

34.1.2.2 any statement which the Contractor or a person acting on behalf of the Contractor has made in a report.

34.2 For the purposes of being satisfied that a Patient consents, a Contractor may rely on an assurance in writing from any person mentioned in Clause 34.3 that the consent of the Patient has been obtained, unless the Contractor has reason to believe that the Patient does not consent.

34.3 For the purposes of Clauses 34.1 and 34.2, the persons are:

34.3.1 a Medical Officer;

34.3.2 a Nursing Officer;

34.3.3 an Occupational Therapist;

34.3.4 a Physiotherapist; or

34.3.5 an officer of the Department for Work and Pensions who is acting on behalf of, and at the direction of, any person specified in paragraphs 34.3.1 to 34.3.4.

34A National Diabetes Audit

34A.1 The Contractor must record any data required by the Commissioner for the purposes of the National Diabetes Audit in accordance with Clause 34A.2.

34A.2 The data referred to in Clause 34A.1 must be appropriately coded by the Contractor and uploaded onto the Contractor's computerised clinical systems in line with the requirements of guidance published by NHS Employers for these purposes¹⁴.

34A.3 The Contractor must ensure that the coded data is uploaded onto its computerised clinical systems and available for collection by the Health

¹⁴ See section 2 of the guidance entitled "2017/18 General Medical Services (GMS) Contract" published by NHS Employers which is available at <http://www.nhsemployers.org/gms201718U> or from NHS Employers, 2 Brewery Wharf, Kendall Street, Leeds, LS10 1JR.

and Social Care Information Centre at such intervals during each financial year as are notified to the Contractor by NHS Digital.

34B Information relating to indicators no longer in the Quality and Outcomes Framework¹⁵

34B.1 The Contractor must allow the extraction from the Contractor's computerised clinical systems by the Health and Social Care Information Centre specified in the table set out at Schedule 11 to this Contract relating to clinical indicators which are no longer in the Quality Outcomes Framework at such intervals during each financial year as are notified to the Contractor by NHS Digital.

34C Information relating to alcohol related risk reduction and dementia diagnosis and treatment

34C.1 The Contractor must allow the extraction by the Health and Social Care Information Centre of the information¹⁶ specified in:

34C.1.1 Clause 34C.2 in relation to alcohol related risk reduction; and

34C.1.2 Clause 34C.3 in relation to dementia diagnosis and treatment;

from the record that the Contractor is required to keep in respect of each Registered Patient under regulation 60 of the PMS Agreements Regulations by such means, and at such intervals during each

¹⁵ The Quality and Outcomes Framework (QOF) is provided for in Section 4 and Annex D of the General Medical Services Statement of Financial Entitlements Direction 2013 which were signed on 27th March 2013 (as amended). Participation by contractors in the QOF is voluntary. However, contractors which participate in the QOF are required to accomplish the specified tasks or achieve the specified outcomes which are included in the QOF as "indicators" in return for payments which are measured against their achievements in respect of particular indicators. The General Medical Services Statement of Financial Entitlements 2013 is available at:

<https://www.gov.uk/government/publications/nhs-primary-medical-services-directions-2013>. Hard copies may be obtained by post from the General Practice Team, Quarry House, Quarry Hill, Leeds LS2 7UE.

¹⁶ See section 4 of the guidance entitled "2017/18 General Medical Services (GMS) Contract" published by NHS Employers which is available at <http://www.nhsemployers.org/gms201718> or from NHS Employers, 2 Brewery Wharf, Kendall Street, Leeds, LS10 1JR.

Financial Year, as are notified to the Contractor by the Health and Social Care Information Centre.

34C.2 The information specified in this Clause is information required in connection with the requirements under Clauses 31.127 to 31.132.

34C.3 The information specified in this Clause is information relating to any clinical interventions provided by the Contractor in the preceding 12 months in respect of a Patient who is suffering from, or who is at risk of suffering from, dementia.

34D NHS Digital Workforce Censuses

34D.1 The Contractor must record and submit any data required by the Health and Social Care Information Centre for the purposes of the NHS Digital Workforce Census (known as the "Workforce Minimum Data Set") in accordance with Clause 34D.2.

34D.2 The data referred to in Clause 34D.1 must be appropriately coded by the Contractor in line with agreed standards set out in guidance published by NHS Employers¹⁷ and must be submitted to the Health and Social Care Information Centre by using the workforce module on the Primary Care Web Tool which is a facility provided by the Commissioner to the Contractor for this purpose.¹⁸

34D.3 The Contractor must ensure that the coded data is available for collection by the Health and Social Care Information Centre at such intervals during each Financial Year as are notified to the Contractor by Health and Social Care Information Centre.

34E Information relating to overseas visitors

34E.1 The Contractor must:

¹⁷ See section 2 of the guidance entitled "2017/18 General Medical Services (GMS) Contract" published by NHS Employers which is available at <http://www.nhsemployers.org/gms201718> or from NHS Employers, 2 Brewery Wharf, Kendall Street, Leeds, LS10 1JR.

¹⁸ The Primary Care Web Tool facility is the approved webtool made available by the Commissioner to contractors for the purposes of submitting data online. Further information regarding the collection and recording of data by contractors for the purposes of the NHS Digital Workforce Survey is available at <http://content.digital.nhs.uk/wMDS> or from NHS Digital, 1 Trevelyan Square, Boars Lane, Leeds, LS1 6AE.

34E.1.1 record the information specified in Clause 34E.1.2 relating to overseas visitors, where that information has been provided to it by a newly registered Patient on a form supplied to the Contractor by the Contractor for this purpose; and

34E.1.2 where applicable, in the case of a Patient, record the fact that the Patient is the holder of a European Health Insurance Card or S1 Healthcare Certificate¹⁹ which has not been issued to or in respect of the Patient in the United Kingdom,

in the medical record that the Contractor is required to keep under regulation 60 of the PMS Agreements Regulations in respect of the Patient.

34E.2 The information specified in this Clause is:

34E.2.1 in the case of a Patient who holds a European Health Insurance Card which has not been issued to the Patient by the United Kingdom, the information contained on that card in respect of the Patient; and

34E.2.2 in the case of a Patient who holds a Provisional Replacement Certificate²⁰ issued in respect of the Patient's European Health Insurance Card, the information contained on that certificate in respect of the Patient.

34E.3 The information referred to in Clause 34E.2 must be submitted by the Contractor to NHS Digital:

34E.3.1 electronically at NHSDIGITAL-EHIC@nhs.net; or

¹⁹ An S1 Healthcare Certificate is issued to those who are posted abroad and who pay National Insurance Contributions in the United Kingdom or to people in receipt of UK exportable benefits (e.g. retirement pensions). Further information is available at: https://contactcentreservices.nhsbsa.nhs.uk/selfnhsukokb/AskUs_EHIC/template.do?name=S1+form+-+what+is+this+and+=how+do+i+obtain+one%253F&id=16477 or from NHS BSA, Stella House, Goldcrest Way, Newbury Riverside, Newcastle Upon Tyne, NE15 8NY.

²⁰ Further information about Provisional Replacement Certificates is available at: <http://www.nhs.uk/NHSEngland/Healthcareabroad/EHIC/Pages/about-the-ehic.aspx> or from NHS England, PO Box 16738, Redditch, B97 7PT.

34E.3.2 by post in hard copy form to EHIC, PDS NBO, NHS Digital, Smedley Hydro, Trafalgar Road, Southport, Merseyside PR8 2HH.

34E.4 Where the Patient is a holder of a S1 Healthcare Certificate, the Contractor must send that certificate, or a copy of that certificate, to the Department for Work and Pensions:

34E.4.1 electronically at NHSDIGITAL-EHIC@nhs.net; or

34E.4.2 by post in hard copy form to the Overseas Healthcare Team, Durham House, Washington, Tyne and Wear, NE38 7SF.

35 Provision of Information to the Commissioner

35.1 The Contractor must, at the request of the Commissioner, produce to it, or a person authorised in writing by it, or allow the Commissioner, or a person authorised by it to access, on request within a maximum period of 28 days of the request being made:

35.1.1 any information which is reasonably required by the Commissioner for the purposes of or in connection with the Contract; and

35.1.2 any other information which is reasonably required in connection with the Commissioner's functions,

but the Contractor shall not be required to comply with any request made in accordance with this Clause 35.1 unless it has been made by the Commissioner in accordance with directions made by the Secretary of State under section 98A (Exercise of Functions) of the 2006 Act relating to the provision of information by Contractors, the Confidentiality Directions and the parts of the Code of Practice referred to therein.

35.2 Subject to Clause 35.5, a Contractor must collect such information relating to Patient access to Primary Medical Services at the Contractor's practice as the Commissioner may reasonably require for the purpose or in connect with, the contract.

35.3 The Contractor must submit an online return to the Commissioner in respect of any GP access data collected by it using the Primary Care Web Tool facility which is provided by the Commissioner to the Contractor for this purpose.

35.4 The Contractor must submit an online return of GP access data to the Commissioner twice in every financial year-

35.4.1 by 31 October 2019 and 31 March 2020 in respect of the financial year that ends on 31 March 2020; and

35.4.2 by 30 September and 31 March respectively for each subsequent financial year until 31 March 2029.

35.5 The requirements of Clauses 35.2 to 35.4 do not apply where the Contractor does not have access to computer systems and software which would enable it to use the Primary Care Web Tool facility to submit an online return of GP access data to the Commissioner.

35A Friends and Family Test

35A.1 A Contractor which provides Essential Services must give all Patients who use the Contractor's Practice the opportunity to provide feedback about the service received from the Practice through the Friends and Family Test.

35A.2 The Contractor must:

35A.2.1 report the results of completed Friends and Family Tests to the Commissioner; and

35A.2.2 publish the results of such completed Tests, in the manner approved by the Commissioner.

35A.3 In this Clause 35A, "Friends and Family Test" means the arrangements that a Contractor is required by the Commissioner to implement to enable its Patients to provide anonymous feedback about the patient experience at the Contractor's Practice.

35B Publication of earnings information

35B.1 The Contractor must publish each year on its practice website (if it has one) the information specified in clause 35B.2.

35B.2 The information specified in this sub-paragraph is:

35B.2.1 the mean net earnings in respect of the previous financial year of:

35B.2.1.1 all general medical practitioners who were party to the agreement for a period of at least six months during that financial year, and

35B.2.1.2 any general medical practitioners who were employed or engaged by the Contractor to provide services under the Contract in the Contractor's Practice, whether on a full-time or part-time basis, for a period of six months during that financial year; and

35B.2.2 the:

35B.2.2.1 total number of any general medical practitioners to whom the earnings information referred to in clause 35B.2.1 relates, and

35B.2.2.2 (where applicable) the number of those practitioners who have been employed or engaged by the Contractor to provide services under the Contract in the Contractor's Practice on a full time or a part time basis and for a period of at least six months during the financial year in respect of which that information relates.

35B.3 The information specified in clause 35B.2 must be:

35B.3.1 published by the Contractor before the end of the financial year following the financial year to which that information relates; and

35B.3.2 made available by the Contractor in hard copy form on request.

