evidence is sufficient, the economic operator shall not be excluded from the competition. Appropriate evidence is detailed in Regulation 57.14 of the European Union (Award of Public Authority Contracts) Regulations 2016.

NOTE #2: In respect of each of the exclusion grounds detailed under points (viii) to (xvi) above, in the event that the situation referred to occurred more than three years prior to the date of advertisement of this competition, the relevant ground for exclusion will not apply.

5. ELIGIBILITY CRITERIA

5.1 Eligibility Criteria and Associated Rules

The Contracting Authority is using the open procedure for the establishment of this framework agreement. While any interested party may submit a tender, only those tenderers meeting the stated levels of financial and technical capacity will be considered for appointment to this framework agreement.

In order to enable the Contracting Authority to ascertain tenderers' financial and technical capacity, all tenderers must complete the ESPD contained in Appendix 3 of this document. In particular, Part IV of the ESPD constitutes a 'self declaration' to the effect that the tenderer complies with each of the eligibility criteria and rules detailed hereunder. Once the ESPD has been completed, no additional response to these eligibility criteria is required.

For the avoidance of doubt, the Contracting Authority reserves the right to request any tenderer to provide all supporting documentation necessary to demonstrate compliance with all eligibility criteria detailed hereunder. Such a request may be made at any point during the competitive process. **In particular, before reaching an award decision, the Contracting Authority may require the successful tenderer to provide all supporting documentation necessary to demonstrate compliance with all eligibility criteria detailed hereunder.** In the event that the supporting documentation demonstrates that any eligibility criterion is not complied with, the tenderer will be eliminated from this competition.

(Criteria detailed overleaf)

(a) INSURANCES

REQUIREMENT
It is a requirement that tenderer's either possess the following forms and levels of insurance, or are in a position to implement the following forms and levels of insurance if successful in the competition: (a) Employer's Liability - €13,000,000 each and every claim and in the period; (b) Public Liability - €6,500,000 each and every claim and in the period; (c) Product Liability – €25,000,000 each and every claim and in the period; (d) Professional Indemnity - €10,000,000 each and every claim and in the period, or suitable clinical indemnity cover on the part of each medical doctor, consultant and surgeon.
ESPD REFERENCE AND MEANS OF PROOF
By completing the ESPD contained in Appendix 3, tenderers are confirming that they either possess the forms and levels of insurance indicated or, alternatively, that they are in a position to obtain the forms and levels of insurance indicated if successful in this competition. Should the Contracting Authority elect to seek supporting evidence from tenderers confirming the assertions made in the ESPD in respect of this eligibility criterion, the following means of proof will be acceptable to the Contracting Authority to confirm that this criterion is complied with: (a) Evidence of the possession of the required forms and levels of insurance (i.e., certificates of insurance provided by brokers or underwriters); (b) A signed letter from the tenderer's insurance broker to the effect that the required forms and levels of insurance can be implemented should the tenderer prove successful in this competition.
ELIMINATION
Should a tenderer fail to provide appropriate supporting evidence within five working days of a request to do so, the tenderer in question will be eliminated from further consideration.

(b) FINANCIAL CAPACITY

REQUIREMENT
It is a requirement that tenderers have attained a turnover of at least **€1,000,000** in any one of the three previous financial years.
ESPD REFERENCE AND MEANS OF PROOF
By completing the ESPD contained in Appendix 3, tenderers are confirming that they have attained a turnover of at least **€1,000,000** in any one of the three previous financial years. Should the Contracting Authority elect to seek supporting evidence from tenderers confirming the assertions made in the ESPD in respect of this eligibility criterion, the following means of proof will be acceptable to the Contracting Authority to confirm that this criterion is complied with: (a) Financial statements or extracts from financial statements; (b) An objectively verifiable statement of the tenderer's overall turnover (e.g, an auditor's statement).
ELIMINATION
Should a tenderer fail to provide appropriate supporting evidence and means of proof within five working days of a request to do so, the tenderer in question will be eliminated from further consideration.

(c) TAX CLEARANCE

REQUIREMENT
It is a requirement that tenderers either possess a Tax Clearance Certificate issued by the Irish Revenue Commissioners, or will possess such certification prior to the establishment of this framework agreement. For the avoidance of doubt, it is emphasised that the Contracting Authority is precluded from processing invoices submitted by economic operators not in possession of an Irish Tax Clearance Certificate.
ESPD REFERENCE AND MEANS OF PROOF
By completing the ESPD contained in Appendix 3, tenderers are confirming that they either possess a Tax Clearance Certificate issued by the Irish Revenue Commissioners or have applied for such a certificate. Should the Contracting Authority elect to seek supporting evidence from tenderers confirming the assertions made in the ESPD in respect of this eligibility criterion, the following means of proof will be acceptable to the Contracting Authority to confirm that this criterion is complied with: (a) A reference to electronic evidence of tax clearance status issued by the Irish Revenue Commissioners (i.e., a screenshot, a hyperlink or any other appropriate material); (b) Copies of correspondence between the tenderer and the Irish Revenue Commissioners.
ELIMINATION
Should a tenderer fail to provide appropriate supporting evidence and means of proof within five working days of a request to do so, the tenderer in question will be eliminated from further consideration.

(d) GARDA VETTING

REQUIREMENT
It shall be a condition for the performance of this framework agreement that all staff of the successful tenderer who will have contact with patients will have been fully and satisfactorily Garda vetted, as required by legislation. The successful framework members shall be required to provide appropriate evidence to this effect prior to the commencement of service delivery under this framework agreement.
ESPD REFERENCE AND MEANS OF PROOF
By completing the ESPD contained in Appendix 3, tenderers are confirming that all staff who will have contact with patients under this framework agreement have been fully and satisfactorily Garda vetted, as required by legislation. Should the Contracting Authority elect to seek supporting evidence from tenderers confirming the assertions made in the ESPD in respect of this eligibility criterion, the following means of proof will be acceptable to the Contracting Authority to confirm that this criterion is complied with: (a) Copies of correspondence showing evidence of garda vetting for all staff concerned.
ELIMINATION
Should a tenderer fail to provide appropriate supporting evidence and means of proof within five working days of a request to do so, the candidate in question will be eliminated from further consideration.

6. AWARD CRITERIA

This framework agreement will be established with the three tenderers submitting the most economically advantageous tenders, identified following application of the award criteria and weightings detailed hereunder. It is emphasised that the Contracting Authority is not bound to accept the most economically advantageous tenders or any tenders received, and reserves the right to accept or reject in whole or in part any or all tenders received.

6.1 – AWARD CRITERIA AND WEIGHTINGS				
CRITERION		%	MAXIMUM SCORE ACHIEVABLE	MINIMUM SCORE REQUIRED
A	**Ultimate Cost**	**50**	**5,000**	**N/A**
B	**Reliability and Continuity of Service**	**50**	**5,000**	**3,000**
	TOTALS	**100**	**10,000**	**N/A**

6.2 Financial Award Criterion Explained

Tenderers are required to complete in full the Pricing Schedule contained in Appendix 2. The manner in which a notional subtotal will be arrived at is described in the Pricing Schedule. The resulting Ultimate Cost for Evaluation Purposes figure must be carried forward, unaltered, to the relevant section of the Form of Tender contained in Appendix 1. Financial proposals will be scored in accordance with the following formula:

Points awarded = (the maximum score achievable) multiplied by (the cost of the lowest-cost Valid Tender) divided by (the cost of the Valid Tender* in question).*

*NOTE: For the purposes of this formula, the phrase 'Valid Tender' refers to any Tender Submission not eliminated by virtue of a failure to attain a minimum required score under a qualitative award criterion.

6.3 Qualitative Award Criterion Explained

Tenderers must respond to Award Criterion B – Reliability and Continuity of Service by completing the below tables. Award Criterion B assesses the extent to which the Contracting Authority can place due confidence in the ability of tenderers to deliver the required services in a sufficiently reliable and continuous manner.

In order to attain the minimum required score associated with Award Criterion B, tenderers must comply with all mandatory requirements listed. Scores in excess of the minimum required score will be apportioned by reference to the relative merit of responses received. In assessing submissions under this criterion, the Contracting Authority reserves the right to contact previous customers of the tenderer, independently and without further reference to the tenderer, in order to determine the

quality and continuity of service that the tenderer is in a position to provide. Additionally, the Contracting Authority may rely upon its own previous experience of the tenderer, and knowledge of the tenderer's resources and facilities.

For the avoidance of doubt, a failure to comply with any mandatory requirement, or a failure to provide sufficiently comprehensive information in response to any mandatory requirement, will result in a tenderer's failure to attain the minimum required score associated with Award Criterion B and the consequent elimination of the tender submission from further consideration. Tenderers are advised that all fields may be expanded as required. In the event that supporting information is appended to a tenderer's submission, its location within the overall tender submission must be clearly indicated in completed versions of the following table.

