

Guidance Notes - Master Indemnity Agreement (MIA) (v1.01)

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Any defined terms used in these Guidance Notes shall have the meaning set out in the MIA Terms and Conditions.

Part A - Overarching MIA Guidance for Suppliers

- 1 The template for the Overarching Master Indemnity Agreement to be entered into by NHS England and a Supplier can be found at <https://www.supplychain.nhs.uk/mia>
- 2 By entering into an Overarching Master Indemnity Agreement with NHS England, the Supplier's details will be entered onto the MIA Register at <https://www.supplychain.nhs.uk/mia>
- 3 The instructions for any organisation that wishes to enter into an Overarching Master Indemnity Agreement are as follows:
 - 3.1 enter the company's details on the first page of the template for the Overarching Master Indemnity Agreement; and
 - 3.2 email NHS England at the email address set out in Part D below attaching:
 - 3.2.1 the Overarching Master Indemnity Agreement as completed by the Supplier;
 - 3.2.2 scanned proof of insurances for the Supplier for both public and product liability which demonstrates compliance with the insurance requirements set out at Clause 6.1 of the Master Indemnity Agreement Terms and Conditions. The proof of insurances must include:
 - 3.2.2.1 copies of the relevant insurance documents;
 - 3.2.2.2 a covering note referring to the relevant provisions of the insurance documents that demonstrate compliance with the insurance requirements set out at Clause 6.1 of the Master Indemnity Agreement Terms and Conditions. This covering note must refer to the relevant provisions in the insurance policy documents demonstrating:
 - 3.2.2.2.1 the amount of cover per claim for both public liability and product liability;
 - 3.2.2.2.2 the period of cover; and
 - 3.2.2.2.3 that the Supplier is protected by the insurance policy.

A failure by a Supplier to provide the required information will result in the documents being sent back to the Supplier to correct this omission prior to NHS England adding the Supplier to the MIA Register.

- 4 An Overarching Master Indemnity Agreement will not come into effect until the date on which NHS England publishes a copy of the MIA Register featuring the Supplier's name. The Supplier acknowledges that the MIA Register is updated monthly. The MIA Register will note the date of expiry of the Supplier's insurance policies submitted by the Supplier to NHS England pursuant to paragraph 3.2.2 above.
- 5 The instructions for any Supplier that wishes to maintain an Overarching Master Indemnity Agreement are as follows:
 - 5.1 Prior to the expiry of any insurance policy noted on the MIA Register, the Supplier must submit a copy of the appropriate renewal certificate via email to NHS England using the contact details at Part D below. The renewal certificate must demonstrate compliance with the insurance requirements set out at Clause 6.1 of the Master Indemnity Agreement Terms and Conditions and must be accompanied by a covering note which:
 - 5.1.1 refers to the relevant provisions that demonstrate such compliance; and
 - 5.1.2 either:
 - 5.1.2.1 highlights any policy changes not already notified to NHS England; or
 - 5.1.2.2 confirms that there have not been any policy changes that have not previously been notified to NHS England.
 - 5.2 A failure by a Supplier to provide such a renewal certificate and/or a clear covering note for these purposes will result in the expiry of the Supplier's Overarching Master Indemnity Agreement and removal of its details from the MIA Register upon expiry of any insurance policy.
 - 5.3 In the event that the Supplier complies with the requirements of paragraph 5.1, NHS England will update the MIA Register to show the new insurance policy expiry date and the Overarching Master Indemnity Agreement will be extended to the date of any such new insurance policy expiry date.

Part B - General Guidance for NHS

Scope of the MIA

- 6 The Master Indemnity Agreement covers the free use of the Equipment (for the purpose of evaluation, testing, research, design, or trial demonstration of equipment) provided by a Supplier to an Authority on a loan basis or transferred, in either case for free and on a no hire and no purchase basis, including hardware which includes dedicated bespoke software for medical purposes.
- 7 The Master Indemnity Agreement is not to be used for the acquisition (loan or free issue) of software products, which can be purchased separately for use with the Equipment. The only exception to this is for software that is integral to the Equipment and as such is embedded in or forms parts of the Equipment. Otherwise all other software must be sourced separately and is outside the scope of the Master Indemnity Agreement.
- 8 The Master Indemnity Agreement must be used in all loan / free of charge arrangements between a Supplier and an Authority to provide the Authority with legal and financial protections.
- 9 The Master Indemnity Agreement should also not be used for obtaining any service/maintenance support or other associated services required for the use of the Equipment; all such services are outside the scope of the Master Indemnity Agreement, as the decisions to obtain such services may have procurement implications and therefore the Authority must ensure that the sourcing of such services is done in compliance with applicable legislation and its own internal governance and decision-making processes.
- 10 Where the Master Indemnity Agreement is used to acquire Equipment that will involve access to personal data, the Authority must consult with its Data Protection Officer regarding compliance with UK GDPR. An assessment of the risks involved must be undertaken, on a case-by-case basis, using the Data Security and Protection Toolkit and completing the Data Protection Protocol.