35B.4 For the purposes of clause 35B, "mean net earnings" are to be calculated by reference to the earnings of a general medical practitioner that, in the opinion of the Board, are attributable to the performance or provision by the practitioner under the agreement of medical services to which Part 4 of the 2006 Act applies, after having disregarded any expenses properly incurred in the course of performing or providing those services.

36 Practice Leaflet

- 36.1 The Contractor shall:
compile a practice leaflet which shall include the information specified in Schedule 8;
- 36.1.1 review its practice leaflet at least once in every period of twelve (12) months and make any amendments necessary to maintain its accuracy;
- 36.1.2 make available a copy of the leaflet, and any subsequent updates, to its Patients and prospective patients and to the Commissioner;
- 36.1.3 amend the Practice Leaflet if there are any material changes to the Services or to the information provided therein within three (3) months of such change(s).

37 Provision of Practice Information on the Internet

- 37.1 Where the Contractor has a website, the Contractor must publish on that website details of the Patient Registration Area, including the area known as the Outer Boundary Area, by reference to a sketch diagram, plan or postcode as set out in Annex 3.
- 37.2 The Contractor shall maintain its practice details on the NHS Choices Website.

38 Inquiries about Prescriptions and Referrals

- 38.1 The Contractor shall, subject to Clauses 38.2 and 38.3, sufficiently answer any inquiries whether oral or in writing from the Commissioner concerning:
- 38.1.1 any Prescription Form or Repeatable Prescription issued or created by a Prescriber;
- 38.1.2 the considerations by reference to which Prescribers issue such forms;

- 38.1.3 the referral by or on behalf of the Contractor of any Patient to any other services provided under the 2006 Act or the 2012 Act (as the case may be); or
 - 38.1.4 the considerations by which the Contractor makes such referrals or provides for them to be made on its behalf.
- 38.2 An inquiry referred to in Clause 38.1 may only be made for the purpose either of obtaining information to assist the Commissioner to discharge its functions or of assisting the Contractor in the discharge of its obligations under the Contract.
- 38.3 The Contractor shall not be obliged to answer any inquiry referred to in Clause 38.1 unless it is made:
- 38.3.1 in the case of Clause 38.1.1 or 38.1.2 by an appropriately qualified Health Care Professional; or
 - 38.3.2 in the case of Clause 38.1.3 or 38.1.4, by an appropriately qualified medical practitioner,
- appointed in either case by the Commissioner to assist it in the exercise of its functions under Clause 38.1 and 38.2 who produces, on request, written evidence that that person is authorised by the Commissioner to make such an inquiry on its behalf.

39 Financial Interests

- 39.1 In making a decision to refer a Patient for other services under the 2006 Act or the 2012 Act (as the case may be), or in making a decision to prescribe any drug, medicine or other Appliance to any Patient the Contractor shall have regard to all relevant clinical considerations as well as the provisions of Clauses 24 to 30 of this Contract and disregard its own financial interests and other inappropriate financial interests.
- 39.2 The Contractor shall not inform Patients that any prescription for any drug, medicine or other Appliance must be dispensed only by the Contractor or a person with whom the Contractor is associated.

39.3 The Contractor must not act in any way to encourage a Patient to move to another of the Contractor's primary care contracts in order for the Contractor to obtain a financial gain.

40 Performance Management and Monitoring

40.1 The Contractor shall comply with the monitoring arrangements set out in Schedule 6 (Performance Management) to this Contract including but not limited to, providing such data and information as the Authority may require the Contractor to produce under this Contract.

40.2 The Contractor shall cooperate and shall procure that its Sub-Contractors co-operate with the Authority in carrying out the monitoring referred to in this Clause 40.

40A Patient Participation

40A.1 A Contractor which provides Essential Services must establish and maintain a group known as a "Patient Participation Group" comprising of some of its Registered Patients for the purposes of:

40A.1.1 obtaining the views of Patients who have attended the Contractor's Practice about the services delivered by the Contractor; and

40A.1.2 enabling the Contractor to obtain feedback from its Registered Patients about those services.

40A.2 The Contractor is not required to establish a Patient Participation Group if such group has already been established by the Contractor pursuant to the provisions of any directions about Enhanced Services which were given by the Secretary of State under section 98A of the 2006 Act before 1st April 2015.

40A.3 The Contractor must make reasonable efforts during each financial year to review the membership of its Patient Participation Group in

order to ensure that the Group is representative of its Registered Patients.

40A.4 The Contractor must:

40A.4.1 engage with its Patient Participation Group, at such frequent intervals throughout each financial year as the Contractor must agree with that Group, with a view to obtaining from the Contractor's Registered Patients, in an appropriate and accessible manner which is designed to encourage patient participation, about the services delivered by the Contractor; and

40A.4.2 review any feedback received about the services delivered by the Contractor, whether pursuant to sub-clause 40A.4.1 or otherwise, with its Patient Participation Group with a view to agreeing with that Group the improvements (if any) which are to be made to those services.

40A.5 The Contractor must make reasonable efforts to implement such improvements to the services delivered by the Contractor as are agreed between the Contractor and its Patient Participation Group.

40A.6 In this clause 40A "financial year" means the 12 month period beginning on 1st April each year and ending on 31st March the following year.

41 Notifications to the Commissioner

41.1 In addition to any requirements of notification elsewhere in the Contract, the Contractor shall notify the Commissioner in writing, as soon as reasonably practicable, of:

any serious incident that, in the reasonable opinion of the Contractor, affects or is likely to affect the Contractor's performance of its obligations under the Contract;

- 41.1.1 any circumstances which give rise to the Commissioner's right to terminate the Contract under Clauses 60 and 61;
 - 41.1.2 any circumstances which give rise to the Commissioner's right to terminate the Contract under any other provision of the Contract;
 - 41.1.3 any appointments system which it proposes to operate and the proposed discontinuance of any such system;
 - 41.1.4 any change of which it is aware in the address of a Registered Patient;
 - 41.1.5 the death of any Patient of which it is aware; and
 - 41.1.6 any changes in clinical and non-clinical staff.
- 41.2 Where the Contractor is a company, it shall give notice in writing to the Commissioner forthwith when:
- 41.2.1 it passes a resolution or a court of competent jurisdiction makes an order that the Contractor be wound up;
 - 41.2.2 circumstances arise which might entitle a creditor or a court to appoint a receiver, administrator or administrative receiver for the Contractor;
 - 41.2.3 circumstances arise which would enable the court to make a winding up order in respect of the Contractor;
 - 41.2.4 the Contractor is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - 41.2.5 a number of shares equal to 10% or more of the shares in issue in the Contractor are transmitted or transferred (whether legally or beneficially) to another person on a date after the Contract has been entered in;
 - 41.2.6 if there is any change in the Contractor's Group structure or identity of the ultimate parent within that Group structure within the meaning of section 1159 Companies Act 2006;
or

41.2.7 a new director or secretary is appointed.

41.3 A notice under Clause 41.2.5 shall confirm the new shareholder, or, as the case may be, the personal representative of a deceased shareholder:

41.3.1 falls within section 93(1)(a), (b), (c), (d), (e) or (f) of the 2006 Act; and

41.3.2 meets the further conditions imposed on shareholders by virtue of direction 4 of the APMS Directions.

41.4 A notice under Clause 41.2.7 shall confirm that the new director or, as the case may be, secretary meets the conditions imposed on directors and secretaries by virtue of direction 4 of the APMS Directions.

42 Notification of Deaths

42.1 The Contractor shall report in writing to the Commissioner the death on the Practice Premises of any Patient no later than the end of the first Working Day after the date on which the death occurred. The report shall include:

42.1.1 the Patient's full name;

42.1.2 the Patient's National Health Service number where known;

42.1.3 the date and place of death;

42.1.4 a brief description of the circumstances, as known, surrounding the death;

42.1.5 the name of any doctor or other person treating the Patient whilst on the Practice Premises; and

42.1.6 the name, where known, of any other person who was present at the time of the death.

43 Entry and inspection by the Commissioner

43.1 Subject to the conditions in Clause 43.2, the Contractor shall allow persons authorised in writing by the Commissioner to enter and inspect the Practice Premises at any reasonable time. In addition, the Commissioner shall have the right to examine any equipment and/or materials, and/or to interview any staff including any contractors engaged by the Contractor (but only as part of a properly conducted investigation into the clinical performance of the Contractor, such investigation to be proportionate and, for the avoidance of doubt, subject to the Law) that are reasonably connected to the delivery of services under this Contract at any reasonable time.

43.2 The conditions referred to in Clause 43.1 are that:

43.2.1 reasonable notice of the intended entry (or other proposed action) has been given;

43.2.2 written evidence of the authority of the person seeking entry (or to take any other proposed action) is produced to the Contractor on request; and

43.2.3 entry is not made to any premises or part of the premises used as residential accommodation without the consent of the resident.

44 Entry and Viewing by Local Healthwatch Organisations

44.1 The Contractor must comply with the requirement to allow an authorised representative to enter and view the Practice Premises and observe the carrying-on of activities on the Practice Premises in accordance with regulations made under section 225 (Duties of Service Contractors to allow entry by Local Healthwatch Organisations or Contractors) of the Local Government and Public Involvement Health Act 2007.

45 Entry and Inspection by the Care Quality Commission

- 45.1 The Contractor shall allow persons authorised by the Care Quality Commission to enter and inspect the Practice Premises in accordance with section 62 of the Health and Social Care Act 2008 (entry and inspection).

46 Counter Fraud and Security Management

- 46.1 Upon the request of the Commissioner or the NHS Counter Fraud and Security Management Service (the "CFSMS"), the Contractor shall ensure that the CFSMS is given access as soon as is reasonably practicable and in any event not later than seven (7) days from the date of the request to:
- 46.1.1 all property, premises, information (including records and data) owned or controlled by the Contractor relevant to the detection and investigation of cases of fraud and/or corruption directly or indirectly connected to the Contract; and
 - 46.1.2 all members of the Contractor's staff who may have information to provide that is relevant to the detection and investigation of cases of fraud and/or corruption directly or indirectly connection to the Contract.
- 46.2 The Contractor shall put in place appropriate arrangements to ensure the security of Patients whilst in the Practice Premises and for the prevention and detection of fraud by or in relation to Patients and/or in relation to public funds.
- 46.3 The Contractor shall, on request by the Commissioner permit the Commissioner or its authorised representative or a person duly authorised to act on behalf of the CFSMS, to review the arrangements put in place by the Contractor pursuant to Clause 46.2.
- 46.4 The Contractor shall promptly upon becoming aware of any suspected fraud or corruption involving the Patients or public funds, report such matter to the Commissioner.

46.5 The provisions of Clauses 46.1 and 46.4 shall continue following termination of the Contract for any reason whatsoever and without limit in time.

47 Certificates

47.1 The Contractor shall issue free of charge to a Patient or his personal representative any medical certificate of a description prescribed in column 1 of the table below which is reasonably required under or for the purposes of the enactments specified in relation to the certificate in column 2 of the table below, except where, for the condition to which the certificate relates, the Patient:

47.1.1 is being attended by a medical practitioner who is not employed or engaged by the Contractor, a party to this Contract or a shareholder in a qualifying body which is a party to this Contract; or

47.1.2 is not being treated by or under the supervision of a Health Care Professional.