(Criterion commences overleaf)

Award Criterion B – Reliability and Continuity of Service	
Weighting	**50%**
Maximum Available Score	**5,000**
Minimum Required Score	**3,000**
Requirement	**Tenderer's Response** *(All fields may be expanded as required. In the event that supporting information is appended to a tenderer's submission, its location within the overall tender submission must be clearly indicated in completed versions of the following table.)*
MANDATORY: Tenderers must be eligible to deliver low-complexity spinal procedures under the relevant National Surgical Services Framework.	*Please respond, confirming eligibility.*
MANDATORY: Tenderers must undertake to assume full clinical responsibility for all services delivered under this framework agreement.	*Please respond, confirming without reservation your acceptance of the need to assume full clinical responsibility for all services delivered under this framework agreement.*
MANDATORY: The treatment facilities of tenderers must be in reasonable proximity to the location of Beaumont Hospital's primary patient cohort (i.e., north Dublin).	*Please respond, providing the precise address of the treatment facility that will be used to deliver services under this framework agreement.*
MANDATORY: Tenderers must have adequate and appropriate facilities (including surgical facilities, radiological facilities and pain-intervention facilities) to deliver the required services.	*Please respond, providing the technical radiological and pain-intervention facilities and equipment at your disposal.*
MANDATORY: Tenderers must have a sufficient quantity of suitably-qualified and experienced clinical resources at their disposal to successfully deliver the required services.	*Please respond, outlining the numbers and types of resources at your disposal under the following categories:*

(i)	Physiotherapists	*Insert*
(ii)	Radiographers	
(iii)	Radiologists	*Insert*
(iv)	Rehabilitation Resources	*Insert*
(v)	Orthopaedic Resources	*Insert*
(vi)	Pain Management Resources	*Insert*

	(vii)	Neurology Resources	*Insert*
	(viii)	Surgical Resources	*Insert*
MANDATORY: Tenderers must have sufficient capacity to treat a meaningful number of patients referred by the Contracting Authority over the forthcoming four years.	*Please respond, outlining the predicted capacity available in your treatment facility over the forthcoming four years.*		
MANDATORY: Tenderers must have in place a relevant and comprehensive quality assurance policy (either a detailed in-house policy or a third-party accredited policy).	*Please respond, providing a copy of your quality assurance policy and, if relevant, evidence of third-party accreditation.*		
MANDATORY: Tenderers must have successfully treated patients referred from a public healthcare organisation under a particular outsourcing initiative (i.e., under the National Treatment Purchase Fund or equivalent, or under a formal contract with a public healthcare organisation).	*Please outline the successful delivery of a prior public contract by completing the following fields:*		
	(i)	Referring Hospital	*Insert*
	(ii)	Number of Patients Treated	*Insert*
	(iii)	Start of Engagement	*Insert*
	(iv)	End of Engagement	*Insert*
	(v)	Description of Services Provided	*Insert*
	(vi)	Annual Value of Engagement	*Insert*
	(vii)	Name of Referring Hospital Contact	*Insert*
MANDATORY: Taking into account the treatment pathway outlined in Section 2.2 of the Invitation to Tender document, tenderers must commit to delivering a standard treatment pathway within a reasonable timeframe.	*Please respond, providing an indicative timeline for the delivery of a typical treatment pathway. Please outline the typical interval (in days) between each component of the treatment pathway described in Section 2.2.*		
MANDATORY: Taking into account the provisions of Section 2.4, tenderers must confirm their ability to deliver the required pathway as an integrated episode of care (i.e., without returning a patient to the originating hospital).	*Please respond, confirming your ability to manage and deliver the complete treatment pathway specified in the Invitation to Tender document without the need to return a patient to the originating hospital.*		
MANDATORY: Tenderers must have in place appropriate mechanisms to identify complex, urgent or alternative pathologies and to notify the Contracting Authority accordingly.	*Please respond, confirming any mechanisms, protocols or standard operating procedures that will be relied upon to identify complex, urgent or alternative pathologies and to notify the Contracting Authority accordingly.*		

For the avoidance of doubt, a failure to attain the minimum required score will result in the elimination of the tender submission in question from further consideration. Should a tender submission fail to attain a minimum required score, tenderer's attention is drawn to the fact that the following provisions shall apply:

- The tender submission in question shall not be subject to a comparative assessment against other tender submissions.

- The financial proposal contained in the tender submission in question shall not be subject to evaluation under Award Criterion A (Ultimate Cost).

- The tenderer in question will be notified of the reasons for the failure to attain the minimum required score. Additionally, the tenderer in question shall be informed of the name of the successful tenderer.

- On the basis that no comparative assessment will have taken place and the financial proposal of the tenderer in question will not have been assessed, the characteristics and relative advantages of the successful tenderer under any qualitative or financial criterion **will not be provided**, by virtue of the fact that the Contracting Authority will not have access to such information.

The Contracting Authority shall rely on the following scoring bands for the purposes of apportioning scores under Award Criterion B:

ELIMINATED	0% of marks available	Weak
	20% of marks available	Poor
	40% of marks available	Mediocre
ELIGIBLE	60% of marks available	Acceptable
	70% of marks available	Good
	80% of marks available	Very Good
	90% of marks available	Excellent
	100% of marks available	Outstanding

6.4 Verification/Clarification Meetings

Meetings for the purpose of verification and clarification may be carried out with appropriate tenderers as a facet of the evaluation process in order to identify the most economically advantageous tenders. Such meetings may be required in order to verify the scores achieved by tenderers in respect of their written tenders. For the avoidance of doubt, tenderers should note that mere performance at

interview will not of itself be evaluated. In the event that such meetings are required, information regarding location and times will be communicated to the chosen tenderers. In order to ensure the optimum effectiveness of such meetings, it is strongly recommended that key personnel of the tenderer's organisation should attend.

APPENDIX 1 – FORM OF TENDER

This Form of Tender must be completed, signed and returned by tenderers. Any amendment to the structure of this document, or any qualification of financial offers, may, at the sole discretion of the Contracting Authority, result in the elimination of the tender in question. The Ultimate Cost figure detailed in this Form of Tender must correspond fully to the Ultimate Cost figure detailed in the associated Pricing Schedule (Appendix 2 – see separate Excel document).

Contracting Authority: Beaumont Hospital

Competition: **THE PROVISION OF A TREATMENT PATHWAY FOR LOW COMPLEXITY SPINAL PATIENTS**

From: _____

I/We, having read the full Tender Documents and associated Appendices, do hereby offer to provide the services described to the entire satisfaction of the Contracting Authority and will establish a framework agreement accordingly:

ULTIMATE COST FOR EVALUATION PURPOSES *(To be carried forward unaltered from the Pricing Schedule – Appendix 2)*	*Insert (€, Exc. VAT)*

I/We confirm that I/we:

- Will keep this offer open for acceptance by the Contracting Authority for a period of twelve months from the date of deadline for submission of tenders;
- Agree that you are not bound to accept the most economically advantageous tender submission or any tender submission you may receive;
- Have read and thoroughly examined the Invitation to Tender document;
- Fully understand the Invitation to Tender document and the Contracting Authority's requirements;
- Undertake to treat the details of this Invitation to Tender document, the resulting tender submission and any subsequent clarifications as private and confidential;
- Acknowledge that acceptance by the Contracting Authority of a tender submission will not constitute a binding and enforceable agreement and that a legally enforceable agreement will not exist until and unless the framework agreement has been formally established by the Contracting Authority;
- Have availed of all offers for additional information or have otherwise satisfied myself/ourselves as to conditions that may in any manner affect the performance of the framework agreement;

- Have included everything necessary for the performance of the framework agreement to be established, including all elements that are either expressly stated in the Invitation to Tender document or contained in any supplementary information or which could reasonably be inferred therefrom;

- Have found no errors, omissions, conflicts or ambiguities in the Invitation to Tender document, except those which I/we have brought to the attention of the Contracting Authority before the latest date for submitting queries;

- Have included for compliance with all statutory requirements applicable in Ireland and those applicable in any country where parts of the framework agreement may be performed that are in force seven days prior to the deadline for receipt of tenders;

- Undertake and accept, without reservation, that I/we will have no claim for damages or otherwise against the Contracting Authority as a result of a decision by the Contracting Authority not to utilise the 'cascade method' for any particular purchase of services under the framework agreement;

- Undertake and accept that the Contracting Authority will not be accountable to any framework member for any decision to purchase services from a particular framework member without recourse to the 'cascade method;'

- Will not, if awarded membership of the framework agreement, employ labour in a manner that is discriminatory in relation to gender, race, religious beliefs, age, etc.;

- Will not, if awarded membership of the framework agreement, source any goods or services in countries subject to official international trading sanctions.