Important: For the avoidance of doubt, the Master Indemnity Agreement is **not suitable for clinical trials, clinical investigations or other research projects** as the insurance obtained by Suppliers may not cover clinical trials, clinical investigations or other research projects and **must not be used in such circumstances.**

MIA Call-Off Agreement

- 11 The Authority must ensure that the Supplier's insurance will cover the duration of the agreed loan period as stated in the MIA Call-Off Agreement. If the agreed loan period is longer than the current duration of the Supplier's insurance, then the Authority must ensure both that the Supplier renews its insurance cover and that the Supplier informs NHS England by sending the appropriate insurance certificates as set out in paragraph 5 above. The duration of a Supplier's insurance can be referenced on the MIA Register at <https://www.supplychain.nhs.uk/mia>

Data Protection Protocol

- 12 Where the Authority advises the Supplier that the Data Protection Protocol will apply to the MIA Call-Off Agreement, then the Data Protection Protocol will also need to be completed by the Authority and Supplier to ensure UK GDPR compliance. In addition, where relevant the Authority should consult with its Data Protection Officer on UK GDPR compliance before entering into any MIA Call-Off Agreement.

Part C - MIA Call-Off Agreements

- 13 The MIA Call-Off Agreement is an agreement entered into directly by an Authority with a Supplier when it is in receipt of Equipment from a Supplier, on either a loan or transfer basis, without financial payment, for purposes to be set out as part of such MIA Call-Off Agreement. The template for the agreement can be found at - <https://www.supplychain.nhs.uk/mia> - and should be completed by the Authority and Supplier each time a piece of Equipment is provided under these arrangements. A failure to complete such an MIA Call-Off Agreement in relation to a piece of Equipment will mean that the parties will not get the protections afforded by these arrangements in relation to that Equipment.
- 14 Where a Supplier has entered into an Overarching Master Indemnity Agreement with NHS England (see Part A above), this means that NHS England has checked the Supplier's insurance arrangements and so they do not need to be checked again by the Authority at the point that Supplier enters into an MIA Call-Off Agreement. All Suppliers must enter into an Overarching Master Indemnity Agreement with NHS England before entering into any specific MIA Call-Off Agreements. The Authority must check the MIA Register before entering into an MIA Call-Off Agreement to confirm the Supplier's Overarching Master Indemnity Agreement registration is still valid and its insurance is showing as current. If a Supplier is party to an Overarching Master Indemnity Agreement, this will be noted as part of the published MIA Register at <https://www.supplychain.nhs.uk/mia>
- 15 The Supplier is responsible for completing sections 1 to 6 (inclusive) of the MIA Call-Off Agreement. The Authority is responsible for completing sections 7 to 23 (inclusive) of the MIA Call-Off Agreement.
- 16 The Authority must advise the Supplier whether or not the Data Protection Protocol will apply to the MIA Call-Off Agreement by either a "yes" or "no" in section 17 of the MIA Call-Off Agreement.
- 17 The MIA Call-Off Agreement incorporates the Master Indemnity Agreement Terms and Conditions published on the MIA website by NHS England. The Authority has various rights and obligations under the Master Indemnity Agreement Terms and Conditions and should, therefore, review these terms and conditions prior to entering into any MIA Call-Off Agreement to confirm that they are appropriate for what is intended in terms of the relevant loan or transfer of Equipment. As part of this review, the Authority must ensure that it can comply with its obligations under the Master Indemnity Agreement Terms and Conditions.

Part D - Enquiries and Contact Details

Completed Overarching Master Indemnity Agreements, any scanned documents relating to the insurance checks carried out by NHS England in connection with such Overarching Master Indemnity Agreements, any notifications relating to any undertakings provided by the Supplier under any Overarching Master Indemnity Agreement, and any information required by NHS England in relation to any MIA Call-Off Agreement should be sent via email to mia@supplychain.nhs.uk

If in doubt about any aspect of the templates or any parts of this guidance, you should contact NHS England via email at mia@supplychain.nhs.uk in the first instance.