Table – List of Prescribed Medical Certificates

Description of medical certificate	Enactment under or for the purpose of which certificate required
<p>1. To support a claim or to obtain payment either personally or by proxy; to prove incapacity to work or for self-support for the purposes of an award by the Secretary of State; or to enable proxy to draw pensions etc.</p>	<p>Naval and Marine Pay and Pensions Act 1865 Air Force (Constitution) Act 1917 Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 Personal Injuries (Emergency Provisions) Act 1939 Pensions (Mercantile Marine) Act 1942 Polish Resettlement Act 1947 Social Security Administration Act 1992 Social Security Contributions and Benefits Act 1992 Social Security Act 1998</p>

Description of medical certificate	Enactment under or for the purpose of which certificate required
2. To establish pregnancy for the purpose of obtaining welfare foods	Section 13 of the Social Security Act 1988 (schemes for distribution etc of welfare foods)
3. To secure registration of still-birth	Section 11 of the Births and Deaths Registration Act 1953 (special provision as to registration of still-birth)
4. To enable payment to be made to an institution or other person in case of mental disorder of persons entitled to payment from public funds.	Section 142 of the Mental Health Act 1983 (pay, pensions etc of mentally disordered persons)
5. To establish unfitness for jury service.	Juries Act 1974
6. To support late application for reinstatement in civil employment or notification of non-availability to take up employment owing to sickness.	Reserve Forces (Safeguarding of Employment) Act 1985.
7. To enable a person to be registered as an absent voter on grounds of physical incapacity	Representation of the People Act 1985
8. To support applications for certificates conferring exemption from charges in respect of drugs, medicines and Appliances.	National Health Service Act 2006
9. To support a claim by or on behalf of a severely mentally impaired person for exemption from liability to pay the Council Tax or eligibility for a discount	Local Government Finance Act 1992

Description of medical certificate	Enactment under or for the purpose of which certificate required
in respect of the amount of Council Tax payable.	

- 47.2 The exception referred to in Clause 47.1.1 shall not apply where the certificate is issued pursuant to regulation 2(1) of the Social Security (Medical Evidence) Regulations 1976 or regulation 2(1) of the Statutory Sick Pay (Medical Evidence) Regulations 1985.

48 Payment under the Contract

The Commissioner will pay the Contractor the Contract Price in accordance with Schedule 4.

49 Fees and Charges

- 49.1 The Contractor shall not, either itself or through any other person, demand or accept from:
- 49.1.1 any of its Patients other than Registered Patients a fee or other remuneration for its own or another's benefit:
 - 49.1.1.1 for the provision of any treatment whether under the Contract or otherwise, or
 - 49.1.1.2 for any prescription or repeat prescription for any drug, medicine or Appliance,

except in the circumstances set out in Clause 49.2.
 - 49.1.2 any of its Patients other than a Registered Patient a fee or other remuneration for its own or another's benefit:
 - 49.1.2.1 for the provision of any treatment under the Contract, or
 - 49.1.2.2 for any prescription or repeat prescription for any drug, medicine or Appliance in connection with that treatment.

- 49.2 The Contractor may demand or accept, directly or indirectly, a fee or other remuneration:
- 49.2.1 from any statutory body for services rendered for the purposes of that body's statutory functions;
 - 49.2.2 from any body, employer or school for a routine medical examination of persons for whose welfare the body, employer or school is responsible, or an examination of such persons for the purpose of advising the body, employer or school of any administrative action they might take;
 - 49.2.3 for treatment which is not Primary Medical Services or otherwise required to be provided under the Contract and which is given:
 - 49.2.3.1 pursuant to Paragraph 11 of Schedule 6 of the 2006 Act (accommodation and services for private patients), or
 - 49.2.3.2 in a registered nursing home which is not providing services under the 2006 Act,if, in either case, the person administering the treatment is serving on the staff of a hospital providing services under the 2006 Act or the 2012 Act (as the case may be) as a specialist providing treatment of the kind the Patient requires and if, within 7 days of giving the treatment, the Contractor or the person providing the treatment supplies the relevant body, on a form provided by it for the purpose, with such information about the treatment as it may require;
 - 49.2.4 under section 158 of the Road Traffic Act 1988 (payment for emergency treatment of traffic casualties);
 - 49.2.5 when it treats a Patient under clause 49.3 in compliance with Regulation 18(3) of the PMS Agreements Regulations,

in which case it shall be entitled to demand and accept a reasonable fee (recoverable in certain circumstances under Clause 49.4 for any treatment given, if it gives the Patient a receipt;

- 49.2.6 for attending and examining (but not otherwise treating) a Patient:
 - 49.2.6.1 at his request at a police station in connection with possible criminal proceedings against him;
 - 49.2.6.2 at the request of a commercial, educational or not for profit organisation for the purpose of creating a medical report or certificate;
 - 49.2.6.3 for the purpose of creating a medical report required in connection with an actual or potential claim for compensation by the Patient;
- 49.2.7 for treatment consisting of an immunisation for which no remuneration is payable by the relevant body and which is requested in connection with travel abroad;
- 49.2.8 for prescribing or providing drugs, medicines or Appliances (including a collection of such drugs, medicines or Appliances in the form of a travel kit) which a Patient requires to have in his possession solely in anticipation of the onset of an ailment or occurrence of an injury while he is outside the United Kingdom but for which he is not requiring treatment when the medicine is prescribed;
- 49.2.9 for a medical examination:
 - 49.2.9.1 to enable a decision to be made whether or not it is inadvisable on medical grounds for a person to wear a seat belt, or
 - 49.2.9.2 for the purpose of creating a report:

- 49.2.9.2.1 relating to a road traffic accident or criminal assault; or
 - 49.2.9.2.2 that offers an opinion as to whether a Patient is fit to travel;
 - 49.2.9.A for testing the sight of a person to whom none of paragraphs (a) to (e) of section 115(2) of the 2006 Act applies (including by virtue of regulations made under section 115(7) of the 2006 Act);
 - 49.2.10 where it is a Contractor which is authorised or required in accordance with arrangements made with the Commissioner under section 126 (Arrangements for Pharmaceutical Services) and in accordance with regulations made under section 129 (Regulations at to Pharmaceutical Services) of the 2006 Act to provide drugs, medicines and Appliances to a Patient and provides for that Patient, otherwise than by way of Dispensing Services, any Scheduled Drug; and
 - 49.2.11 for prescribing or providing drugs or medicines for malaria chemoprophylaxis.
- 49.3 Where a person applies to the Contractor for the provision of Services and claims to be entitled to be treated by the Contractor without paying a fee or other remuneration and the Contractor has reasonable doubts about that person's claim, the Contractor shall give any necessary treatment and shall be entitled to demand and accept a reasonable fee subject to the provision for repayment contained in Clause 49.4.
- 49.4 Where a person from whom the Contractor received a fee applies to the Commissioner for a refund within fourteen (14) days of payment of the fee (or such longer period not exceeding a month as the Commissioner may allow if it is satisfied that the failure to apply within fourteen (14) days was reasonable) and the Commissioner is satisfied that the person was entitled to be treated by the Contractor without paying a fee or other remuneration when the treatment was given, the

Commissioner may recover the amount of the fee from the Contractor, by set off or otherwise, and shall pay that amount to the person who paid the fee.

49.5 In the provision of the Services, the Contractor shall:

49.5.1 provide information to the Patients regarding other services it provides (other than under the Contract) only where appropriate and shall ensure that such information is fair and accurate; and

49.5.2 where the other services are available to the Patient as part of the health service established pursuant to the 2006 Act or the 2012 Act (as the case may be), inform the Patient:

49.5.2.1 that the services are so available;

49.5.2.2 of any charge that apply to that health service and, if no such charge applies, that the service is free; and

49.5.2.3 how to access those health services.

49.6 This Clause 49 shall survive the expiry or termination of the Contract.

50 Clinical Governance

50.1 Without prejudice to the Contractor's obligation to meet all performance requirements under the Contract:

50.1.1 the Contractor shall have an effective System of Clinical Governance (which shall include appropriate standard operating procedures in relation to the management and use of controlled drugs);

50.1.2 the Contractor shall nominate a person who will have responsibility for ensuring the effective operation of the System of Clinical Governance;

50.1.3 the person nominated under Clause 50.1.2 shall be a person who performs or manages Services under the Contract.

50.2 The Contractor shall co-operate with the Commissioner in the discharge of any obligations of the Commissioner or its accountable officers under section 17 (Accountable Officers and their responsibilities as to Controlled Drugs) and section 18 (Co-operation between Health Bodies and other Organisations) of the Health Act 2006.

51 Indemnity

51.1 The Contractor shall indemnify the Commissioner fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities in respect of any death or personal injury or loss of or damage to property which is caused directly or indirectly by any act or omission or breach of obligation under the Contract of the Contractor, its staff, agents or sub-contractors save to the extent that the same was caused by any negligent act of the Commissioner or its servants.

52 Insurance

52.1 The Contractor shall at all times hold adequate insurance in the sums detailed in Schedule 4 Part 2 in respect of any incident against:

52.1.1 all liabilities arising from negligent performance of Services under the Contract;

52.1.2 all public liabilities in relation to liabilities to third parties arising under or in connection with the Contract; and

52.1.3 all liabilities as an employer in respect of all staff.

52.2 The Contractor shall provide the Commissioner with a copy of all insurance policies obtained pursuant to Clause 52.1 and/or a broker certified schedule of insurances together with evidence that the requisite premiums have been paid upon the Commissioner's request.

52.3 The Contractor shall not sub-contract its obligations to provide the Services under the Contract unless it is satisfied that the sub-contractor holds adequate insurance against liability arising from negligent performance of such Services.

52.4 For the purposes of Clauses 52.1 to 52.3:

52.4.1 "insurance" means a contract of insurance or other arrangement made for the purpose of indemnifying the Contractor; and includes membership of a medical defence organisation established for the purpose set out in this Clause; and

52.4.2 the Contractor shall be regarded as holding insurance if insurance is held by a person employed or engaged by it in connection with clinical services which that person provides under the Contract or, as the case may be, sub-contract provided that that insurance is adequate and is in the sum of not less than that required by this Clause. The Contractor agrees that this may not be sufficient to meet the Contractor's obligations to insure all of the risks listed under Clause 52.1 and that the Contractor must seek advice from a specialist insurance broker in this regard.

53 Complaints

- 53.1 The Contractor shall establish and operate a complaints procedure as approved by the Commissioner to deal with any complaints in relation to any matter reasonably connected with the provision of Services under the Contract.
- 53.2 The Contractor shall comply with the Complaints Regulations, the relevant provisions of which are set out in Schedule 5 (Complaints Procedure).