SIGNATURE	*(Insert)*	**Date**	*(Insert)*
Name	*(Insert)*	**Position**	*(Insert)*
Telephone	*(Insert)*	**Email**	*(Insert)*

A tenderer's failure to sign and date this Form of Tender and to complete all sections will invalidate the tender submission.

APPENDIX 2 – PRICING SCHEDULE

Please consult the separate Excel spreadsheet, which must be completed and returned, in soft copy only, by tenderers. The Pricing Schedule details the manner in which a single cost figure will be arrived at for evaluation purposes. This 'Ultimate Cost' figure must be carried forward, unaltered, to the Form of Tender contained in Appendix 1 of this Invitation to Tender document.

APPENDIX 3 – EUROPEAN SINGLE PROCUREMENT DOCUMENT (ESPD)

a) This document must be completed and returned by tenderers. The completed version of this document will constitute a 'self-declaration' that the grounds for exclusion detailed in Section 4 of the Invitation to Tender document do not apply to the tenderer and that the tenderer is in a position to comply with each of the eligibility criteria detailed in Section 5 of the Invitation to Tender document.

b) Failure to complete all sections of this document will result in the tenderer's elimination from this competition. Moreover, failure to provide sufficient detail in respect of any field may, at the discretion of the Contracting Authority, result in the elimination of the tenderer in question.

c) Any misrepresentation in respect of the completed document will result in the tenderer's elimination from this and future procurement competitions.

d) Tenderers may reuse a European Single Procurement Document previously submitted in respect of another competition. Alternatively, in the event that a tenderer has previously completed an electronic version of this document, the tenderer may provide the Contracting Authority with electronic access to the relevant document. In both instances, it is imperative that the completed version of the European Single Procurement Document contains all of the information sought by this document.

e) For the avoidance of doubt, the Contracting Authority reserves the right to request any tenderer to provide all supporting documentation necessary to demonstrate the inapplicability of any ground for exclusion detailed in Section 4 of the Invitation to Tender document. Additionally, the Contracting Authority reserves the right to request any tenderer to provide all supporting documentation necessary to demonstrate compliance with the eligibility criteria detailed in Section 5 of the Invitation to Tender document. Such requests may be made at any point during the competitive process. **In particular, before reaching an award decision, the Contracting Authority may require the successful tenderer to provide all supporting documentation necessary to confirm the assertions made hereunder.**

f) If a tenderer fails to provide supporting documentation necessary to confirm the assertions made hereunder within five working days of a request to do so from the Contracting Authority, the tenderer in question will be eliminated from the competition.

PART I – INFORMATION CONCERNING THE PROCUREMENT PROCEDURE AND THE CONTRACTING AUTHORITY	
IDENTITY OF THE PROCURER:	**ANSWER:**
Name:	Beaumont Hospital
Which procurement is concerned?	**THE PROVISION OF A TREATMENT PATHWAY FOR LOW COMPLEXITY SPINAL PATIENTS**
Title or short description of the procurement:	**THE PROVISION OF A TREATMENT PATHWAY FOR LOW COMPLEXITY SPINAL PATIENTS**
File reference number attributed:	3091

PART II – INFORMATION CONCERNING THE ECONOMIC OPERATOR	
A: INFORMATION ABOUT THE ECONOMIC OPERATOR	
IDENTIFICATION:	**ANSWER:**
Name:	*Insert*
VAT-number, if applicable: *(If no VAT-number is applicable, please indicate another national identification number, if required and applicable)*	*Insert*
Postal Address:	*Insert*
Contact Person or Persons:	*Insert*
Telephone:	*Insert*
E-mail:	*Insert*
Internet address, if applicable:	*Insert*
GENERAL INFORMATION:	**ANSWER:**
Is the economic operator a Micro, a Small or a Medium-Sized Enterprise?	Yes ☐ No ☐ Define which: *Insert*
Only in the case the procurement is reserved, is the economic operator a sheltered workshop, a 'social business,' or will it provide for the performance of the contract in the context of sheltered employment programmes?	NOT APPLICABLE
If yes, what is the corresponding percentage of disabled or disadvantaged workers? If required, please specify which category or categories of disabled or disadvantaged workers the employees concerned belong to.	NOT APPLICABLE
If applicable, is the economic operator registered on an official list of approved economic operators or does it have an equivalent certificate (e.g., under a national [pre]qualification system)?	Yes ☐ No ☐ Not Applicable ☐
If you have answered 'yes' to the above question, answer the remaining parts of this Section, Section B and, where relevant, Section C of Part II. Then complete and sign Part VI. (i.e., if you have answered 'yes' to the above question, there is no need to complete Parts III and IV of this Appendix).	
Please provide the name of the list or certification and the relevant registration or certificate number, if applicable:	*Insert*
If the certificate of registration or certification is available electronically, please state:	*Insert web address, issuing authority or body, precise reference of the documentation.*
Please state the references on which the registration or certification is based and, where applicable, the classification obtained in the official list:	*Insert*

Does the registration or certification cover all of the required selection criteria? *(If 'no,' please complete and sign Appendix IV of this document.)*	Yes ☐ No ☐
Will the economic operator be able to provide a certificate with regard to the payment of social security contributions and taxes or provide information enabling the Contracting Authority or Contracting Entity to obtain it directly by accessing a national database in any Member State that is available free of charge?	Yes ☐ No ☐ *(If the relevant documentation is available electronically, please insert the web address, the issuing authority or body and the precise reference of the documentation).*
FORM OF PARTICIPATION	**ANSWER:**
Is the economic operator participating in the procurement procedure together with others?	Yes ☐ No ☐
If you have answered 'yes' to the above question, please ensure that the others concerned provide a separate ESPD document and please answer the questions below:	
If 'yes,' please indicate the role of the economic operator in the group (e.g., leader, responsible for specific tasks, etc.):	*Insert*
If 'yes,' please identify the other economic operators participating in the procurement procedure together:	*Insert*
Where applicable, please insert the name of the participating group:	*Insert*
LOTS:	**ANSWER:**
Where applicable, please indicate the lot(s) for which the economic operator wishes to tender:	NOT APPLICABLE
B: INFORMATION ABOUT REPRESENTATIVES OF THE ECONOMIC OPERATOR	
Where applicable, please indicate the name(s) and address(es) of the person(s) empowered to represent the economic operator for the purposes of this procurement procedure:	
REPRESENTATION, IF ANY:	**ANSWER:**
Full Name: *(Accompanied by the date and place of birth, if required)*	*Insert*
Position / Acting in the capacity of:	*Insert*
Postal Address:	*Insert*
Telephone:	*Insert*
E-mail:	*Insert*
If necessary, please provide detailed information regarding the representation (e.g., its form, extent, purpose, etc).	*Insert*

C: INFORMATION ABOUT RELIANCE ON THE CAPACITIES OF OTHER ENTITIES	
RELIANCE:	**ANSWER:**
Does the economic operator rely on the capacities of other entities in order to meet the eligibility criteria for this competition as set out in Section 5 of the associated Invitation to Tender document?	Yes ☐ No ☐
If 'yes,' please provide a separate ESPD form setting out the information required under Sections A and B of this Part and Part III of this Appendix for each of the entities concerned, duly completed and signed by the entities concerned. Please note that this should also include any technicians or technical bodies, not belonging directly to the economic operator's undertaking, especially those responsible for quality control and, in the case of public works contracts, the technicians or technical bodies upon whom the economic operator can call in order to carry out the work. *Insofar as it is relevant for the specific capacity or capacities on which the economic operator relies, it may also be necessary for some or all of the entities concerned to complete Part IV of this Appendix.*	
D: INFORMATION CONCERNING SUBSUCCESSFUL TENDERERS ON WHOSE CAPACITY THE ECONOMIC OPERATOR DOES NOT RELY	
SUBCONTRACTING	**ANSWER:**
Does the economic operator intend to subcontract any share of the contract to third parties?	Yes ☐ No ☐ If 'yes,' and so far as is known, please list the proposed subcontractors.
If 'yes,' please provide the information required under Sections A and B of this part for each of the subcontractors concerned.	

PART III – EXCLUSION GROUNDS	
A: GROUNDS RELATING TO CRIMINAL CONVICTIONS	
Article 57.1 of Directive 2014/24/EU sets out the following reasons for exclusion: **1.** *Participation in a criminal organisation;* **2.** *Corruption;* **3.** *Fraud;* **4.** *Terrorist offences or offences linked to terrorist activities;* **5.** *Money laundering or terrorist financing;* **6.** *Child labour and other forms of trafficking in human beings.*	
GROUNDS:	**ANSWER:**
Has the economic operator itself or any person who is a member of its administrative, management or supervisory body or has powers of representation, decision or control therein been the subject of a conviction for one of the reasons listed above, by a conviction rendered at the most five years ago or in which an exclusion period set out directly in the conviction continues to be applicable?	Yes ☐ No ☐ *If the relevant documentation is available electronically, please insert the web address, the issuing authority or body and the precise reference of the documentation.*
If 'yes,' please provide the following information:	
Date of conviction, which of the grounds for conviction (points 1 to 6 above) is concerned and the reason(s) for the conviction:	*Insert dates, points and reasons.*
Identify who has been convicted:	*Insert*
Insofar as is established directly in the conviction:	*Insert the length of the period of exclusion and the point(s) concerned.* *If the relevant documentation is available electronically, please insert the web address, the issuing authority or body and the precise reference of the documentation.*
In cases of convictions, has the economic operator taken measures to demonstrate its reliability despite the existence of a relevant ground for exclusion (as per Article 57.6 of Directive 2014/24/EU)?	Yes ☐ No ☐ *If 'yes' please insert a comprehensive description of the measures taken.*
B: GROUNDS RELATING TO THE PAYMENT OF TAXES OR SOCIAL SECURITY CONTRIBUTIONS	
PAYMENT OF TAXES / SOCIAL SECURITY:	**ANSWER:**
Has the economic operator met all of its obligations relating to the payment of taxes or social security contributions, both in the country in which it is established and in the Member State of the Contracting Authority if other than the country of establishment?	Yes ☐ No ☐
If the relevant documentation concerning payment of taxes or social contributions is available electronically, please indicate:	*Please insert the web address, the issuing authority or body and the precise reference of the documentation.*

If the economic operator has not met all of its obligations relating to the payment of taxes or social security contributions, please provide the following information:		
Country or member state concerned:	**Taxes**	**Social Contributions**
	Insert	*Insert*
What is the amount concerned?	*Insert*	*Insert*
How has this breach of obligations been established?	*Insert*	*Insert*
If through a judicial or administrative decision, is this decision final and binding?	Yes ☐ No ☐	Yes ☐ No ☐
If through a judicial or administrative decision, please indicate the date of conviction or decision:	*Insert*	*Insert*
If through a judicial or administrative decision, and in the case of a conviction, please provide the length of the period of exclusion:	*Insert*	*Insert*
If this breach of obligations has been established by other means, please indicate the other means in question:	*Insert*	*Insert*
Has the economic operator fulfilled its obligations by paying or entering into a binding arrangement with a view to paying the taxes or social security contributions due, including, where applicable, any interest or accrued fines?	Yes ☐ No ☐	Yes ☐ No ☐
If the relevant documentation concerning payment of taxes or social contributions is available electronically, please indicate:	*Please insert the web address, the issuing authority or body and the precise reference of the documentation.*	

C: GROUNDS RELATING TO INSOLVENCY, CONFLICTS OF INTEREST OR PROFESSIONAL MISCONDUCT	
GROUNDS:	**ANSWER:**
Has the economic operator, to its knowledge, breached its obligations in the fields of environmental, social and labour law?	Yes ☐ No ☐
If the economic operator has breached its obligations in the fields of environmental, social and labour law, has the economic operator taken measures to demonstrate its reliability despite the existence of a relevant ground for exclusion (as per Article 57.6 of Directive 2014/24/EU)?	Yes ☐ No ☐ *If 'yes' please insert a comprehensive description of the measures taken.*
Is the economic operator in any of the following situations: • Bankrupt; • The subject of insolvency or winding-up proceedings; • In an arrangement with creditors; • In any analogous situation arising from a similar procedure under national laws and regulations; • That its assets are being administered by a liquidator or the court;	Yes ☐ No ☐

• That its business activities are suspended?	
If the economic operator is in any of the situations mentioned in the immediately preceding question, please provide comprehensive details of the situation:	*Insert*
Please provide the reasons for nevertheless being able to perform the contract or framework agreement, taking into account the applicable national rules and measures on the continuation of business in those circumstances, as per Article 57.4 of Directive 2014/24/EU.	*Insert*
If the relevant documentation is available electronically, please indicate:	*Please insert the web address, the issuing authority or body and the precise reference of the documentation.*
Is the economic operator guilty of grave professional misconduct?	Yes ☐ No ☐ *If 'yes' please insert a comprehensive description of the matter.*
If the economic operator is guilty of grave professional misconduct, has the economic operator taken measures to demonstrate its reliability despite the existence of a relevant ground for exclusion (as per Article 57.6 of Directive 2014/24/EU)?	Yes ☐ No ☐ *If 'yes' please insert a comprehensive description of the measures taken*.
Has the economic operator entered into arrangements with other economic operators aimed at distorting competition?	Yes ☐ No ☐ *If 'yes' please insert a comprehensive description of the arrangements in question.*
If the economic operator has entered into arrangements with other economic operators aimed at distorting competition, has the economic operator taken measures to demonstrate its reliability despite the existence of a relevant ground for exclusion (as per Article 57.6 of Directive 2014/24/EU)?	Yes ☐ No ☐ *If 'yes' please insert a comprehensive description of the measures taken*.
Is the economic operator aware of any conflict of interest due to its participation in the procurement procedure?	Yes ☐ No ☐ *If 'yes' please provide a comprehensive description of the conflict(s) in question.*
Has the economic operator or an undertaking related to it advised the Contracting Authority or otherwise been involved in the preparation of the procurement procedure?	Yes ☐ No ☐ *If 'yes' please provide a comprehensive description of the matter.*
Has the economic operator experienced that a prior public contract, framework agreement or concession contract was terminated early, or that damages or other comparable sanctions were imposed in connection with a prior contract?	Yes ☐ No ☐ *If 'yes' please insert a comprehensive description of the matter.*

If the economic operator experienced that a prior public contract, framework agreement or concession contract was terminated early, or that damages or other comparable sanctions were imposed in connection with a prior contract, has the economic operator taken measures to demonstrate its reliability despite the existence of a relevant ground for exclusion (as per Article 57.6 of Directive 2014/24/EU)?	Yes ☐ No ☐ *If 'yes' please insert a comprehensive description of the measures taken*.
Can the economic operator confirm the following: • That it has not been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria? • That it has not withheld such information? • That it has been able, without delay, to submit the supporting documents required by a contracting authority or contracting entity? • That it has not undertaken to unduly influence the decision making process of a contracting authority or contracting entity, to obtain confidential information that may confer upon it undue advantages in a procurement procedure or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award?	Yes ☐ No ☐

PART IV – ELIGIBILITY CRITERIA	
α: GLOBAL INDICATION FOR ALL SELECTION CRITERIA	
Concerning the eligibility criteria, the economic operator declares that it satisfies the required eligibility criteria for this competition as detailed in Section 5 of the Invitation to Tender document:	Yes ☐ No ☐

PART V – REDUCTION OF THE NUMBER OF QUALIFIED CANDIDATES
NOT APPLICABLE

PART VI – CONCLUDING STATEMENTS	
The undersigned formally declare that the information stated under Parts II – III of this Appendix is accurate and that it has been set out in full awareness of the consequences of serious misrepresentation. The undersigned formally declare to be able, upon request and without delay, to provide the certificates and other forms of documentary evidence referred to, except where: (a) The Contracting Authority has the possibility of obtaining the supporting documentation concerned directly by accessing a national database in any Member State that is available free of charge; (b) The Contracting Authority already possesses the documentation concerned. The undersigned formally consent to Beaumont Hospital gaining access to documents supporting all information provided in this European Single Procurement Document for the purposes of this competition.	
Signed (Authorised Signatory):	*Insert*
Block Capitals:	*Insert*
Position:	*Insert*
Company:	*Insert*
Registered Office:	*Insert*
Date:	*Insert*

APPENDIX 4 – DRAFT TERMS AND CONDITIONS OF THE FRAMEWORK AGREEMENT

*The following terms are provided as an indication of the intended format of the framework agreement to be signed with the successful framework operators identified under by this competition. Tenderers are **not** requested to sign these terms as part of their tender submission but should review them carefully and indicate any areas of interest by submitting a written query during the tender period.*

MULTI-PARTY FRAMEWORK AGREEMENT FOR THE PROVISION OF A TREATMENT PATHWAY FOR LOW COMPLEXITY SPINAL PATIENTS

PARTIES

Beaumont Hospital
(Hereinafter referred to as 'the Contracting Authority')

1. [XXXX]
2. [XXXX]
3. [XXXX]

(Hereinafter referred to as 'the Framework Operators' or 'Operators')

BACKGROUND

The Contracting Authority has conducted a tender competition for the establishment of a multi-party framework agreement for the provision of a non-operative treatment pathway for low complexity spinal patients.

a. The framework agreement was advertised in the Official Journal of the European Union and via the Irish Government's Procurement Opportunities Portal (www.etenders.gov.ie).

b. The open procedure was used and an Invitation to Tender was issued with a deadline date for tender submissions of [DATE TO BE INSERTED PRIOR TO SIGNATURE].

c. Following evaluation of the submitted tenders against the published award criteria, the listed Framework Operators are now appointed as the members of this Framework Agreement.

d. For the avoidance of doubt, the ranking of the Framework Operators, as determined following the application of all award criteria, rules and weightings contained in the Invitation to Tender document, is as follows:

i. [XXXX]
ii. [XXXX]
iii. [XXXX]

DEFINITIONS

'Cascade Method' means the procedure for awarding Contracts defined by Clause 4.1 of this Framework Agreement.