54 Sub-contracting and Change of Control

- 54.1 The Contractor shall not sell, assign, sub-contract or in any way dispose of any of its rights or duties under the Contract in relation to the Services or any part thereof without the prior written authorisation of the Commissioner and subject to such conditions as the Commissioner in its absolute discretion may impose.
- 54.2 A contract with a sub-contractor must, unless the Commissioner agrees otherwise in writing, prohibit the sub-contractor from sub-contracting the services it has agreed with the Contractor to provide.
- 54.3 Save in respect of a public limited company listed on an internationally recognised exchange the Contractor shall not undergo a Change of Control without the prior authorisation of the Commissioner and subject to such conditions as the Commissioner may impose.
- 54.4 If the Contractor has a list of Registered Patients or a list of Registered Patients is held in respect of it, the Contractor shall not sub-contract any of its rights or duties under the Contract in relation to the provision of Essential Services to a company or firm:
- 54.4.1 owned wholly or partly by the Contractor, or by any former or current employee or partner or shareholder in, the Contractor;

54.4.2 formed by or on behalf of the Contractor, or from which it derives or may derive pecuniary benefit;

54.4.3 formed by or on behalf of a former or current employee of, or partner or shareholder in, the Contractor, or from which such a person derives or may derive pecuniary benefit,

where that company or firm is or was formed wholly or partly for the purpose of avoiding the restrictions on the sale of goodwill of a medical practice in section 259 of the 2006 Act or any relevant regulations made wholly or partly under that section.

55 Co-operation with Investigations

55.1 The Contractor shall co-operate with:

55.1.1 any investigation of a complaint in relation to any matter reasonably connected with the provision of the Services by the Contractor by the Commissioner or the Health Service Commissioner;

55.1.2 any investigation of a complaint by an NHS body or local authority which relates to a Patient or former Patient of the Contractor; and

55.1.3 any further or other investigation initiated by the Commissioner in connection with the Services.

55.2 In Clause 55.1:

55.2.1 "NHS body" means the Commissioner, a CCG, (in England and Wales and Scotland) an NHS trust, an NHS foundation trust, a Local Health Commissioner, a Health Commissioner, a Health and Social Services Commissioner or a Health and Social Services Trust;

55.2.2 "local authority" means any of the bodies listed in section 1 of the Local Authority Social Services Act 1970, the Council of the Isles of Scilly or a council constituted under

section 2 of the Local Government etc. (Scotland) Act 1994 or the council of a county or county borough in Wales; and

55.2.3 "Health Service Commissioner" means a person appointed Health Service Commissioner for England in accordance with section 1 of, and Schedule 1 to the Health Service Commissioners Act 1993

55.3 In co-operating with any investigation, the Contractor shall, by way of example:

55.3.1 answer questions reasonably put to the Contractor by the Commissioner;

55.3.2 provide any information relating to the complaint reasonably required by the Commissioner; and

55.3.3 attend any meeting to consider the complaint (if held at a reasonably accessible place and at a reasonable hour, and due notice has been given) if the Contractor's presence at the meeting is reasonably required by the Commissioner.

56 Warranties

56.1 Each of the Parties warrants that it has power to enter into this Contract and has obtained any necessary approvals to do so.

56.2 The Contractor warrants that the Contractor satisfies the conditions set out in direction 4 of the APMS Directions.

56.3 Each Party warrants to the other that it has not relied on any representation or agreement whether written or oral not expressly set out or referred to in the Contract.

56.4 The Contractor warrants that it has used all reasonable endeavours to ensure:

56.4.1 all information in writing provided to the Commissioner in seeking to become a Party to the Contract was, when given, true and accurate in all material respects, and in

particular, that the Contractor satisfied the conditions set out in direction 4 of the APMS Directions;

56.4.2 no information has been omitted which would make the information that was provided to the Commissioner materially misleading or inaccurate;

56.4.3 no circumstances have arisen which materially affect the truth and accuracy of such information; and

56.4.4 it is not aware as at the date of the Contract of anything within its reasonable control which may or will materially adversely affect its ability to fulfil its obligations under this Contract.

56.5 To the best of the Commissioner's knowledge after due enquiry by the Commissioner, the Commissioner warrants that it has used all reasonable endeavours to ensure:

56.5.1 all information in writing which it provided to the Contractor specifically to assist the Contractor to become a Party to the Contract was, when given, true and accurate in all material respects;

56.5.2 no information has been omitted which would make the information that was provided to the Contractor materially misleading or inaccurate; and

56.5.3 no circumstances have arisen which materially affect the truth and accuracy of such information.

56.6 The Commissioner shall indemnify the Contractor fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities in respect of any claim against the Contractor by any third party relating to matters which occurred prior to the Commencement Date and which relate to any predecessor contract under which the Services or substantially similar services were provided, except where such claims, proceedings, actions, damages, legal costs, expenses and any other liabilities were caused by or

contributed to by the Contractor and/or any employee of the Contractor.

57 Variation of the Contract

- 57.1 Subject to the Commissioner's rights under Clause 57.2, no amendment or variation to the Contract shall have effect unless it is in writing and signed by or on behalf of the Commissioner and the Contractor.
- 57.2 The Commissioner may vary the Contract without the Contractor's consent so as to comply with the 2006 Act and 2012 Act (as the case may be), any regulations made pursuant to those Acts, any direction given by the Secretary of State pursuant to those Acts (which, for the avoidance of doubt, includes any amendments to the APMS Directions) where it:
- 57.2.1 is reasonably satisfied that it is necessary to vary the Contract in order so to comply; and
 - 57.2.2 notifies the Contractor in writing of the wording of the proposed variation and the date upon which that variation is to take effect.
- 57.3 Where it is reasonably practicable to do so, the date that the proposed variation under Clause 57.2.2 is to take effect shall be not less than fourteen (14) days after the date on which the notice under Clause 57.2.2 is served on the Contractor.
- 57.4 Subject to clause 57.5, where any variation is imposed under Clause 57.2, the Contractor and the Commissioner shall agree if possible any variation to the Contract Price consequent upon the variation to the Contract, and in default of agreement the Dispute may be referred to the Dispute Resolution Procedure under Clause 66 and Schedule 12.
- 57.5 Where any variation is imposed under clause 57.2 which would (save for this clause 57.5) give rise to an increase in the Contract Price equal

to or less than 3%²¹ in aggregate of the Contract Price, there shall be no variation to the Contract Price.

- 57.6 Where the Contract is varied in accordance with its terms and, as a result of the variation there is to be a change in the range of services provided to the Contractor's Registered Patients or Patients who are on the Contractor's List of Patients are to be removed from that list, the Commissioner shall notify those Patients in writing of the variation and its effect and inform them of the steps they can take to obtain elsewhere the services in question or, as the case may be, register elsewhere for the provision of Essential Services (or their equivalent).

58 Termination by Agreement

- 58.1 The Commissioner and the Contractor may mutually agree in writing to terminate the Contract, and if the Parties so agree, they shall agree the date upon which that termination will take effect and any further terms upon which the Contract should be terminated.

59 Termination by the Contractor

- 59.1 The Contractor may give notice ("late payment notice") which shall be in writing to the Commissioner if the Commissioner has failed to make any payments properly due to the Contractor in accordance with Clause 48 of the Contract. The Contractor shall specify in the late payment notice the payments that the Commissioner has failed to make in accordance with Clause 49 of the Contract.
- 59.2 The Contractor may, at least twenty eight (28) days after having served a late payment notice, terminate the Contract by a further written notice if the Commissioner has still failed to make payments properly due to the Contractor, and that were specified in the late payment notice served on the Commissioner pursuant to Clause 59.1.
- 59.3 If, following receipt of a late payment notice, the Commissioner refers the matter to the Dispute Resolution Procedure detailed in Clause 66

²¹ For local determination

within twenty eight (28) days of the date upon which it is served with the late payment notice, and it notifies the Contractor in writing that it has done so within that period of time, the Contractor may not terminate the Contract pursuant to Clause 59.2 until:

- 59.3.1 there has been a determination of the Dispute pursuant to the Dispute Resolution Procedure; or
- 59.3.2 the Commissioner ceases to pursue the Dispute Resolution Procedure,

whichever is the sooner. Clauses 59.1 to 59.3 are without prejudice to any other rights to terminate the Contract that the Contractor may have.

60 Termination by the Commissioner for Provision of Untrue Etc. Information

- 60.1 The Commissioner may serve notice in writing on the Contractor terminating the Contract forthwith, or from such date as may be specified in the notice if, after the Contract was entered into, it has come to the attention of the Commissioner that written information provided to the Commissioner by the Contractor before the Contract was entered into in relation to the conditions set out in direction 4 of the APMS Directions (and compliance with those conditions) was, when given, untrue or inaccurate in a material respect.

61 Other Grounds for Termination by the Commissioner

- 61.1 The Commissioner may serve notice in writing on the Contractor terminating the Contract forthwith, or from such date as may be specified in the notice if:
 - 61.1.1 where this Contract is with an individual, the individual;
 - 61.1.2 where this Contract is with a company, the company or any director or company secretary of the company;

61.1.3 where this Contract is with a partnership, any individual member of the partnership, or the partnership; or

61.1.4 where this Contract is with an Industrial & Provident Society, a Friendly Society or a voluntary organisation or any other body, the Society organisation or other body or an officer trustee or any other person concerned with the management of the Society organisation or body

falls within Clause 61.2 during the existence of the Contract.

61.2 A person falls within this Clause 61.2 if during the existence of this Contract or at any time within five (5) years prior to signing this Contract:

61.2.1 he or it is the subject of a National Disqualification;

61.2.2 subject to Clause 61.5, he or it is disqualified or suspended (other than by an interim suspension order or direction pending an investigation or a suspension on the grounds of ill-health) from practising by any Licensing Body anywhere in the world;

61.2.3 subject to Clause 61.6, he has been dismissed (otherwise than by reason of redundancy) from any employment by a Health Service Body unless before the Commissioner has served a notice terminating the Contract pursuant to this Clause 61.2 he is employed by the Health Service Body that dismissed him or by another Health Service Body. For the purposes of this Clause, where a person has been employed as a member of a health care profession, any subsequent employment must also be as a member of that profession;

61.2.4 he or it is removed from, or refused admission to, a Primary Care List by reason of inefficiency, fraud or unsuitability (within the meaning of section 151(2), (3) and (4) of the 2006 Act respectively) unless his or its name has subsequently been included in such a list;

61.2.5 he has been convicted in the United Kingdom of murder or an offence referred to in Schedule 1 to the Children and Young Persons Act 1933 or Schedule 1 to the Criminal Procedure (Scotland) Act 1995;

61.2.6 he has been convicted in the United Kingdom of a criminal offence other than murder, and has been sentenced to a term of imprisonment of over six (6) months;

61.2.7 subject to Clause 61.7, he has been convicted elsewhere of an offence which would, if committed in England and Wales:

61.2.7.1 constitute murder; or

61.2.7.2 constitute a criminal offence other than murder, and been sentenced to a term of imprisonment of over six (6) months;

61.2.8 he or it has:

61.2.8.1 been adjudged bankrupt or had sequestration of his estate awarded or is a person in relation to whom a moratorium period under a debt relief order (under Part VIIA of the Insolvency Act 1986) applies unless he has been discharged from that bankruptcy or sequestration or the bankruptcy order has been annulled;

61.2.8.2 been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986 or Schedule 2A to the Insolvency (Northern Ireland) Order 1989 or sections 56A to 56K of the Bankruptcy (Scotland) Act 1985, unless that order has ceased to have effect or has been annulled;

- 61.2.8.3 been made the subject of a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB to the Insolvency Act 1986 unless that order has ceased to have effect or has been annulled;
- 61.2.8.4 made a composition or arrangement with, or granted a trust deed for, his or its creditors unless he or it has been discharged in respect of it;
- 61.2.8.5 been wound up under Part IV of the Insolvency Act 1986;
- 61.2.8.6 had an administrator, administrative receiver or receiver appointed in respect of it; or
- 61.2.8.7 had an administration order made in respect of it under Schedule B1 to the Insolvency Act 1986;
- 61.2.9 he has been:
 - 61.2.9.1 removed from the office of Charity Trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission for Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated;
 - 61.2.9.2 removed under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (powers of Court of Session), from being concerned in the management or control of any body;

- 61.2.9.3 he is subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies Directors Disqualification (Northern Ireland) Order 2002 or to an order made under section 429(2)(b) of the Insolvency Act 1986; or
- 61.2.10 he has refused to comply with a request by the Commissioner for him to be medically examined on the grounds that it is concerned that he is incapable of adequately providing services under the Contract; and
- 61.2.11 the Commissioner is not satisfied that the Contractor is taking adequate steps to deal with the matter.
- 61.2.12 he has been included in any barred list within the meaning of section 2 of the Safeguarding Vulnerable Group Act 2006 or Article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.
- 61.2.13 Where the Contract is with a partnership and a dissolution of the partnership is ordered by any competent court, tribunal or arbitrator, or an event happens that makes it unlawful for the business of the partnership to continue, or for members of the partnership to carry on in the partnership.
- 61.3 Where the Contract is with a single individual and that individual dies, the Contract shall terminate at the end of the period of seven (7) days after the date of his death unless, before the end of that period the Commissioner has agreed in writing with the Contractor's personal representatives that the Contract should continue for a further period, not exceeding twenty eight (28) days after the end of the period of seven (7) days.
- 61.4 Clause 61 does not affect any other rights to terminate the Contract which the Commissioner may have under this Contract.

61.5 The Commissioner shall not terminate the Contract pursuant to Clause 61.2.2 where the Commissioner is satisfied that the disqualification or suspension imposed by a Licensing Body outside the United Kingdom does not make the person unsuitable to be a Contractor, or in the case where the Contractor is a company, both a legal and beneficial shareholder, or a director or secretary of the company, as the case may be.

61.6 The Commissioner shall not terminate the Contract pursuant to Clause 61.2.3 until a period of at least three (3) months has elapsed since the date of the dismissal of the person concerned; or if, during that period of time, the person concerned brings proceedings in any competent tribunal or court in respect of his dismissal, until proceedings before that tribunal or court are concluded. The Commissioner may only terminate the Contract in the latter situation if there is no finding of unfair dismissal at the end of those proceedings.

61.7 The Commissioner shall not terminate the Contract pursuant to Clause 61.2.7 where the Commissioner is satisfied that the conviction does not make the person unsuitable to be a Contractor or in the case where the Contractor is a company, both a legal and beneficial shareholder a director or secretary of the company, as the case may be.

62 Termination by the Commissioner for a Serious Breach

62.1 The Commissioner may serve notice in writing on the Contractor terminating the Contract forthwith or with effect from such date as may be specified in the notice if:

62.1.1 the Contractor has breached the Contract and the Commissioner considers that as a result of that breach, the safety of Patients is at serious risk if the Contract is not terminated;

62.1.2 the Contractor's financial situation is such that the Commissioner considers that the Contractor is at risk of material financial loss; or

62.1.3 the Contractor undergoes a Change of Control of which the Commissioner, acting reasonably, does not approve.

62.2 If the Contractor breaches the conditions specified in Clauses 54.1 and 54.3 and it comes to the Commissioner's attention that the Contractor has done so, the Commissioner shall serve notice in writing on the Contractor:

62.2.1 terminating the Contract forthwith; or, at their absolute discretion

62.2.2 instructing it to terminate the sub-contracting arrangements that give rise to the breach forthwith, and if it fails to comply with the instruction, the Commissioner shall serve a notice in writing on the Contractor terminating the Contract forthwith.

63 Termination by the Commissioner: Remedial Notices and Breach Notices

63.1 Where the Contractor has breached the Contract other than as specified in Clauses 60 to 62.2 and the breach is capable of remedy, the Commissioner shall, before taking any action it is otherwise entitled to take by virtue of the Contract, serve a notice on the Contractor requiring it to remedy the breach ("remedial notice").

63.2 A remedial notice shall specify:

63.2.1 details of the breach;

63.2.2 the steps the Contractor must take to the satisfaction of the Commissioner in order to remedy the breach; and

63.2.3 the period during which the steps must be taken (the "notice period").

- 63.3 The notice period shall, unless the Commissioner is satisfied that a shorter period is necessary to protect the safety of the Contractor's Patients or protect itself from material financial loss, be no less than twenty eight (28) days from the date that notice is given.
- 63.4 Where the Commissioner is satisfied that the Contractor has not taken the required steps to remedy the breach by the end of the notice period, the Commissioner may terminate the Contract with effect from such date as the Commissioner may specify in a further notice to the Contractor.
- 63.5 Where the Contractor has breached the Contract other than as specified in Clauses 60 to 62.2 and the breach is not capable of remedy, the Commissioner may serve notice on the Contractor requiring it not to repeat the breach ("breach notice").
- 63.6 If, following a breach notice or a remedial notice, the Contractor:
- 63.6.1 repeats the breach that was the subject of the breach notice or the remedial notice; or
 - 63.6.2 otherwise breaches the Contract resulting in either a remedial notice or a further breach notice,
- the Commissioner may serve notice on the Contractor terminating the Contract with effect from such date as may be specified in that notice.
- 63.7 If the Contractor has failed to perform any obligation and a breach notice or a remedial notice in respect of that default has been given to the Contractor, the Commissioner may withhold or deduct monies which would otherwise be payable under the Contract in respect of that obligation which is the subject of the default.

64 Termination and the Dispute Resolution Procedure

- 64.1 Where the Commissioner is entitled to serve written notice on the Contractor terminating the Contract pursuant to Clauses 60.1, 61.1, 62, 63.1, the Commissioner shall, in the notice served on the

Contractor pursuant to those Clauses, specify a date on which the Contract terminates that is not less than twenty eight (28) days after the date on which the Commissioner has served that notice on the Contractor unless Clause 64.4 applies.

64.2 This Clause 64.2 applies if the Commissioner is satisfied that a period less than twenty eight (28) days is necessary in order to protect the safety of the Contractor's Patients or protect itself from material financial loss.

64.3 In a case falling within Clause 64.1 where the exception in Clause 64.2 does not apply, where the Contractor invokes the Dispute Resolution Procedure before the end of the period of notice referred to in Clause 64.1, and it notifies the Commissioner in writing that it has done so, the Contract shall not terminate at the end of the notice period but instead shall only terminate in the circumstances specified in Clause 64.4.

64.4 The Contract shall only terminate pursuant to this Clause 64 if and when there has been a determination of the Dispute and that determination permits the Commissioner to terminate the Contract or the Contractor ceases to pursue the Dispute Resolution Procedure, whichever is the sooner.

64.5 If the Commissioner is satisfied that it is necessary to terminate the Contract before the Dispute Resolution Procedure is concluded in order to protect the safety of the Contractor's Patients or protect itself from material financial loss, Clauses 64.3 and 64.4 shall not apply and the Commissioner shall be entitled to confirm by written notice to be served on the Contractor, that the Contract will nevertheless terminate at the end of the period of the notice it served pursuant to Clauses 60.1,61.1 62, 63.1.

65 Consequences of Termination

65.1 The termination of the Contract, for whatever reason, is without prejudice to the accrued rights of either Party under the Contract.

65.2 On the termination of the Contract for any reason, the Contractor shall:

- 65.2.1 subject to the requirements of this Clause 65.2, cease performing any work or carrying out any obligations under the Contract;
 - 65.2.2 co-operate with the Commissioner to enable any outstanding matters under the Contract to be dealt with or concluded in a satisfactory manner; and
 - 65.2.3 deliver up to the Commissioner all property belonging to the Commissioner including all documents, forms, computer hardware and software, drugs, Appliances or medical equipment which may be in the Contractor's possession or control.
- 65.3 Subject to Clauses 65.4 to 65.6, the Commissioner's obligation to make payments to the Contractor in accordance with the Contract shall cease on the date of termination of the Contract.
- 65.4 On termination of the Contract or termination of any obligations under the Contract for any reason, the Commissioner shall perform a reconciliation of the payments made by the Commissioner to the Contractor and the value of the work undertaken by the Contractor under the Contract. The Commissioner shall serve the Contractor with written details of the reconciliation as soon as reasonably practicable, and in any event no later than twenty eight (28) days after the termination of the Contract.
- 65.5 If the Contractor disputes the accuracy of the reconciliation, the Contractor may refer the Dispute to the Dispute Resolution Procedure in accordance with the terms of the Contract within twenty eight (28) days beginning on the date on which the Commissioner served the Contractor with written details of the reconciliation. The Parties shall be bound by the determination of the Dispute.
- 65.6 Each Party shall pay the other any monies due within three (3) months of the date on which the Commissioner served the Contractor with written details of the reconciliation, or the conclusion of the Dispute Resolution Procedure, as the case may be.

65.7 **Should the Contractor:**

- 65.7.1 breach the Contract entitling the Commissioner to serve written notice on the Contractor terminating the Contract pursuant to Clauses 61, 62 or 63;
- 65.7.2 issue the Commissioner with notice of termination under Clause 60.1 but cease to perform all or a material part of the Services before the expiry of the notice period;
- 65.7.3 issue the Commissioner with notice of termination under Clause 60.1 but fail to perform the Services to the Commissioner's reasonable satisfaction during the notice period until the due termination date; or
- 65.7.4 otherwise cease to provide all or a material part of the Services without notice to the Commissioner in accordance with Clause 60.1,

then, without prejudice to all other remedies available to the Commissioner, the Commissioner shall be entitled to engage replacement contractor(s) for the provision of all or part of the Services on such terms and conditions as the Commissioner sees fit and the Contractor shall immediately pay the Commissioner the cost of engaging the replacement contractor(s) together with all additional expenditure incurred by the Commissioner (including all management costs incurred by the Commissioner) throughout the remainder of the unexpired portion of the due notice period in the case of Clauses 65.7.2 and 65.7.3, or in the case of Clauses 65.7.1 and 65.7.4 for the full notice period. Further, upon request of the Commissioner, the Contractor will grant a licence to the replacement contractor(s) free of charge for such period as the replacement contractor(s) may require and upon such further terms at the replacement contractor(s) may at its absolute discretion determine from the date of the replacement contractor's request to access and use the Practice Premises.