'Clinical Rationale' means the procedure for awarding Contracts defined by Clause 4.2 of this Framework Agreement.

'Contract' means a contract falling within the advertised scope of this Framework Agreement, constituting a defined and agreed quantity of services to be delivered by a Framework Operator;

'Framework Agreement' means these terms and conditions, including the Schedules hereto;

'*Framework Period'* means the period in years set out in Clause 2.1;

'GDPR' means the General Data Protection Regulations;

'*Invitation to Tender*' means the Invitation to Tender document issued by the Contracting Authority on [DATE TO BE INSERTED PRIOR TO SIGNATURE].

'Price' means the amount in Euro chargeable by the Framework Operators in respect of services purchased by the Contracting Authority;

'*Tender*' means the submission of the Framework Operators in response to the Invitation to Tender document together with any clarifications, additions or amendments accepted by the Contracting Authority.

1. Appointment of Framework Operators

1.1 In consideration of payment by the Contracting Authority of good and valuable consideration, receipt of which is hereby acknowledged, the Framework Operators accept their appointment under the terms and conditions of this Framework Agreement.

1.2 Appointment to this Framework Agreement does not entitle the Operators to be consulted in respect of, or awarded, any contract during the Framework Period. The Contracting Authority may at its sole discretion choose not to enter into any contracts falling within the scope of this Framework Agreement, or to terminate the Agreement in accordance with Clause 11.

1.3 While this Framework Agreement will, in general, form the basis for the award of contracts falling within the scope set out in Clause 3.1 during the Framework Period, the Contracting Authority may at its sole discretion decide to carry out a separate contract award procedure for contracts falling within the specified scope. In this event, the Contracting Authority shall observe all applicable public procurement rules and shall not afford any advantage to any Framework Operator.

2. Period of Framework Agreement

2.1 The Framework Agreement shall take effect on the Commencement Date and will be for a maximum potential duration of four years. In the first instance, the Framework Agreement shall have a duration of one year. Following the expiry of this one year period, the Contracting Authority shall take into consideration budgetary matters, the performance of the Framework Operators and the continued strategic appropriateness of the Agreement in order to determine whether or not to extend the Framework Agreement. The duration of any extension shall be a matter solely for the Contracting Authority's discretion.

3. Scope of Framework Agreement

3.1 This Framework Agreement relates to the provision of a treatment pathway for low-complexity spinal patients, with component services to be performed in the manner described in Schedule 1 of this Framework Agreement, which contains the statement of requirements issued with the Contracting Authority's Invitation to Tender. For the avoidance of doubt, requirements shall be fulfilled under this Framework Agreement solely as the need arises. No guarantee is offered, nor should any such guarantee be inferred, regarding the volume of procedures to be performed by any Framework Operator.

4. Operation of the Framework Agreement

This Framework Agreement shall be operated by reference to both the Cascade Method and also by reference to Clinical Rationale as set out below.

4.1 <u>The Cascade Method</u>

Generally, and in the absence of any clinical rationale requiring the referral of a patient to a particular Framework Operator, the Cascade Method will apply to the purchase of services under this Framework Agreement. The Cascade Method shall operate as follows:

- In the first instance, the requirement will be offered to the first-ranked Framework Operator.

- In the event that capacity issues or other factors dictate that the first-ranked Framework Operator is unable to fulfil the requirement, the requirement will be offered to the second-ranked Framework Operator.

- This process will be repeated until the requirement can be successfully fulfilled by a Framework Operator.

4.2 <u>Clinical Rationale</u>

Given the Contracting Authority's remit, it is anticipated that, from time-to-time, clinical factors may necessitate the selection of a particular Framework Operator. In such

circumstances, the Contracting Authority shall have the absolute right to procure the required services directly from a particular Framework Operator and to disregard the Cascade Method. In this regard, and in accordance with Article 33(4)(b) of Directive 2014/24/EU (which is being observed in this instance on a strictly analogous basis), the objective criteria to be relied upon in determining whether to procure the required services directly from a particular Framework Operator are as follows:

- The case-history and medical requirements of the patient in question will be considered in light of the medical and surgical facilities and expertise at the disposal of each Framework Operator;

- The need to optimise clinical and surgical outcomes and to minimise clinical and surgical risks will be taken into account in the context of the medical and surgical facilities and expertise at the disposal of each Framework Operator.

It is emphasised that the maximisation of patient outcomes is of paramount importance to the Contracting Authority. Consequently, the Contracting Authority shall be entitled to exercise a level of discretion commensurate with its clinical responsibilities and remit when determining whether to use the Cascade Method or whether sufficient clinical rationale exists to warrant the direct referral of a particular patient to a particular Framework Operator.

The Contracting Authority shall not be liable to any Framework Operator as a result of a failure to utilise the Cascade Method for any particular service requirement under this Framework Agreement. No Framework Operator shall have any claim for damages or otherwise against the Contracting Authority as a result of a decision by the Contracting Authority not to utilise the Cascade Method for any particular service requirement under this Framework Agreement; moreover, given its clinical remit, the Contracting Authority shall not be accountable to any Framework Operator for any decisions in this regard.

5. Warranties, Representations and Undertakings

5.1 By entering into this Agreement, each Operator warrants, represents and undertakes to the Contracting Authority that:

5.1.1 All proper and necessary services defined in Schedule 1 shall be delivered in a manner that optimises treatment outcomes for patients;

5.1.2 It shall have clinical responsibility for all services delivered under this Agreement;

5.1.3 It has full power and authority to enter into this Agreement and all governmental or official approvals, consents, licences, accreditations and qualifications have been obtained and are in full effect;

5.1.4 It shall comply with all applicable laws;

5.1.5 All information supplied by it to the Contracting Authority during the award procedure leading to the execution of this Agreement is, to its reasonable knowledge and belief, true and accurate and it is not aware of any material facts or circumstances that have not been disclosed to the Contracting Authority that would, if disclosed, be likely to have an adverse effect on a reasonable public sector entity's decision whether or not to contract with the Operator substantially on the terms of this Agreement.

5.2 Each Operator undertakes to provide services under this Agreement in accordance with good industry practice and good clinical practice and to comply with all applicable laws, including, but not limited to, the Safety Health and Welfare at Work Act 2005, Data Protection Legislation, all employment legislation and all applicable medical and clinical regulations and legislation. Each Operator will be responsible for compliance with all statutory requirements of an employer and without prejudice to the generality of the foregoing shall be solely responsible in law for the employment, remuneration, taxes, immigration and work permits of all staff members retained for the purposes of performing obligations arising from this Agreement.

5.3 Each Operator recognises the importance of the Contracting Authority being forewarned of any developments that may have an adverse impact upon the Operator's ability to satisfactorily provide services under this Agreement. Each Operator shall therefore promptly notify the Contracting Authority of any matters likely to materially impact upon service delivery.

5.4 Each Operator shall promptly notify the Contracting Authority of any claims raised or litigation actioned or threatened against any staff member engaged by the Framework Operator for the purposes of providing services under this Agreement.

5.5 Each Operator undertakes to act with due care, skill and diligence in the provision of the services consistent with the needs of patients and generally in the carrying out of its obligations under this Agreement.

6. Conditions for Award of Contracts

6.1 Award of any Contract under the Framework Agreement may be subject to the Framework Operator to whom it is intended to award the Contract facilitating, upon request, the drafting and implementation of a Service Level Agreement, to include agreed key performance indicators, response times, escalation procedures and penalties.

7. Pricing

7.1 The maximum Price chargeable in respect of all services supplied during the initial twelve months of the Framework Period shall be that Pricing Schedules submitted as part of the Tender (Schedule 2 of this Agreement). Following the expiry of this twelve month period, the maximum Price chargeable will be adjusted for inflation on each annual anniversary of the

Commencement Date of the framework. This adjustment shall be in accordance (whether positive or negative) with the CPI index.

7.2 The Contracting Authority may seek, or any of the Framework Operators may offer, lower prices at any time during the Framework Period. In particular, where a given item, supply or service is being offered to other purchasers at a lower price, the Contracting Authority may request adjustment of a Framework Operator's Pricing Schedules or Form of Tender to reflect this fact.

8. Staff

8.1 The staff assigned by a Framework Operator to deliver any Contract under this Framework Agreement shall be those identified in the Framework Operator's Tender or other personnel of equivalent qualifications, skills, professional expertise and experience expressly approved by the Contracting Authority.

8.2 Each Operator shall ensure that there are sufficient appropriately registered, qualified and experienced medical, nursing and other clinical and non-clinical staff to enable the required services to be provided in all respects and at all times in accordance with this Agreement.

8.3 Each Operator shall ensure that all staff:

8.3.1 If applicable, are registered with (and, where required, have completed validation by) the appropriate professional regulatory body;

8.3.2 Comply with such registration, continuing professional development and training requirements or recommendations appropriate to their role, including those from time-to-time issued by any relevant regulatory body or any industry body;

8.3.3 Have the appropriate qualifications, experience, skills and competencies to perform the duties required of them and are appropriately supervised (including where appropriate through preceptorship, clinical supervision and rotation arrangements), managerially and professionally;

8.3.4 Are properly and sufficiently trained and instructed;

8.3.5 Are covered by the Operator's indemnity arrangements for the provision of the required services;

8.3.6 Are in a position of compliance with all Garda vetting procedures described in the Invitation to Tender.

8.4 In the event that a Framework Operator intends to engage any resources as subcontractors (rather than as employees), the Operator in question shall assume full responsibility for assessing and verifying the subcontractor's qualifications, accreditations, experience and

Garda clearance. Evidence of qualifications, accreditations, experience and Garda clearance must be provided to the Contracting Authority upon request. The appointment of any such subcontractors shall be subject to prior approval in writing of the Contracting Authority.

8.5 Each Framework Operator assumes full responsibility for the actions of its staff engaged in the performance of the required services and shall be fully responsible for their acts or omissions, supervision, co-ordination and integration, daily directions and controls, payment and all matters relating to their employment, engagement and work.

8.6 The Contracting Authority reserves the right to request that an Operator ceases to rely upon a particular staff member for the purposes of service delivery in the event that the staff member in question is found to be carrying out his or her duties in a manner that the Contracting Authority, acting reasonably, considers unsatisfactory.

9. Obligations of Framework Operators

9.1 Each Framework Operator is required to inform the Contracting Authority of any conflict of interest of which it becomes aware during the period of the Framework Agreement. Any registrable interest involving a Framework Operator and the Contracting Authority or employees of the Contracting Authority or their relatives must be communicated to the Contracting Authority immediately. The terms 'registrable interest' and 'relative' shall be interpreted as per Section 2 and the Second Schedule of the Ethics in Public Office Act, 1995.

9.2 Each Framework Operator is required to maintain, as a minimum, the forms of insurance set out in Schedule 3. The following provisions apply to insurance:

9.2.1 Each Operator shall effect and maintain throughout the Framework Period and for a period of six years thereafter, insurance policies in respect of all customary liabilities and risks undertaken by the Operator in connection with the delivery of the required services (i.e., the forms and levels of insurance set out in Schedule 3). These forms and levels may be subject to reasonable revision during the lifetime of the Agreement, in which case the Contracting Authority shall notify each Operator of the revised requirements and allow thirty (30) days for the provision of evidence that the required policies are in place.

9.2.2 Each Operator must procure that each consultant relied upon for service delivery puts in place and maintains in force at their own cost appropriate indemnity arrangements in respect of professional and clinical negligence, where the provision or non-provision of any part of the required services may result in a professional or clinical negligence claim.

9.2.3 Each Operator shall ensure that its insurance policies are taken out with reputable insurers licenced to underwrite business in the European Union and acceptable to the Contracting Authority (acting reasonably) and that the level of cover and other terms of insurance are acceptable and agreed by the Contracting Authority.

9.2.4 Each Operator shall provide to the Contracting Authority copies of such policies and up-to-date certificates of insurance together with evidence that all relevant premiums have been paid upon request by the Contracting Authority.

9.2.5 Each Operator shall notify the insurer of the Contracting Authority's interest and shall cause such interest to be noted on such insurance policies together with a provision to the effect that, if any claim is brought or made by the Contracting Authority against the Operator in respect of which the Operator would be entitled to receive indemnity under any of the insurance policies, the relevant insurer will indemnify the Contracting Authority directly against such claim and any charges, costs and expenses in respect of such claim. If the relevant insurer does not so indemnify the Contracting Authority, the Operator shall use all insurance monies received by it to indemnify the Contracting Authority in respect of any claim and shall make good any deficiency from its own resources.

9.2.6 Each Operator shall comply with all terms and conditions of its insurance policies at all times. If cover under the insurance policies shall lapse or not be renewed or be changed in any material way or if the Operator is aware of any reason why the cover under its insurance policies may lapse or not be renewed or be changed in any material way, the Operator shall notify the Contracting Authority without delay and the parties shall meet as soon as possible thereafter to discuss how best to protect their respective interests and the Contracting Authority shall be entitled to terminate the Operator's membership of this Agreement with immediate effect if such insurances cannot be procured by the Operator.

9.3 Each Framework Operator shall maintain in its possession a valid Tax Clearance Certificate issued by the Irish Revenue Commissioners throughout the Framework Period and for the duration of any Contract.

9.4 Each Framework Operator shall retain a copy of its signed European Single Procurement Document, submitted with its Tender Submission. If at any point during the Framework Period or during the currency of a Contract, the Framework Operator becomes aware of circumstances that might affect the validity of any of the statements in its European Single Procurement Document, it shall notify the Contracting Authority in writing of such circumstances at the earliest possible opportunity.

9.5 No Framework Operator shall give, provide or offer to any staff or agent of the Contracting Authority a loan, fee, reward, gift, advantage, benefit or other payment during the Framework Period as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any action in relation to the obtaining or execution of this Agreement or any Contract.

9.6 No Framework Operator shall assign the benefit of its appointment under this Framework Agreement, or under any Contract, or any part thereof without the written permission of the Contracting Authority.

10. Review Meetings

10.1 The Contracting Authority and each Framework Operator may liaise to address any issues arising that may impact on the performance of this Framework Agreement and to agree milestones, compliance schedules and operational protocols as required from time-to-time.

11. Indemnities

11.1 Each Operator shall be liable to the Contracting Authority for and shall indemnify and hold harmless and keep the Contracting Authority indemnified and held harmless against all costs, claims, actions, proceedings, demands, losses, damages, awards, penalties, fines, liabilities and expenses (including without limitation legal costs and expenses), suits or proceedings of whatsoever nature incurred by the Contracting Authority, its employees, contractors or agents caused by or arising in respect of or in connection with:

11.1.1 Death or personal injury caused to any person, including a participant, by an act or omission of the Operator in question in the course of the provision of, or as a result of, the required services or of failure to provide or to properly provide the services;

11.1.2 Any loss of or damage to property (whether real or personal);

11.1.3 Any material breach of this Agreement;

11.1.4 Any failure by the Operator in question to deliver the required services that arises or results from the Operator's performance or non-performance of the Agreement, including negligent acts or omissions or breach of contract in connection with the performance of this Agreement.

11.2 Each Operator acknowledges that any breach by the Operator of the Agreement may cause financial losses to the Contracting Authority not only directly but by liability to others and acknowledges that it will be liable for those losses.

11.3 Without limiting the generality of Clause 11.2, each Operator hereby indemnifies and keeps the Contracting Authority indemnified against all costs, claims, actions, proceedings, demands, losses, awards, penalties, fines, liabilities and expenses of whatsoever nature incurred by the Contracting Authority, its employees, contractors or agents in respect of any sickness or injury to or death of any person whatsoever or in respect of any economic loss caused by or arising from any act, neglect, breach of contract, breach of duty, breach of statutory duty, error, default or omission of the Operator, its employees or agents in connection with the delivery of services under this Agreement.

11.4 The Contracting Authority shall have no liability to any Operator in connection with this Agreement or the required services (whether for breach of contract, breach of duty, including statutory duty or any other duty, negligence or otherwise) other than stated in this Agreement.