65.8 The obligations contained in Clauses 65.1 to 65.7 shall continue to apply notwithstanding the termination of the Contract.

66 Dispute Resolution

66.1 The provisions of Schedule 10 shall apply.

66.2 Clause 66 shall survive the expiry or termination of the Contract.

67 Tupe, Re-tendering and Handover

67.1 On termination or expiry, in whole or in part, of this Contract, the provisions of Schedule 9 will apply.

68 Gifts

68.1 The Contractor shall keep a register of gifts which: are given to any of the persons specified in Clause 68.2 by, or on behalf of, a Patient, a relative of a Patient or any person who provides or wishes to provide services to the Contractor or its Patients in connection with the Contract; and have, in its reasonable opinion, a value of more than £100.00.

68.2 The persons referred to in Clause 68.1 are:

68.2.1 any person employed by the Contractor for the purposes of the Contract;

68.2.2 any General Medical Practitioner engaged by the Contractor for the purposes of the Contract;

68.2.3 if the Contractor is a company, any directors or company secretary of the company;

68.2.4 if the Contractor is a partnership, any member of the partnership;

68.2.5 if the Contractor is an Industrial and Provident Society, Friendly Society, Voluntary Organisation as defined in the 2006 Act or other body any officer, trustee or any other person concerned with the management of the Contractor;

68.2.6 the Contractor;

68.2.7 any spouse or civil partner of a person specified in Clauses 68.2.1 to 68.2.2; or

68.2.8 any person (whether or not of the opposite sex) whose relationship with a person specified in Clauses 68.2.1 to 68.2.2 has the characteristics of the relationship between husband and wife.

68.3 Clause 68.1 does not apply where:

- 68.3.1 there are reasonable grounds for believing that the gift is unconnected with services provided or to be provided by the Contractor;
 - 68.3.2 the Contractor is not aware of the gift; or
 - 68.3.3 the Contractor is not aware that the donor wishes to provide services to the Contractor or its Patients.
- 68.4 The Contractor shall take reasonable steps to ensure that it is informed of gifts which fall within Clause 68.1 and which are given to the persons specified in Clauses 68.2.
- 68.5 The register referred to in Clause 68.1 shall include the following information:
- 68.5.1 the name of the donor;
 - 68.5.2 in a case where the donor is a Patient, the Patient's National Health Service number or, if the number is not known, his address;
 - 68.5.3 in any other case, the address of the donor;
 - 68.5.4 the nature of the gift;
 - 68.5.5 the estimated value of the gift; and
 - 68.5.6 the name of the person or persons who received the gift.
- 68.6 The Contractor shall make the register available to the Commissioner on request.

69 Compliance with Legislation and Guidance

- 69.1 The Contractor shall comply with all relevant legislation and have regard to all relevant guidance issued by the Commissioner, the Secretary of State, local authority, and the Department of Health including, without limitation, to requirements specified in the Service Specification in respect of the exercise of their functions under the 2006 Act.

OTHER PROVISIONS

70 Non-survival of Terms

70.1 Unless expressly provided, no term of the Contract shall survive expiry or termination of the Contract. Express provision is (hereby or elsewhere) made in relation to:

- 70.1.1 Clause 1.1 (Status of Contract);
- 70.1.2 Clause 46 (Counter Fraud and Security Management);
- 70.1.3 Clause 49 (Fees and Charges);
- 70.1.4 Clause 51 (Indemnity);
- 70.1.5 Clause 52 (Insurance);
- 70.1.6 Clause 53 and Schedule 5 (Complaints);
- 70.1.7 Clauses 65.1 to 65.6 (Consequences of Termination);
- 70.1.8 Clause 66 (Dispute Resolution Procedures);
- 70.1.9 Clause 72 (Governing Law and Jurisdiction); and
- 70.1.10 Clause 81 (Confidentiality);
- 70.1.11 Clause 82 (Bribery Act 2010).

71 Entire Contract

The Contract constitutes the entire Contract between the Parties with respect to its subject matter and supersedes any prior Contracts, negotiations, promises, conditions or representations, whether written or oral, and the Parties confirm that they did not enter into the Contract on the basis of any representations that are not expressly incorporated into the Contract. However, nothing in the Contract purports to exclude liability on the part of either Party for fraudulent misrepresentation.

72 Governing Law and Jurisdiction

- 72.1 The Contract shall be governed by and construed in accordance with English law.
- 72.2 Without prejudice to the Dispute Resolution Procedure contained in the Contract, in relation to any legal action or proceedings to enforce the Contract or arising out of or in connection with this Contract (including non-contractual disputes or claims), each Party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.
- 72.3 Clauses 72.1 and 72.2 shall continue to apply notwithstanding the termination of the Contract.

73 Waiver, Delay or Failure to Exercise Rights

- 73.1 The failure or delay by either Party to enforce any one or more of the terms or conditions of the Contract shall not operate as a waiver of them, or of the right at any time subsequently to enforce all terms and conditions of the Contract.

74 Relationship between the Parties

- 74.1 The Contract is a contract for the provision of services. The Contractor is an independent provider of services and is not an employee, partner or agent of the Commissioner. The Contractor must not represent or conduct its activities so as to give the impression that it is the employee, partner or agent of the Commissioner.
- 74.2 Where the Contractor provides Essential Services to Patients on its List of Patients, the Commissioner shall require the Contractor to be a member of a CCG.
- 74.3 Where the Contractor is required to be a member of a CCG in accordance with Clause 74.2, the Contractor shall appoint one individual, who is a Health Care Professional, to act on the

Contractor's behalf in the dealings between the Contractor and the CCG to which it belongs.

- 74.4 The Commissioner does not by entering into the Contract, and shall not as a result of anything done by the Contractor in connection with the performance of the Contract, incur any contractual liability to any other person.
- 74.5 The Contract does not create any right enforceable by any person not a party to it under the Contracts (Rights of Third Parties) Act 1999.
- 74.6 The Contractor shall not delegate its obligations or otherwise give, sell, assign or otherwise dispose of the benefit of any of its rights, under the Contract without the prior written authorisation of the Commissioner in accordance with Clause 54.
- 74.7 The Commissioner may give, sell, assign, or otherwise dispose of the benefit of its rights under the Contract to a successor body as may be directed by the Secretary of State.

75 Force Majeure

- 75.1 Neither Party shall be entitled to bring a claim for a breach of obligations under the Contract by the Affected Party nor shall the Affected Party incur any liability to the other Party for any losses or damages incurred by the other Party to the extent that a Force Majeure Event occurs and the Affected Party is prevented from carrying out obligations by that Force Majeure Event.
- 75.2 On the occurrence of a Force Majeure Event, the Affected Party shall notify the other Party as soon as practicable. The notification shall include details of the Force Majeure Event, including evidence of its effect on its obligations of the Affected Party and any action proposed to mitigate its effect.
- 75.3 As soon as practicable, following such notification, the Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate steps to mitigate the effects of the Force Majeure Event and facilitate the continued performance of the Contract.
- 75.4 Unless the Affected Party takes such steps, Clause 75.1 shall not have the effect of absolving it from its obligations under this Contract. For the avoidance of doubt, any actions or omissions of either Party's personnel or any failures of either Party's systems, procedures, premises or equipment shall not be deemed to be circumstances or events beyond the reasonable control of the relevant Party for the purposes of this Clause 75.4 unless the cause of failure was beyond reasonable control.
- 75.5 If the Affected Party is delayed or prevented from performing its obligations and duties under the Contract for a continuous period of three (3) months, then either Party may terminate the Contract by notice in writing within such period as is reasonable in the circumstances (which shall be no shorter than twenty eight (28) days).
- 75.6 The termination shall not take effect at the end of the notice period if the affected Party is able to resume performance of its obligations and

duties under the Contract within the period of notice specified in accordance with Clause 75.2 or if the other Party otherwise consents.

76 Severance

76.1 Subject to Clauses 76.2 and 76.3, if any term of the Contract is held to be invalid, illegal or unenforceable by any court, tribunal or other competent authority, such term shall, to the extent required, be deemed to be deleted from the Contract and shall not affect the validity, lawfulness or enforceability of any other terms of the Contract.

76.2 If, in the reasonable opinion of either Party, the effect of such a deletion is to undermine the purpose of the Contract or materially prejudice the position of either Party, the Parties shall negotiate in good faith in order to agree a suitable alternative term to replace the deleted term or a suitable amendment to the Contract.

76.3 If the Parties are unable to reach agreement as to the suitable alternative term or amendment within a reasonable period of commencement of the negotiations, then the Parties may refer the Dispute for determination in accordance with the Dispute Resolution Procedure set out in Clause 66.

77 Service of Notice

77.1 Save as otherwise specified in the Contract or where the context otherwise requires, any notice or other information required or authorised by the Contract to be given by either Party to the other Party must be in writing and may be served:

77.1.1 personally;

77.1.2 by post, or in the case of any notice served pursuant to Clause 57 (Variation) and Clauses 58 to 63 (Termination), registered or recorded delivery post;

77.1.3 by telex, or facsimile transmission (the latter confirmed by telex or post);

- 77.1.4 unless the context otherwise requires and except in Clause 57.1 electronic mail; or
- 77.1.5 by any other means which the Commissioner specifies by notice to the Contractor.
- 77.2 Any notice or other information shall be sent to the address specified in the Contract or such other address as the Commissioner or the Contractor has notified to the other.
- 77.3 Any notice or other information shall be deemed to have been served or given:
 - 77.3.1 if it was served personally, at the time of service;
 - 77.3.2 if it was served by post, two (2) Working Days after it was posted; and
 - 77.3.3 if it was served by telex, electronic mail or facsimile transmission, if sent during Core Hours then at the time of transmission and if sent outside Core Hours then on the following Working Day.
- 77.4 Where notice or other information is not given or sent in accordance with Clauses 77.1 to 77.3, such notice or other information is invalid unless the person receiving it elects, in writing, to treat it as valid.

78 Discrimination

- 78.1 The Contractor shall:
 - 78.1.1 ensure that it complies with all current employment legislation and in particular, does not unlawfully discriminate within the meaning of the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000, the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and the Equality Act 2010 or any other relevant legislation relating to discrimination in the employment of employees for the purpose of providing the Services. The Contractor shall

take all reasonable steps (at its own expense) to ensure that any employees employed in the provision of the Services do not unlawfully discriminate within the meaning of this Clause 78; and

78.1.2 in the management of its affairs and the development of its equality and diversity policies, the Contractor shall co-operate with the Commissioner in light of the Commissioner's obligations to comply with statutory equality duties. The Contractor shall take such steps as the Commissioner considers appropriate to promote equality and diversity, including race equality, equality of opportunity for disabled people, gender equality, and equality relating to religion and belief, sexual orientation, age, marriage and civil partnership, pregnancy and maternity, and gender assignment in the provision of the Services.

78.2 The Contractor shall fully indemnify and keep the Commissioner fully indemnified on demand against all claims, charges, demands, liabilities, damages, losses and expenses incurred or suffered by the Commissioner arising out of or in connection with any investigation conducted or any proceedings brought under the legislation referred to in Clause 78.1 above due directly or indirectly to any act or omission by the Contractor, its agents, employees or sub-contractors.

78.3 The Contractor shall impose on any sub-contractor obligations substantially similar to those imposed on the Contractor by this Clause 78.

79 Data Protection

79.1 The Contractor shall comply with the Data Protection Act 1998 (the "1998 Act") and any other applicable data protection legislation. In particular the Contractor agrees to comply with the obligations placed on the Commissioner by the seventh data protection principle (the "Seventh Principle") set out in the 1998 Act, namely:

- 79.1.1 to maintain technical and organisational security measures sufficient to comply at least with the obligations imposed on the Commissioner by the Seventh Principle;
 - 79.1.2 only to process Personal Data for and on behalf of the Commissioner, in accordance with the instructions of the Commissioner and for the purpose of performing the Services in accordance with the Contract and to ensure compliance with the 1998 Act;
 - 79.1.3 to allow the Commissioner to audit the Contractor's compliance with the requirements of this Clause 79.1 on reasonable notice and/or to provide the Commissioner with evidence of its compliance with the obligations set out in this Clause 79.1. and
- 79.2 Both Parties agree to use all reasonable efforts to assist each other to comply with the 1998 Act. For the avoidance of doubt, this includes the Contractor providing the Commissioner with reasonable assistance in complying with subject access requests served on the Commissioner under Section 7 of the 1998 Act and the Contractor consulting with the Commissioner prior to the disclosure by the Contractor of any Personal Data in relation to such requests.

80 Freedom of Information

- 80.1 The Contractor shall use all reasonable efforts to assist the Commissioner to comply with such obligations as are imposed on the Commissioner by the Freedom of Information Act 2000 (the "2000 Act") and the Code of Openness in the NHS (the "Code") including providing the Commissioner with reasonable assistance in complying with any request for information in connection with the Services served on the Commissioner under the 2000 Act or the Code and processing information provided by the Commissioner in accordance with a record management system which complies with the Lord Chancellor's records management recommendations and code of conduct under section 46 of that Act.

81 Confidentiality

81.1 Subject always to the obligations of the Parties under statute or common law, in respect of such Confidential Information it may receive from the other Party (the "Discloser"), each Party (the "Recipient") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party, without the Discloser's prior written consent provided that the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the commencement of the Contract.

81.2 The provisions of Clause 81.1 shall not apply to any Confidential Information which:

81.2.1 is in or enters the public domain other than by breach of the Contract or other act or omissions of the Recipient;

81.2.2 is obtained by a third party who is lawfully authorised to disclose such information;

81.2.3 is authorised for release by the prior written consent of the Discloser; or

81.2.4 is identified as no longer needing to be regarded as confidential in accordance with any relevant timescale set out in Schedule 7 relating to that class of information

81.3 Nothing in Clause 81.1 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable law or, where the Contractor is the Recipient, to the Contractor's immediate or ultimate holding company provided that the Contractor procures that such holding company complies with this Clause 81 as if any reference to the Contractor in Clause 81.1 were a reference to such holding company.

- 81.4 The Contractor authorises the Commissioner to disclose the Confidential Information to such person(s) as may be notified to the Contractor in writing by the Commissioner from time to time to the extent only as is necessary for the purposes of auditing and collating information so as to ascertain a realistic market price for the Services supplied in accordance with the Contract, such exercise being commonly referred to as “benchmarking”. The Commissioner shall use all reasonable endeavours to ensure that such person(s) keeps the Confidential Information confidential and does not make use of the Confidential Information except for the purpose for which the disclosure is made. The Commissioner shall not without good reason claim that the lowest price available in the market is the realistic market price.
- 81.5 The provisions of Clauses 81.1 and 81.4 shall continue in force ~ following termination of the Contract for any reason whatsoever and without limit in time.

82 Bribery Act 2010

- 82.1 The Contractor shall:
- 82.1.1 comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (“Relevant Requirements”);
 - 82.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
 - 82.1.3 comply with the Commissioner’s Anti-Bribery Policy as may be provided from the Commissioner to the Contractor from time to time (“Relevant Policy”).
 - 82.1.4 have and shall maintain in place throughout the period of the Contract its own policies and procedures, including but

not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policy and this Clause 82, and will enforce them where appropriate;

82.1.5 in addition to its obligations under this Clause 82, report to and acquire authority from the Commissioner before providing any form of gift, gratuity or hospitality to any party in connection with the Contract;

82.1.6 ensure that any offer or provision of any form of gift, gratuity or hospitality complies with the Relevant Policy and, where relevant, the Commissioner's hospitality, gifts and sponsorship policy or policies;

82.1.7 promptly report to the Commissioner any request or demand for any undue financial or other advantage of any kind received by the Contractor in connection with the performance of the Contract.

82.2 The Contractor shall ensure that any person associated with the Contractor who is performing services in connection with the Contract does so only on the basis of a written Contract which imposes on and secures from such person on terms equivalent to those imposed on the Contractor in this Clause 82.2 ("Relevant Terms"). The Contractor shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Commissioner for any breach by such persons of any of the Relevant Terms.

82.3 For the purpose of this Clause 82, the meaning of adequate procedures and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this Clause 82 a person associated with the Contractor includes but is not limited to any subcontractor of the Contractor.

82.4 The Contractor shall fully indemnify and keep fully indemnified and demand the Commissioner against any losses, liabilities, damages, costs including but not limited to legal fees and expenses incurred by, or awarded against, the Commissioner as a result of any breach of this Clause 82 by the Contractor or any breach of provisions equivalent to this Clause 82 in any subcontract by any subcontractor.

82.5 Additional audit and record keeping:

82.5.1 the Contractor shall keep (either at its normal place of business or such other location as is notified to the Commissioner) detailed, accurate and up to date records and books of account showing all payments made by the Contractor in connection with the Contract and the steps taken by the Contractor to comply with the Relevant Requirements, the Relevant Policies and Clause 82 in each case during the previous twelve years. The Contractor shall ensure that such records and books of accounts are sufficient to enable the Commissioner to verify the Contractor's compliance with its obligations under this Clause 82;

82.5.2 the Contractor shall permit the Commissioner and its third party representatives, on reasonable notice during normal business hours, but without notice in case of any reasonably suspected breach of this Clause 82 to access and take copies of the Contractor's records and any other information held at the Contractor's Premises (or such other premises as are notified to the Commissioner in accordance with clause 82.5.2) and to meet with the Contractor's personnel to audit the Contractor's compliance with its obligations under this Clause 82. Such audit rights shall continue for three years after termination of the Contract. The Contractor shall give all necessary assistance to the conduct of such audits during the terms

of the Contract and for a period of seven years after termination of the Contract.

82.5.3 Audit access by any third party representative of the Commissioner shall be subject to such representative agreeing confidentiality obligations equivalent to those in Clause 81 (Confidentiality) in respect of the information obtained, always provided that all information obtained may be disclosed to the Commissioner.

82.6 The Contractor warrants and represents that:

82.6.1 neither the Contractor nor any of its officers, employees or other persons associated with it:

82.6.1.1 has been convicted of any offence involving bribery or corruption, fraud or dishonesty;

82.6.1.2 having made reasonable enquiries, so far as it is aware, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence under the Relevant Requirements; or

82.6.1.3 has been or is listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible or potentially ineligible for participation in government procurement programmes or other government Contracts;

82.7 The Contractor shall promptly notify the Commissioner if, at any time during the term of the Contract, its circumstances, knowledge or awareness changes such that it would not be able to repeat the warranties set out in Clause 82.6 at the relevant time.

82.8 Breach of this Clause 82 shall be deemed a material breach under Clause 62 (Termination for a serious Breach).

82.9 If the Commissioner terminates the Contract for breach of this Clause 82, the Contractor shall not be entitled to claim compensation or any further remuneration, regardless of any activities or Contracts with additional third parties entered into before termination.

82.10 Regardless of any other provision in the Contract, the Commissioner shall not be obliged to do, or omit to do, any act which would, in its reasonable opinion, put it in breach of any of the Relevant Requirements.

82.11 This clause 82 shall survive the expiry or termination of the Contract.

83 NHS Branding

83.1 The Contractor shall ensure that the Practice Premises are clearly designated and branded to Patients and visitors as facilities at which NHS services are to be provided. The Contractor may use its own branding in respect of the Practice Premises and in communications with Patients provided that such branding does not dominate or conflict with the NHS branding and complies with the relevant NHS Identity Guidelines currently in force.

84 Sponsorship

84.1 The Contractor shall not enter into any arrangements for the sponsorship by any person of the Practice Premises, the Services or anything connected to this Contract without the prior written consent of the Commissioner, which the latter, in its absolute discretion, may withhold.

85 Administration

The provisions of Schedule 7 shall have effect for the purposes of identifying the Parties' Representatives.

86 Intellectual Property

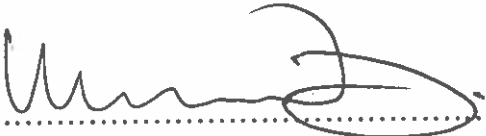
The Contractor agrees that any intellectual property developed in connection with or related to this Contract shall belong to the Commissioner.

87 Counterparts

The Contract may be executed in one or more counterparts. Any single counterpart or a set of counterparts executed, in either case, by all the parties, shall constitute a full original of this Contract for all purposes

IN WITNESS WHEREOF, the Parties have executed this Contract in duplicate the day and year first written above:

For: The Commissioner

By: .....

MARCUS WARNES

Title: ACCOUNTABLE OFFICER

Date of Signature.....2/1/19.....

For: The Contractor



(Full Name)

Title..... SENIOR PARTNER.....

Organisation: Rising Brook Surgery

Date of Signature..... 06/12/18.....