12. Termination of Appointment

12.1 Without prejudice to any other rights or remedies to which it may be entitled, the Contracting Authority shall be entitled to terminate the appointment of a Framework Operator forthwith and without liability by giving notice at any time if:

12.1.1 The Framework Operator in question commits a material breach of any term or condition of this Framework Agreement, or a Contract concluded under the Framework Agreement;

12.1.2 the Framework Operator in question fails to perform any obligation or responsibility under this Agreement or a Contract concluded under the Framework Agreement either at all or to a standard that the Contracting Authority, acting reasonably, considers satisfactory and, if such breach is capable of being remedied, fails to remedy the breach within fourteen (14) days of notice given by the Contracting Authority requiring the Operator to do so;

12.1.3 The Framework Operator in question repeatedly fails to supply the required services to the Contracting Authority and has been afforded all reasonable opportunities to rectify this situation;

12.1.4 The Framework Operator in question performs an obligation under a Contract in a manner that is not in accordance with the terms of this Framework Agreement, including its Schedules, or any agreed Service Level Agreement, or fails to meet any standard prescribed by law;

12.1.5 Any person employed by the Framework Operator in question, or acting on its behalf, offers or appears to offer a corrupt gift or inducement in the sense set out in Clause 9.5 above, whether with or without the knowledge of the Framework Operator;

12.1.6 The Framework Operator in question convenes a meeting for the purposes of, or proposes to enter into any arrangement or composition for the benefit of its creditors;

12.1.7 The Framework Operator in question ceases or threatens to cease to carry on business or takes or suffers any analogous action under any applicable law;

12.1.8 The Framework Operator in question is unable to pay its debts within the meaning of Section 214 of the Companies Act, 1963 (as amended by Section 123 of the Companies Act, 1990) or any analogous provision of law;

12.1.9 An order is made or an effective resolution is passed for the winding up of the company of the Framework Operator in question, other than for the purpose of a restructuring, the terms of which have been agreed by the Contracting Authority;

12.1.10 A petition is presented or an order is made or a resolution passed or any analogous proceedings or action is taken for the appointment of an examiner, administrator, receiver, trustee or any similar officer over the company of the Framework Operator in question;

12.1.11 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Framework Operator in question;

12.1.12 The Contracting Authority reasonably believes that any of the events mentioned above is about to occur in relation to the Framework Operator in question and notifies the Framework Operator accordingly;

12.1.13 The Framework Operator in question has committed any fraudulent act or any criminal activity or is guilty of gross negligence in the performance of this agreement or the relevant Contract;

12.1.14 Any representation made by the Framework Operator in question in connection with this Agreement or a Contract shall in the opinion of the Contracting Authority prove to be untrue or incorrect in a material respect as of the date when made;

12.1.15 Any event analogous to those contemplated in Clauses 12.1.5 through 12.1.13 occurs to the Framework Operator in question within the laws of any other jurisdiction.

The Framework Operator in question shall have no claim for damages or otherwise against the Contracting Authority as a result of the termination of its appointment in accordance with this Clause.

13. General

13.1 Each Framework Operator acknowledges that the Contracting Authority is subject to the Freedom of Information Acts 1997-2003, as amended. Accordingly, information furnished to the Contracting Authority by each Framework Operator may be released pursuant to the Contracting Authority's statutory obligations. If a Framework Operator considers that any of the information supplied by it to the Contracting Authority under this Framework Agreement or any Contract should not be disclosed because of its sensitivity, the Framework Operator in question must, when providing the information, indicate this and specify the reason for its sensitivity. The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released or in respect of any consequential damage suffered as a result of such obligations.

13.2 This Agreement shall be governed by and construed in accordance with the laws of Ireland.

13.3 Should any part of this Framework Agreement be or subsequently be found to be invalid, unlawful or unenforceable, then such parts shall be severed from the Framework Agreement and the remainder of the Agreement shall continue in full force and effect.

13.4 Force Majeure

13.4.1 If through no fault of a party, its performance has been affected or delayed by force majeure, such party shall be at no liability to the other providing the performances are recommenced as soon as possible after such force majeure has ceased to operate.

13.4.2 If however, force majeure causes a delay or failure in performance for a period longer than seven days, the Contracting Authority shall have the right to remove the Framework Operator in question from the Framework Agreement by giving seven days' notice in writing.

13.4.3 Force majeure shall mean an occurrence beyond the control and without the fault or negligence of the party affected in which it is unable to prevent or provide against by the exercise of reasonable diligence including, but not limited to, acts of God or the public enemy, ex-procreation or confiscation of facilities, government intervention, war, hostilities, rebellion, terrorist activities, local or national emergency, sabotage or riots, floods, or unusually severe weather conditions which could not be reasonably anticipated, fires, explosions, or other catastrophe, national or district strikes or other concerted acts of workmen or other similar occurrences other than strikes or concerted acts of a Framework Operator's workforce.

13.5 Nothing in this Agreement shall prevent the Contracting Authority from complying with its obligations under public procurement legislation. If necessary this Framework Agreement and any Contract concluded hereunder may be abridged, modified, or amended without penalty to the Contracting Authority so as to enable it to comply with said obligations.

14. GDPR

14.1 Each Framework Operator shall enter into the Confidentiality and Data Processing Agreement appended to these terms and conditions at Schedule 4. Each Framework Operator undertakes, without reservation, to be bound by the provisions of the Confidentiality and Data Processing Agreement and acknowledges that any breach of the provisions of the Confidentiality and Data Processing Agreement will be construed by the Contracting Authority as a breach of this Agreement that, depending upon its materiality, may give rise to the Agreement's termination.

14.2 For the avoidance of doubt, it is emphasised that the Confidentiality and Data Processing Agreement appended to these terms and conditions at Schedule 4 is to be governed and construed solely in accordance with the laws of Ireland. The Irish Courts shall have exclusive jurisdiction to hear any disputes relating to, or deriving from, the Confidentiality and Data Processing Agreement.

15. Notices

15.1 The names and e-mail addresses of the parties for the purpose of the giving of notices under this Agreement are as follows:

For the Contracting Authority:
Greg O'Leary
Head of Procurement
Beaumont Hospital
gregoleary@beaumont.ie

For the Framework Operator:
[TO BE INSERTED PRIOR TO SIGNATURE].

15.2 All notices to the Contracting Authority or a Framework Operator from the other party under this Agreement or the relevant Contract shall be in writing and sent to the appropriate e-mail address set out above.

15.3 All notices, documents and communications provided under this Agreement or the relevant Contract shall be in the English language.

IN WITNESS whereof the parties hereto have executed this Framework Agreement the day and year first herein WRITTEN

SIGNATURES

SIGNED for and on behalf of [TO BE INSERTED PRIOR TO SIGNATURE] by:

Signed: _____

Date: _____

Witnessed by: _____

SIGNED for and on behalf of the Contracting Authority by:

Signed: _____

Date: _____

Witnessed by: _____

Schedules and Appendices

Schedule 1 – Specification of Requirements [TO BE INSERTED PRIOR TO SIGNATURE]
Schedule 2 – Pricing Schedule [TO BE INSERTED PRIOR TO SIGNATURE]

Schedule 3 – Forms and Levels of Insurance [TO BE INSERTED PRIOR TO SIGNATURE]
Schedule 4 – Data Processing Agreement

SCHEDULE 4 – DATA PROCESSING AGREEMENT

The following definitions and rules of interpretation apply in this Schedule:

"**Appropriate Safeguards**"	the measures set out in Article 46 of the GDPR;
"**Appropriate Technical and Organisational Measures**"	the appropriate technical and organisational measures referred to in Data Protection Legislation (including, as appropriate, the measures referred to in Article 32(1) of the GDPR);
"**Contract**"	the Framework Agreement for the Provision of a Non-Operative Treatment Pathway for Low Complexity Spinal Patients to which this Schedule is attached;
"**Data**"	as defined in Clause 2.1 of this Schedule 4;
"**Data Controller**"	has the meaning given to such term in Data Protection Legislation;
"**Data Importer**"	means the party which is the recipient of and/or has access to the Data the subject of a Restricted Transfer;
"**Data Processor**"	has the meaning given to such term in Data Protection Legislation;
"**Data Protection Legislation**"	means the Data Protection Acts 1988 to 2018, the General Data Protection Regulation (EU) 2016/679 (GDPR), and any other applicable law or regulation relating to the processing of Personal Data and to privacy, including the E-Privacy Directive 2002/58/EC and the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011, as such legislation shall be supplemented, amended, revised or replaced from time to time;
"**Data Subject**"	an individual who is the subject of Processing;
"**Delete**"	to remove or obliterate Data such that it cannot be recovered or reconstructed;
"**DPC**"	means the Data Protection Commission, the supervisory authority for the purposes of Article 51 of the GDPR whose principal administrative offices are at 21 Fitzwilliam Square South, Dublin 2, D02 RD28, Ireland, or any replacement supervisory authority under Data Protection Legislation, appointed from time to time in Ireland;

"**EEA**"	means the European Economic Area, comprised of those states that are contracting parties to the Agreement on the European Economic Area from time to time;
"**GDPR**"	the General Data Protection Regulation (EU) 2016/679;
"**Personal Data**"	has the meaning set out in Data Protection Legislation and relates only to personal data, or any part of such personal data, in respect of which the Operator is the Processor under this Schedule;
"**Personal Data Breach**"	means any "personal data breach" as defined in the GDPR in respect of the Data caused by the Operator;
"**Processing**"	has the meaning given to such term in Data Protection Legislation, and **Processed** and **Process** shall be interpreted accordingly;
"**Restricted Transfer**"	any transfer of Personal Data to countries outside of the EEA which are not subject to an Adequacy Decision by the European Commission, where such transfer would be prohibited by Data Protection Legislation;
"**Special Category Data**"	has the meaning set out in Data Protection Legislation and relates only to special category (or health) data, or any part of such special category (or health) data, in respect of which the Operator is the Processor under this Schedule;
"**Standard Contractual Clauses**"	the contractual clauses dealing with the transfer of Personal Data outside the EEA, which have been approved by (i) the European Commission under Data Protection Legislation, or (ii) by the DPC or an equivalent competent authority under Data Protection Legislation; and
"**Transfer Risk Assessment**"	means the risk assessment required to be carried out in the context of a Restricted Transfer for the purposes of assessing the impact of the Restricted Transfer on the rights of Data Subjects.

1. **PROCESSING OF PATIENT PERSONAL DATA AND SPECIAL CATEGORY DATA**

1.1 For the purposes of the Data Protection Legislation, Beaumont Hospital, as the Contracting Authority, is the Data Controller and the Framework Operator is the Data Processor of Personal Data and Special Category Data Processed for the purpose of providing services under the Framework Agreement.

1.2 The Contracting Authority has appointed the Operator as a Processor for the purposes set out in Clause 1.1 above.

1.3 All Processing of the Data pursuant to the Agreement is governed by the terms of this Schedule 4. The subject matter, duration, nature and purpose of the Processing, the type of Data and the

categories of Data Subjects involved in the Processing are set out in Annex A below.

1.4 The Operator, in its role as Processor of the Data under Clause 1.2, agrees to only Process the Data in accordance with the documented instructions of the Contracting Authority. If the Operator is required by law to otherwise Process the Data, the Operator shall notify the Contracting Authority before undertaking the Processing, or as soon as possible thereafter, unless such notification is prohibited on important grounds of public interest in accordance with GDPR Article 28(3)(a).

1.5 The Operator agrees to comply with the obligations applicable to Processors described by GDPR Article 28, as well as those additional obligations required by the Contracting Authority pursuant to this Schedule, including but not limited to the following:

(a) Ensuring that all staff authorised to Process the Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality (GDPR Article 28(3)(b));

(b) Implementing and maintaining appropriate technical and organisational security measures for Data Processed in its systems to safeguard the Data from unauthorised or unlawful Processing or accidental loss, alteration, disclosure, destruction or damage, and that, having regard to the state of technological development and the cost of implementing any measures (and the nature, scope, context and purposes of Processing, as well as the risk to Data Subjects), such measures shall ensure a level of security appropriate to the harm that might result from unauthorised or unlawful Processing or accidental loss, alteration, disclosure, destruction or damage and to the nature of the Data to be protected. (GDPR Article 28(3)(c));

(c) Subject to Clause 1.6, complying with the conditions described in GDPR Article 28(2) and (4) for engaging a sub-Processor (GDPR Article 28(3)(d));

(d) Taking into account the nature of the Processing, assisting the Contracting Authority, by implementing appropriate technical and organisational measures, insofar as this is possible, to respond to requests for exercising Data Subjects' rights (GDPR Article 28(3)(e));

(e) assisting the Contracting Authority, to ensure compliance with the obligations pursuant to GDPR Articles 32 to 36, taking into account the nature of the Processing and the information available to the Operator (GDPR Article 28(3)(f));

(f) Maintaining a record to demonstrate compliance with this Schedule and Data Protection Legislation, including but not limited to the records required pursuant to GDPR Article 30(2);

(g) In the event of any Personal Data Breach by the Operator as a Processor, the Operator shall:

(i) Promptly and without undue delay following discovery of such Personal Data Breach, send written notice of the incident via e-mail to orlacarty@beaumont.ie (the Contracting Authority's Data Protection Officer);

(ii) Not make any statements or notifications about the Personal Data Breach, as it relates to the Processing for the purpose of the Agreement, to any individual

affected by the incident, the public or any third party without having sought the Contracting Authority's prior written approval;

(iii) Immediately take steps to investigate and mitigate the Personal Data Breach and reasonably cooperate with the Contracting Authority.

(h) The Operator shall notify the Contracting Authority as soon as reasonably practicable if it receives:

(i) A request from a Data Subject for access to that person's Personal Data;

(ii) Any communication from a Data Subject seeking to exercise rights conferred on the Data Subject by Data Protection Legislation in respect of the Data;

(iii) Any complaint or any claim for compensation arising from or relating to the Processing of the Data. The Operator shall not disclose the Data to any Data Subject or to a third party, other than at the request of the Contracting Authority or as provided for in this Schedule, or as required by law, in which case the Operator shall to the extent permitted by law inform the Contracting Authority of that legal requirement before the Operator discloses the Data to any Data Subject or third party.

(i) The Processor shall not respond to any request from a Data Subject except on the documented instructions of the Contracting Authority or as required by law, in which case the Processor shall to the extent permitted by law inform the Contracting Authority of that legal requirement before the Processor responds to the request.

1.6 In furtherance of its obligations under GDPR Article 28, the Operator agrees that it will not engage a sub-Processor for the purposes of providing services under the Agreement without the prior written authorisation of the Contracting Authority (GDPR Article 28(2)).

1.7 At the expiry or lapse of the Framework Agreement, the Operator shall, at the choice of the Contracting Authority, destroy or return all Data to the Contracting Authority, unless there is a legal requirement for retention and storage (GDPR Article 28(3)(g)).

1.8 The Operator will:

(a) Ensure that its staff do not Process the Data except in accordance with this Schedule;

(b) Take all reasonable steps to ensure the reliability and integrity of the staff who have access to the Data and will ensure that the staff members:

(i) Are aware and comply with the Contractor's duties under this Clause 1.8;

(ii) Are subject to mandatory training in their information governance responsibilities and have appropriate contracts, including sanctions, including for breach of confidence or misuse of the Data;

(iii) Are informed of the confidential nature of the Data and understand their responsibilities for information governance, including their obligation to Process

the Data securely and to only disseminate or disclose it for lawful and appropriate purposes.

1.9 The Operator agrees to provide the Contracting Authority with evidence of its compliance with the obligations set out in this Schedule, and/or, at the Contracting Authority's discretion and on reasonable notice, shall allow the Contracting Authority to audit the Contractor's compliance with the obligations described in this Schedule and in Data Protection Legislation (including but not limited to GDPR Article 28), subject to the Contracting Authority complying with all relevant health and safety and security policies of the Operator.

1.10 The Parties agree that:

(a) A Restricted Transfer may only be made where there is either an adequacy decision or Appropriate Safeguards in place governing that Restricted Transfer. A party which is entering into Appropriate Safeguards with a Data Importer shall comply with the guidance of any relevant supervisory authority on Restricted Transfers, in particular with the use of standard contractual clauses or other Appropriate Safeguards and any related measures required to be taken in the context of any such Restricted Transfers, including the requirement to carry out a Transfer Risk Assessment and to adopt supplementary measures to ensure essentially equivalent protection for Data Subjects in the jurisdiction of the Data Importer.

(b) Clause 1.10(a) shall not apply to a Restricted Transfer if other steps in compliance with Data Protection Legislation (which may include, but shall not be limited to, obtaining explicit consents from Data Subjects under GDPR Article 49) have been taken to allow the relevant Restricted Transfer to take place without breach of applicable Data Protection Legislation.

(c) In the event that any Party is required to enter into the standard contractual clauses in accordance with this Clause 1.10 and there is any conflict or ambiguity between any provision contained in this Schedule and any provision contained in such standard contractual clauses, the standard contractual clauses shall take precedence in respect of such conflict.

ANNEX A OF SCHEDULE 4

DETAILS OF PROCESSING

1.1 The subject matter and duration of the Processing, the nature and purpose of the Processing, the types of Data processed and the categories of Data Subjects are as follows:

Subject-matter of the processing	Processing the Data in connection with the provision of services required under the Agreement (i.e., the provision of a non-operative treatment pathway for low complexity spinal patients);
Duration of the processing	For the duration of the Agreement or until the Processor no longer processes any Data.
Nature and purpose of the processing	Organisation, structuring, storage, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, restriction, erasure or destruction of Data in connection with the provision of the Services.
Categories of data subjects	Patients of Beaumont Hospital referred to the Processor for the purposes of receiving healthcare treatment under the Agreement.
Types of personal data processed	Identity information such as first and last name (including prefix or title) and date of birth. Contact information such as business and home postal address, email address and fax and phone number(s). All health information generated in connection with the provision the required services under the Framework Agreement.