Schedule 1

Definitions and Interpretation

- 1.1 In this Contract unless the context otherwise requires:
- 1.1.1 words denoting any gender include all genders and words denoting the singular include the plural and vice versa;
 - 1.1.2 reference to any person may include a reference to any firm, company or corporation;
 - 1.1.3 reference to "day", "week", "month" or "year" means a calendar day, week, month or year, as appropriate, and reference to a working day means any day except Saturday, Sunday, Good Friday, Christmas Day and any Bank Holiday;
 - 1.1.4 the headings in the Contract are inserted for convenience only and do not affect the construction or interpretation of the Contract;
 - 1.1.5 the schedules to the Contract are and shall be construed as being part of the Contract. In the event of conflict between the terms of any schedule and the main body of the Contract, the provisions of the main body of the Contract shall prevail save in the case of an inconsistency with Schedule 2, Service Specification, in which event the terms of Schedule 2 shall prevail (other than where the relevant provisions of Schedule 2 are not compliant with any relevant law, rules, guidance or Good Practice);
 - 1.1.6 reference to any statute or statutory provision or direction includes a reference to that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated (whether before or after the date of the Contract), and all statutory instruments or orders made pursuant to it;
 - 1.1.7 any obligation relating to the completion and submission of any form that the Contractor is required to complete and submit to the Commissioner includes the obligation to complete and submit the form

in such a format or formats (electronic, paper or otherwise) as the Commissioner may specify;

- 1.1.8 any obligation on the Contractor to have systems, procedures or controls includes the obligation effectively to operate them;
 - 1.1.9 where the Contract imposes an obligation on a Party, that Party must comply with it and must take all reasonable steps to ensure that its personnel and Contractors (except the other Party) comply with it; and
 - 1.1.10 the Parties shall, so far as is possible, interpret the provisions of the Contract consistently with the European Convention on Human Rights, EU law, the APMS Directions, and any other relevant regulations, orders or directions made under the 1977, 2006 and 2012 Acts.
 - 1.1.11 the clause numbers and cross-reference are inserted for convenience only and do not affect the construction and interpretation of the Contract. For the avoidance of doubt, in the event of any apparent inconsistency in, without limitation, any clause numbers, defined terms and/or cross-references the relevant provisions of the APMS Directions and PMS Agreements Regulations, shall take precedence.
- 1.2 The following terms and phrases shall have the following meanings for the purposes of the Contract:

2006 Act	the National Health Service Act 2006, as amended by the Health and Social Care Act 2012;
2012 Act	the Health and Social Care Act 2012;
Accountable GP	A general medical practitioner assigned to a Registered Patient in accordance with Clause 31.121 or 31.133;
Additional Services	has the meaning given in the GMS

	Contracts Regulations;
Advanced Electronic Signature	<p>an electronic signature which is:</p> <ul style="list-style-type: none">(a) uniquely linked to the signatory;(b) capable of identifying the signatory;(c) created using means that the signatory can maintain under their sole control; and(d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;
Affected Party	<p>in the context of Clause 75, the Party whose performance of obligations under the Contract has been affected by the Force Majeure Event;</p>
Alert Letter	<p>a letter from a recognised issuing body in accordance with Department of Health guidance alerting the National Health Service or any of its bodies of a doctor or other registered Health Care Professional whose performance or conduct could place staff or Patients at risk;</p>
Annual Report	<p>the annual report referred to in clauses 10.7 – 10.9;</p>
APMS Directions	<p>the Alternative Provider Medical Services Directions of 2016 (as amended by the Alternative Provider Medical Services (Amendment) Directions 2017);</p>

Appliance	an appliance which is included in a list for the time being approved by the Secretary of State for the purposes of section 126 of the 2006 Act;
Approved Medical Practice	shall be construed in accordance with section 10A of the Medical Act 1983 as amended or replaced from time to time;
Armed Forces of the Crown	means the forces that are "regular forces" or "reserve forces" within the meaning given in section 374 of the Armed Forces Act 2006 (definitions applying for the purposes of the whole Act)
Assessment Panel	the panel appointed by the Commissioner under Clause 31.108 of this Contract;
Bank Holiday	any day that is specified or proclaimed as a bank holiday in England pursuant to section 1 (bank holidays) of the Banking and Financial Dealings Act 1971;
Batch Issue	has the meaning given in the NHS (PMS Agreements) Regulations 2004 (SI: 2004/627);
BBV Guidelines	all and any circulars, instructions, directions, guidance, regulations, codes and/or requirements of the NHS from time to time in respect of Blood Borne Viruses and Exposure Prone Procedures (including without limitation the Hepatitis Codes);
Blood Borne Viruses	hepatitis B, hepatitis C and Human Immunodeficiency Virus (HIV) and any

other conditions or diseases which are recognised within NHS requirements to represent a material risk of being communicated between a member of Contractor Staff and a Patient during an Exposure Prone Procedure;

CCG

a Clinical Commissioning Group;

CEDR

the Centre for Effective Dispute Resolution;

CCT

Certificate of Completion of Training awarded under section 34L(1) of the Medical Act 1983;

Change of Control

a change in the Controlling Interest of the Contractor or its Holding Company;

Charity Trustee

one of the persons having the general control and management of the administration of a charity;

Chemist

means:

- (a) a registered pharmacist;
- (b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968; or

- (c) a supplier of Appliances,

who is included in the list of the Commissioner under Part 7 the 2006 Act or who provides local pharmaceutical services in accordance with LPS arrangements;

Child or Children	a person or people under the age of 16 years;
Chiropodist or Podiatrist Independent Prescriber	a chiropodist or podiatrist who is registered in Part 2 of the register maintained under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register), and against whose name in that register is recorded an annotation signifying that the chiropodist or podiatrist is qualified to order drugs, medicines and Appliances as a chiropodist or podiatrist independent prescriber;
Clinical Correspondence	means all correspondence in writing, whether in electronic form or otherwise, between the Contractor and other health service providers concerning or arising out of patient attendance and treatment at the Practice Premises including referrals made by letter or by any other means;
Clinical Staff	Contractor Staff with a medical or clinical qualification that is registered with a statutory professional body;
Code of Practice on Disclosure	the Criminal Records Bureau Code of Practice for Registered Persons and other recipients of Disclosure Information published by the Home Office under the Police Act 1997 (revised April 2009);
Commencement Date	1 st April 2019
Commissioner	the National Health Service Commissioning Board constituted by the

	2012 Act and 'NHS England' shall have the same meaning
Complaints Regulations	the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009;
Confidential Information	information data and material of any nature which either Party may receive or obtain in connection with the operation of the Contract and: (a) the release of which is likely to prejudice the commercial interests of the Commissioner or (as the case may be) the Contractor respectively; or (b) which is a trade secret;
Confidentiality Directions	the Confidentiality and Disclosure of Information: General Medical Services, Personal Medical Services and Alternative Contractor Medical Services Directions 2013 as amended or updated from time to time;
Contractor	Rising Brook Surgery
Contractor's Premises	means the Practice Premises;
Contract Price	the price as set out in and payable by the Commissioner to the Contractor in accordance with the provisions of Schedule 4;
Contract Year	a year commencing on the Commencement Date and on each

	successive annual anniversary of the Commencement Date and ending on the day before each annual successive anniversary of the Commencement Date;
Contract	this contract concluded between the Commissioner and the Contractor;
Contractor Staff	the employees, directors, officers, agents, subContractors and workmen of the Contractor who are to be engaged in the performance of the Contractor's obligations under this Contract including Transferring Employees, self-employed doctors, locums or Contractors;
Controlled Drugs	the meaning given in section 2 of the Misuse of Drugs Act 1971 (which relates to controlled drugs and their classification for the purposes of that Act);
Controlling Interest	an interest in shares giving to the holder or holder's control of the Contractor (or its Holding Company) within the meaning of section 1124 of the Corporation Tax Act 2010;
Convictions	other than in relation to minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding-over orders (including any spent convictions as contemplated by Section 1(1) of the Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of Schedule 1 of the Rehabilitation of Offenders Act 1974

	(Exceptions) Order 1975 (SI 1975/1023) or any replacement to that Order);
Core Hours	unless expressed more extensively, the period beginning at 8am and ending at 6.30pm on any day from Monday to Friday except Good Friday, Christmas Day or Bank Holidays;
CRC Position	any position in relation to which Standard Disclosure is permitted in accordance with section 113 of the Police Act 1997 as amended or replaced from time to time and, where applicable, the Police Act 1997 (Criminal Records) (Registration) Regulations 2006 and the Code of Practice on Disclosure but to which Enhanced Disclosure is not permitted;
Data Controller	shall have the meaning ascribed to it under the Data Protection Act 1998;
the Detained Estate Healthcare Service	means the healthcare service commissioned by the Commissioner in respect of persons who are detained in prison or in other secure accommodation by virtue of regulations made under section 3B(1)(c) of the <i>2006 Act</i> ; ²²
Disclosure	shall have the meaning in the Code of Practice on Disclosure;
Dispenser	a Chemist, medical practitioner or Contractor whom a Patient wishes to

²² Regulation 10 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (S.I. 2012/2996) and amended by S.I. 2013/261 and S.I. 2014/452.

	dispense his Electronic Prescriptions;
Dispensing Services	the provision of drugs, medicines or Appliances that may be provided as pharmaceutical services by a medical practitioner in accordance with arrangements made under section 126 (Arrangements for Pharmaceutical Services) and section 129 (Regulations as to Pharmaceutical Services) of the 2006 Act;
Dispute	a dispute, conflict or other disagreement between the Parties arising out of or in connection with this Contract;
Dispute Resolution Procedure	the procedure detailed in Clause 66 of the Contract;
Drug Tariff	the publication known as the Drug Tariff which is published by the Secretary of State and which is referred to in section 127(4) (Arrangements for Additional Pharmaceutical Services) of the 2006 Act;
Electronic Communication	has the same meaning as in section 15 of the Electronic Communications Act 2000;
Electronic Prescription Form	a prescription form which falls within paragraph (b) of the definition of "Prescription Form";
Electronic Prescription Service	the service of that name which is operated by the Health and Social Care Information Centre;
Electronic Prescription	an Electronic Prescription Form or

	Electronic Repeatable Prescription;
Electronic Repeatable Prescription	a prescription which falls within paragraph (b) of the definition of "Repeatable Prescription";
Enhanced Disclosure	shall have the meaning set out in the Police Act 1997 and the Code of Practice on Disclosure;
Enhanced Services	has the meaning given in the GMS Contract s Regulations;
Equipment	anything save for the Practice Premises and the staff that the Contractor may use in the delivery of the Services;
ERC Position	any position in relation to which Enhanced Disclosure is permitted in accordance with section 115 of the Police Act 1997 as amended or replaced from time to time and, where applicable, the Police Act 1997 (Criminal Records) (Registration) Regulations 2006 and the Code of Practice on Disclosure;
Essential Services	the services described in regulation 17(4), (6), (7) and (9) of the GMS Contracts Regulations, or services that are equivalent to those services, and which are provided during Core Hours;
Exempt Staff	any person employed by an NHS Body;
Existing Contract or Other Arrangement	a contract or arrangement that was entered into prior to 1st April 2010 and which remains in force on 1st April 2010;

Expert	the person designated to determine the Dispute in accordance with Schedule 10;
Expert Determination Notice	notice in writing showing an intention to refer a Dispute for expert determination;
Expiry Date	31 March 2024 or such other date as may be fixed under Clause 2;
Exposure Prone Procedure	any invasive procedure within the Services where there is a risk that injury to a member of Contractor Staff may result in the exposure of a Patient's open tissues to the blood of the worker including without limitation any procedures where the member of Contractor Staff's gloved hands may be in contact with sharp instruments, needle tips or sharp tissues (such as spicules of bone or teeth) inside a Patient's open body cavity, wound or confined anatomical space where the hands or fingertips may not be completely visible at all times;
Financial Year	has the meaning given in section 275(1) of the 2006 Act
Force Majeure Event	one or more of the following to the extent that it is not attributable to a Party or Party's staff, officers, employees or agents: war, civil war (whether declared or undeclared), riot or armed conflict; radioactive, chemical or biological contamination; pressure waves caused by aircraft or other aerial devices travelling at